[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

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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.
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Subtitle B—Intermodal and Organizational Innovations

Sec. 1201. Intermodalism.
Sec. 1202. Office of Expedited Project Delivery.
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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

Sec. 1401. High-priority projects program.
Sec. 1402. Project authorizations.
Sec. 1403. Technical amendments to transportation projects.
Sec. 1404. Use of excess funds and funds for inactive projects.

Subtitle E—Miscellaneous

Sec. 1501. Project approval and oversight.
Sec. 1502. Standards.
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.
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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.
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TITLE II—HIGHWAY SAFETY

Sec. 2001. Amendments to title 23, United States Code.
Sec. 2002. Authorization of appropriations.
Sec. 2003. Highway safety programs.
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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.
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Sec. 3009. Coordinated access and mobility program formula grants.
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Sec. 3015. General provisions.
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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.
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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.
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Sec. 4027. New entrant carriers.
Sec. 4028. Motor carrier registration.
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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.
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Sec. 6008. Reports on railroad conditions and performance.

TITLE VII—HAZARDOUS MATERIAL TRANSPORTATION

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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.
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Subtitle B—Strengthening Hazardous Material Safety

Sec. 7010. Transportation of lithium cells and batteries.
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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.

SEC. 2. GENERAL DEFINITIONS.

In this Act, the following definitions apply:

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

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

SEC. 3. EFFECTIVE DATE.

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

TITLE I—FEDERAL-AID HIGHWAYS

SEC. 1001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

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

Subtitle A—Programs and Funding Authorizations

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

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

(1) CRITICAL ASSET INVESTMENT PROGRAM.—For the critical asset investment program under section 150 of title 23, United States Code—

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

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

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

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

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

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

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of such title—

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

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

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

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

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

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

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of such title—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of such title—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

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

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

(6) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under subtitle IV of title 40, United States Code—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

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

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

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

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

(i) [$] for fiscal year 2010;

(ii) [$] for fiscal year 2011;

(iii) [$] for fiscal year 2012;

(iv) [$] for fiscal year 2013;

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

(vi) [$] for fiscal year 2015.

(B) PARK ROADS AND PARKWAYS.—

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

(I) [$] for fiscal year 2010;

(II) [$] for fiscal year 2011;

(III) [$] for fiscal year 2012;

(IV) [$] for fiscal year 2013;

(V) [$] for fiscal year 2014; and

(VI) [$] for fiscal year 2015.

(ii) MINIMUM ALLOCATION TO CERTAIN STATES.—A State containing more than 50 percent of the total acreage of the National Park System shall receive not less than 3 percent of any funds appropriated under this subparagraph.

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

(i) [$] for fiscal year 2010;

(ii) [$] for fiscal year 2011;

(iii) [$] for fiscal year 2012;

(iv) [$] for fiscal year 2013;

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

(vi) [$] for fiscal year 2015.

(D) FOREST HIGHWAYS.—For forest highways under section 204 of such title—

(i) [$] for fiscal year 2010;

(ii) [$] for fiscal year 2011;

(iii) [$] for fiscal year 2012;

(iv) [$] for fiscal year 2013;

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

(vi) [$] for fiscal year 2015.

(E) PUERTO RICO HIGHWAYS.—For Puerto Rico highways under section 204 of such title—

(i) [$] for fiscal year 2010;

(ii) [$] for fiscal year 2011;

(iii) [$] for fiscal year 2012;

(iv) [$] for fiscal year 2013;

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

(vi) [$] for fiscal year 2015.

(F) TERRITORIAL HIGHWAYS.—For territorial highways under section 204 of such title—

(i) [$] for fiscal year 2010;

(ii) [$] for fiscal year 2011;

(iii) [$] for fiscal year 2012;

(iv) [$] for fiscal year 2013;

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

(vi) [$] for fiscal year 2015.

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

(i) [$] for fiscal year 2010;

(ii) [$] for fiscal year 2011;

(iii) [$] for fiscal year 2012;

(iv) [$] for fiscal year 2013;

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

(vi) [$] for fiscal year 2015.

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

(i) [$] for fiscal year 2010;

(ii) [$] for fiscal year 2011;

(iii) [$] for fiscal year 2012;

(iv) [$] for fiscal year 2013;

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

(vi) [$] for fiscal year 2015.

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

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

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

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

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

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

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

SEC. 1102. OBLIGATION CEILING.

[to be supplied]

SEC. 1103. APPORTIONMENT.

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

"§ 104. Apportionment

''(a) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration—

''(A) [$] for fiscal year 2010;

''(B) [$] for fiscal year 2011;

''(C) [$] for fiscal year 2012;

''(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 QUAL-
4 ITY 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-

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

[to be supplied]

"(7) SAFE ROUTES TO SCHOOLS PROGRAM.—

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

[to be supplied]

"(B) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—Before making an apportionment under this paragraph, the Secretary shall set aside not more than [$] of funds authorized to be appropriated for the safe routes to schools program for the administrative expenses of the Secretary in carrying out such program.

"(C) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this subsection concerning student enrollments shall be made by the Secretary using the definitions contained in section 152.

"(c) CERTIFICATION OF APPORTIONMENTS.—

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

retary has apportioned under this section to each State for such fiscal year. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

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

"(d) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside **[__]** percent of the funds authorized to be appropriated for the critical asset investment, surface transportation, congestion mitigation and air quality improvement, highway 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(c).
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;

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

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

"(4) the rates of obligation of funds apportioned or set aside under this section and section 133, according to—

"(A) program;

"(B) funding category or subcategory;

"(C) type of improvement;

"(D) State; and

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

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

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

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

the Secretary in accordance with chapter 53 of title 49.

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

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

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

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

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

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may transfer, at the request of a State, funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Admin-

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

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

"(C) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

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

(b) CONFORMING AMENDMENTS.—

(1) METROPOLITAN TRANSPORTATION PLANNING.—Section 134(o) is amended by striking "104(f)" and inserting "104(d)".

(2) STATEWIDE PLANNING.—Section 135(h) is amended by striking "104(f)" and inserting "104(d)".

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

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

(A) by striking "104(f)" and inserting "104(d)"; and

(B) by striking "104(h)" and inserting "104(e)".

(5) METROPOLITAN TRANSPORTATION PLANNING.—Section 5303(o) of title 49 is amended by striking "104(f)" and inserting "104(d)".

SEC. 1104. EQUITY ADJUSTMENT.

Section 105 is amended to read as follows: [to be supplied]

SEC. 1105. FREIGHT IMPROVEMENT PROGRAM.

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

"§ 119. Freight improvement program

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a freight improvement program in accordance with this section.

''(b) PURPOSES.—The purposes of the freight improvement program shall be to—

''(1) improve the operations of the existing freight transportation system;

''(2) add physical capacity to the freight transportation system in places where investment makes economic sense;

''(3) strengthen the ability of rural communities to access national and international trade markets; and

''(4) support regional economic development.

''(c) FREIGHT IMPROVEMENT PROJECTS.—

''(1) USE OF APPORTIONED FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(4) for publicly owned highway freight transportation projects that provide community and highway benefits by addressing economic, congestion, security, and safety issues associated with freight transportation.

''(2) ELIGIBLE PROJECTS.—To be eligible for 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

"(C) be consistent with the freight plan of the State in which the project is located, as required under subsection (e).

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

"(A) freight-related transportation planning in accordance with sections 134 and 135;

"(B) environmental restoration and pollution abatement activities related to a project eligible for funding under this section in accordance with section 328;

"(C) establishing an advisory committee under subsection (d);

"(D) developing a freight plan under subsection (e); and

"(E) conducting inventories and assessments of secondary freight routes under subsection (h).

"(d) FREIGHT ADVISORY COMMITTEE.—

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

sory committee consisting of a representative cross-section of public and private sector freight stakeholders, such as ports, shippers, carriers, freight-related associations, the State's transportation department, local governments, and representatives of employee organizations.

"(2) ROLE OF COMMITTEE.—The freight advisory committee of a State shall—

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

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

"(C) communicate and coordinate regional priorities with other organizations;

"(D) promote the cross-sharing of information between private and public sectors on freight issues; and

"(E) participate in the development of the State's freight plan described in subsection (e).

"(e) STATE FREIGHT PLAN.—

"(1) IN GENERAL.—Each State shall develop a freight plan that provides a comprehensive overview of the State's current and long-range freight planning 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

"(D) a description of the State's plan for achieving the performance targets established for the State under subsection (f).

"(3) RELATIONSHIP TO LONG-RANGE PLAN.—A State's freight plan may be either separate from or incorporated within the statewide transportation plan required by section 135.

"(f) PERFORMANCE MANAGEMENT.—

"(1) PERFORMANCE MEASURES.—

"(A) IN GENERAL.—To maximize the return on funds apportioned under this section, a State shall measure and document the speed and reliability of freight movement along facilities eligible for funding under this section (as described in subsection (c)(2)(B)) and the degree of access that such facilities provide to broader trade markets.

"(B) ESTABLISHMENT OF MEASURES.—Not later than 6 months after the date of enactment of this section, the Secretary shall establish quantifiable performance measures to provide for consistent measurement and documentation of freight movement as required by subparagraph (A).

"(2) PERFORMANCE TARGETS.—Not later than one year after the date of enactment of this section, the Secretary, in coordination with a State, shall establish a target level of performance for the State—

"(A) in relation to each of the performance measures established under paragraph (1)(B); and

"(B) against which the State will measure improvement in the performance of facilities on which projects are eligible for funding under this section, except that the State shall not be required to measure improvement in the performance of secondary freight routes designated under subsection (h).

"(3) REPORTING REQUIREMENTS.—A State receiving funding under this section shall submit to the Secretary, and publish annually, a report documenting the degree of progress that the State has made with respect to the performance targets established under paragraph (2).

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

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

"(ii) submit the results of the inventory to the Secretary.

"(C) REVIEW AND DESIGNATION.—

"(i) IN GENERAL.—Not later than 3 months after the date on which a State submits the results of an inventory to the Secretary under subparagraph (B), the Secretary shall review the State's submission and designate, based on the review, public roads as secondary freight routes for purpose of this section.

"(ii) STANDARD FOR DESIGNATION.—The Secretary shall designate as secondary freight routes only those public roads that are of substantial economic or freight significance, including roads that serve the mining, agricultural, timber, and tourism industries.

"(iii) MAXIMUM MILEAGE.—The mileage of public roads designated as secondary freight routes in a State under this paragraph shall not exceed the total mileage of the Federal-aid highways located in the State (excluding National Highway 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 pubic 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-

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

"(A) inspect each secondary freight route that is located in the State;

"(B) analyze and evaluate the condition of the route; and

"(C) evaluate the degree to which the condition of the route is likely to change over the next 5 years, based on a consideration of—

"(i) the physical and engineering characteristics of the route;

"(ii) the route's likely traffic volume;

"(iii) the degree to which the route is likely to be used by heavy vehicles, such as mining, agricultural, and timber vehicles; and

"(iv) the legal load limits, if any, imposed by local governments, State governments, or the Federal Government upon the route.

"(i) FREIGHT CORRIDOR COALITIONS AND PLANS.—

"(1) IN GENERAL.—The Secretary may designate and make grants to freight corridor coalitions in accordance with this subsection.

"(2) COMPOSITION OF COALITIONS.—A freight corridor coalition shall be composed of, at a minimum, one or more individuals representing each of the following:

"(A) The State department of transportation for each of the States in which a portion of the corridor is located.

"(B) The metropolitan planning organization for each transportation management area in which a portion of the corridor is located.

"(C) Each major mode of freight-related surface transportation that operates within the corridor.

"(D) Any major public port located within the corridor.

"(E) A representative cross-section of private sector freight stakeholders, such as shippers, carriers, and freight-related associations.

"(3) APPLICATIONS.—

"(A) IN GENERAL.—To be eligible to receive a designation as a freight corridor coalition, an organization shall submit to the Secretary an application that meets the requirements 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-

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

"(F) BUDGET.—The application shall provide a proposed budget for the organization applying for the designation, including—

"(i) a staffing plan;

"(ii) a spending plan; and

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

"(4) DESIGNATION.—

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

"(B) CONSENT OF GOVERNOR.—The Secretary may not designate an organization as a freight corridor coalition without the consent of the Governor of each State in which a portion of the corridor is located.

"(C) LOCATION OF CORRIDOR.—In determining the location of a corridor for purpose of eligibility decisions under this subsection the

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

"(D) CONSIDERATIONS.—The Secretary may designate a freight corridor coalition after consideration of—

"(i) the importance of the corridor to the national transportation system and economy, including the volume of passenger movement and the volume and value of freight movement within the corridor;

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

"(iii) the degree to which transportation improvements in the corridor are likely to generate regional or national economic benefits, including creating or sustaining jobs, expanding business opportunities, and impacting the gross domestic product;

"(iv) whether the organization applying for the designation has or will have the legal, financial, and technical capacity to

carry out the functions described in paragraph (3)(D); and

"(v) whether the organization applying for designation has sufficient political, organization, and institutional support from relevant corridor stakeholders (including both public and private sector organizations) to carry out such functions.

"(5) REMOVAL OF DESIGNATION.—

"(A) IN GENERAL.—If an organization designated as a freight corridor coalition under paragraph (4) fails to complete a freight corridor plan that meets the requirements of paragraph (7), the Secretary may remove the designation of the organization as a freight corridor coalition.

"(B) EFFECT OF REMOVAL.—In determining whether to provide Federal assistance under section 701 or 702, the Secretary shall not consider any freight corridor plan developed by an organization that has lost its designation as a freight corridor coalition under subparagraph (A) unless and until the organization is redesignated as a freight corridor coalition under subparagraph (C).

"(C) REDESIGNATION.—If an organization that has lost its designation as a freight corridor coalition under subparagraph (A) subsequently demonstrates, to the satisfaction of the Secretary, that the organization is likely to complete a freight corridor plan that meets the requirements of paragraph (7), the Secretary may redesignate the organization as a freight corridor coalition.

"(6) GRANTS.—

"(A) IN GENERAL.—In each of fiscal years 2011 through 2015, the Secretary may make a grant to each organization that has in effect for the fiscal year a designation as a freight corridor coalition.

"(B) ELIGIBLE USES OF FUNDING.—A grant received by an organization under subparagraph (A) may be used to fund the expenses of the organization in carrying out this section, including any activities required under paragraph (7).

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

"(D) AMOUNT OF GRANTS.—The Secretary may not make grants to a freight corridor coalition under subparagraph (A) in an aggregate amount that exceeds **[**$**]** for a fiscal year.

"(7) FREIGHT CORRIDOR PLANS.—

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

"(B) PLAN CONTENTS.—A freight corridor plan shall be modeled after the statewide strategic long-range plans developed under section 135(f), and shall meet each of the following requirements:

"(i) IDENTIFICATION OF PROJECTS.—

"(I) IN GENERAL.—The freight corridor plan shall be based on a multimodal analysis of the freight transportation needs of the corridor, and shall, based on that analysis, identify freight transportation projects that facilitate the development of an integrated freight corridor transportation 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

may include transportation projects related to short sea shipping routes if the geographic, transportation, and economic characteristics of the corridor make short sea shipping routes operationally and financially viable.

"(ii) RANKING OF PROJECTS.—The freight corridor plan shall provide a ranking of all projects identified in the plan, based on estimated benefits, feasible schedule, and most effective sequence of implementation of the projects.

"(iii) COST ESTIMATES FOR PROJECTS.—The freight corridor plan shall include estimates of the cost of each project identified in the plan and a total cost for all of the projects identified in the plan.

"(iv) FUNDING FOR PROJECTS.—The freight corridor plan shall identify plans for funding and financing each project identified in the plan, including, for each 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;

"(II) for each metropolitan planning area in which a portion of the corridor is located, the transportation plan and transportation improvement program required by section 134; and

"(III) for any urbanized area for which the Secretary has approved a metropolitan mobility plan under section 701, the metropolitan mobility plan.

"(8) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to interfere with the authority, under any State or Federal law in effect on the date of enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop the transportation plan and transportation improvement program for a metropolitan planning area as required by section 134;

"(B) develop the long-range statewide transportation plan and statewide transportation improvement program required by section 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 apportion-
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) in paragraph (1)—

(A) by inserting ", tunnels that are eligible for assistance under this title (including safety inspections of such tunnels)," before "and bridges"; and

(B) by striking "including any" and all that follows through "mitigation of" and inserting "including any bridge activity eligible for assistance under section 150(d)(1) (without regard to whether the activity is for an eligible facility as defined in section 150(d)(2)), and construction or reconstruction necessary to accommodate other transportation modes or to mitigate";

(2) in paragraph (4)—

(A) by inserting "(including any safety activity eligible for assistance under section 148)" after "infrastructure improvements and programs"; and

(B) by striking "railway-highway" and inserting "highway-rail"; and

(3) by striking paragraph (12) and redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

(b) ALLOCATIONS OF APPORTIONED FUNDS.—

(1) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133(d)(2) is amended to read as follows:

"(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—For each fiscal year, 10 percent of the funds to be obligated in an area of a State under paragraph (3)(A) shall be available only for transportation enhancement activities.".

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

(A) by striking the paragraph heading and inserting "DISTRIBUTION BY POPULATION AND TO THE STATE";

(B) in subparagraph (A)—

(i) by striking "62.5 percent of the remaining 90 percent" and inserting "80 percent"; and

(ii) by striking "37.5 percent" and inserting "20 percent";

(C) in subparagraph (D) by striking the subparagraph heading and inserting "DISTRIBUTION BY POPULATION"; and

(D) by adding at the end the following:

"(E) COORDINATION WITH RURAL PLANNING 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—

(A) assessing and documenting the use of transportation enhancement funding under section 133(d)(2);

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

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

(D) conducting outreach, information-sharing, and training related to transportation enhancements under such section.

(2) FUNDING.—

(A) IN GENERAL.—Before making an apportionment under section 104(b)(3) of title 23, United States Code, for each of fiscal years 2010 through 2015, the Secretary shall set aside, from amounts authorized to be appropriated to carry out the surface transportation program under section 133 for such fiscal year, **[**$**]** to carry out this subsection.

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

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

SEC. 1107. FERRY PROGRAM.

(a) ESTABLISHMENT.—Section 147 is amended—

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

"§ 147. Ferry program"; and

(2) in subsection (a) by striking ''carry out a program'' and inserting ''establish a ferry program''.

(b) COORDINATION WITH OFFICE OF INTERMODALISM.—Section 147(c) is amended to read as follows:

''(c) COORDINATION WITH OFFICE OF INTERMODALISM.—The Secretary shall coordinate the activities carried out under this section with other departmental activities related to ferry transportation, as provided in section 5503(c)(3) of title 49.''.

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

''(d) NATIONAL FERRY DATABASE.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Director of the Bureau of Transportation Statistics, shall maintain a national ferry 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

"(D) make available, from the amounts made available for the Bureau of Transportation Statistics by section [__] of the Surface Transportation Authorization Act of 2009, not more than [$] for each of fiscal years 2010 through 2015 to carry out this subsection.".

(d) APPLICABILITY.—Section 147 is amended—

(1) by striking subsection (e);

(2) by redesignating subsection (f) as subsection (e); and

(3) in subsection (e) (as so redesignated) by striking "apportionment formula and".

(e) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 147 and inserting the following:

"147. Ferry program.".

SEC. 1108. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

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

"§ 148. Highway safety improvement program

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

"(1) CROSSING.—

"(A) IN GENERAL.—The term 'crossing' means a location within a State where—

"(i) a public highway, road, or street, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

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

"(I) is explicitly authorized by a public authority; and

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

"(B) EXCLUSION.—The term 'crossing' does not include a location where one or more railroad tracks cross one or more railroad tracks at grade.

"(2) HIGH RISK RURAL ROAD.—The term 'high risk rural road' means any roadway that is functionally classified as a rural major or minor collector or a rural local road and that has or is expected to have a high likelihood of crashes that would result 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.

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

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

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

"(v) An improvement for pedestrian or bicyclist safety or safety of the disabled.

"(vi) Construction of or improvement to any project for the elimination of hazards at a highway-rail crossing eligible under section 130, including the separation or protection of grades at highway-rail crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

"(vii) Construction of or improvement to a highway-rail crossing safety feature, 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-

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

''(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.

''(xix) Installation and maintenance of signs (including fluorescent, yellow-green signs) and construction at pedestrian-bicycle crossings and in school zones.

''(xx) Construction and operational improvements on high risk rural roads.

''(xxi) Geometric improvements to a road for safety purposes.

''(5) HSIP FUNDS.—The term 'HSIP funds' means funds apportioned under section 104(b)(5) and funds apportioned for the highway safety improvement program under section 105(d)(1).

''(6) HSIP INVESTMENT PLAN.—The term 'HSIP investment plan' means a plan developed by a State in accordance with subsection (g).

''(7) HSIP INVESTMENT STRATEGY.—The term 'HSIP investment strategy' means the State's strategy described in subsection (g)(3)(C) for using

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

"(8) HSIP PERFORMANCE TARGET.—The term "HSIP performance target" means a performance target for a State established under subsection (f).

"(9) HSIP PROGRAM.—The term 'HSIP program' means the highway safety improvement program carried out under this section.

"(10) PUBLIC ROAD.—In addition to the meaning the term 'public road' has under section 101(a), the term includes a crossing.

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

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

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist, pedestrian, and bicyclist safety), a project to enforce highway safety laws, and a project to enhance

the ability of emergency medical services to respond to crashes.

"(12) STATE HSIP PROGRAM.—The term 'State HSIP program' means activities and projects consistent with strategies included in the State's strategic highway safety plan and the State's HSIP investment plan (and any updates of such HSIP investment plan) approved under this section and carried out as part of the State's statewide transportation improvement program under section 135(g).

"(13) STRATEGIC HIGHWAY SAFETY PLAN.—The term 'strategic highway safety plan' means a plan developed by a State transportation department that—

"(A) is developed after consultation with—

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

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

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

"(iv) representatives of motor vehicle 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—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (3);

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

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

"(2) FISCAL YEARS 2012 AND THEREAFTER.—Before a State may obligate HSIP funds apportioned to the State after September 30, 2011, the State shall have in effect a State HSIP program under which the State—

"(A) develops and implements a strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (3);

"(B) develops and implements a HSIP investment plan and updates of such HSIP plan in accordance with subsection (g);

"(C) produces a program of activities, projects, or strategies to reduce identified safety problems consistent with the State's strategic

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

"(D) evaluates the State's strategic highway safety plan and HSIP investment plan and updates of such HSIP plan on a regular basis to ensure the accuracy of both plans' data and priority of proposed improvements.

"(3) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of a State's strategic highway safety plan, the State shall—

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

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

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

commercial vehicle safety plan under section 31102 of title 49;

''(ii) includes all public roads;

''(iii) identifies hazardous locations, sections, and elements of public roads (including roadside obstacles, highway-rail crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, the disabled, and other highway users; and

''(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes, highway-rail incidents, injuries, deaths, traffic volume levels, and other relevant data;

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

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

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

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

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

"(4) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—Not later than 10 months after the date of enactment of the Surface Transportation Authorization Act of 2009, and every 4 years thereafter, a State shall develop and submit to the Secretary a revised and updated strategic highway safety plan of the State.

"(5) PROGRAM COORDINATOR.—The Secretary shall take such action as may be necessary to ensure that a State apportioned HSIP funds for a fiscal year establishes and funds in such fiscal year a full-time position of coordinator of its State HSIP program.

"(d) ELIGIBLE PROJECTS.—

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

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

"(B) as provided in subsection (e), other safety projects; and

"(C) to fund a full-time position of coordinator under subsection (c)(5).

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

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

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

"(e) [TO BE SUPPLIED].—

"(f) HSIP PERFORMANCE TARGETS.—

"(1) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 6 months after the date of

enactment of the Surface Transportation Authorization Act of 2009, and every 6 years thereafter, the Secretary shall establish quantifiable HSIP performance targets for each State in coordination with the State.

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

"(3) MINIMUM REQUIREMENTS.—HSIP performance targets established for a State under this subsection shall provide for, at a minimum, the following:

"(A) A **[__]** percent reduction over the 6-year period covered by such targets in the annual number of highway fatalities that occur on public roads within the State.

"(B) A **[__]** percent reduction over the 6-year period covered by such targets in the annual number of serious injuries that occur on public roads within the State.

"(g) STATE HSIP INVESTMENT PLANS.—

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

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

"(2) UPDATES.—

"(A) BIENNIAL UPDATES.—Not later than July 31 of the second fiscal year beginning after the date of submission of a State's HSIP investment plan under paragraph (1), and biennially thereafter, the State shall develop and submit to the Secretary for approval an update of the plan.

"(B) UPDATES DUE TO EMERGENCY.—Notwithstanding the schedule of plan updates under subparagraph (A), a State may develop and submit to the Secretary for approval an update of the plan when—

"(i) highway facilities eligible under this section in a State have suffered serious damage due to an event that results in the declaration of a state of emergency by the Governor of the State or if the President of the United States has declared such event to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

"(ii) unforeseen events significantly impact a State's ability to meet one or more of its HSIP performance targets, as determined by the Secretary.

"(3) PLAN REQUIREMENTS.—A HSIP investment plan of the State and any update of the plan developed by the State shall meet the following requirements:

"(A) CONSULTATION.—The plan and any update shall be developed after consultation with the entities and persons referred to in subsection (a)(12)(A).

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

"(C) MULTI-YEAR HSIP INVESTMENT STRATEGY.—The plan and any update shall include a HSIP investment strategy that—

"(i) covers 6 years and reflects the State's prioritization, in accordance with

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

"(ii) describes the manner in which the State will allocate HSIP funds apportioned to the State among, at a minimum—

"(I) public roads (other than highway-rail crossings), highway-rail crossings, and publicly owned bicycle or pedestrian pathways or trails;

"(II) types of facilities by functional class and ownership (Federal, State, tribal, or local);

"(III) types of safety projects, including both location-specific projects and systematic improvements; and

"(IV) highway safety improvement projects and safety projects under any other section of this title;

"(iii) provides for investment in activities 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.

"(ii) HIGHWAY-RAIL COLLISIONS.—With respect to each of the 10 States that have had the most highway-rail grade crossing collisions, as identified by the Secretary under section 202 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note; 122 Stat. 4868), the State's plan and any update shall describe how the plan and update is reflective of and consistent with the State's grade crossing action plan developed pursuant to such section.

"(E) CONSISTENCY WITH STRATEGIC HIGHWAY SAFETY PLAN.—The plan and any update shall be consistent with the State's strategic highway safety plan.

"(4) REVIEWS.—

"(A) IN GENERAL.—Not later than 2 months after the date of receipt of a State's HSIP investment plan or an update of the plan under this subsection, the Secretary shall review and approve or disapprove the plan or update. In reviewing the plan or update, the Secretary shall ensure that the Administrators of the 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;

"(B) a description of the manner in which HSIP funds apportioned to the State are administered in the State, including the level of administration (such as centrally or via districts);

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

"(D) a description of the extent to which the State's use of such funds during the most recent fiscal year is consistent with the State's HSIP investment strategy;

"(E) an assessment of the progress that the State has made toward meeting each of the State's HSIP performance targets based on the activities and projects that the State has carried out under this section and the contribution that those activities and projects have made or will make, once complete, to the State meeting such performance targets;

"(F) as assessment of the progress that the State has made in implementing safety improvements on high risk rural roads;

"(G) an assessment of the progress that 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

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

"(2) SPECIAL RULE FOR STATES HAVING MET NEEDS.—A State may use funds set aside by the State pursuant to this paragraph for any project or activity eligible under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.

"(j) ENFORCEMENT.—

"(1) IN GENERAL.—For fiscal year 2012 and each fiscal year thereafter, the Secretary shall withhold the apportionment of HSIP funds to a State until—

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

"(B) in any case in which the Secretary has not approved the State's HSIP investment plan or any update of such plan required by this section, or both, the State agrees to use such amount of the State's obligation authority as the Secretary may determine for the following fiscal year for use only on activities and 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

is not consistent with the State's HSIP investment strategy approved under this section, the Secretary shall not approve the obligation of funds under this section for a project or activity in the State that was not being carried out in the fiscal year preceding the date of such determination until the State enters into a legally binding agreement with the Secretary to use HSIP funds apportioned to the State in accordance with the State's HSIP investment strategy approved under this section.

''(k) ANNUAL REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than September 30, 2011, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that complies with the requirements of this subsection.

''(2) CONTENTS.—The report shall include, at a minimum—

''(A) an evaluation of each State's performance in relation to the State's HSIP investment strategy approved under this section

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

"(B) such recommendations as the Secretary may have for improvements of the program authorized by this section.

"(3) HIGHWAY-RAIL CROSSING PERFORMANCE.—In addition to the information required under paragraph (1), the report shall—

"(A) provide documentation of crash rates and of the number of crashes, fatalities, and injuries at highway-rail crossings in each State over the most recent 3-year period;

"(B) identify any States that are not in compliance with the requirements of section 130(d);

"(C) assess the progress being made by each State in implementing activities and projects to improve safety at highway-rail crossings, including—

"(i) the number of highway-rail safety activities and projects undertaken in connection with this section and section 130;

"(ii) the distribution of such activities and projects by cost range, road system, 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 ''(l) 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 PROVEMENT PROJECTS.—Except as provided in section
25 130, the Federal share of the cost of a highway safety

improvement project carried out with HSIP funds apportioned to a State shall be 90 percent.''.

(b) DEVELOPMENT OF ROADWAY INVENTORY DATA.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

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

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

(3) require each State to submit to the Secretary a schedule for achieving compliance with such section.

SEC. 1109. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

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

''(b) ELIGIBLE PROJECTS.—

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

''(A) The project or program is for an area 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—

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

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

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

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

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

"(2) SPECIAL RULES.—

"(A) PROJECTS RESULTING IN NEW CAPACITY FOR SINGLE OCCUPANT VEHICLES.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project that will result in the construction of new capacity

available to single occupant vehicles only if the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

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

"(C) ACQUISITION OF PUBLIC TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(2) for the acquisition of a vehicle used to provide public transportation, except that any vehicle so acquired shall be a clean fuel vehicle.

"(ii) CLEAN FUEL VEHICLE DEFINED.—In this subparagraph, the term 'clean fuel vehicle' means a passenger vehi-

cle used to provide public transportation that—

"(I) is powered by—

"(aa) compressed natural gas;

"(bb) liquefied natural gas;

"(cc) biodiesel fuels;

"(dd) batteries;

"(ee) alcohol-based fuels;

"(ff) electricity, in whole or in part;

"(gg) fuel cells;

"(hh) hydrogen; or

"(ii) other low or zero emissions technology; and

"(II) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.".

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

"(c) ALLOCATION OF APPORTIONED FUNDS.—

"(1) DIVISION BETWEEN NONATTAINMENT OR MAINTENANCE AREAS WITH A WEIGHTED POPU-

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

"(A) IN GENERAL.—The funds apportioned to a State under section 104(b)(2) for a fiscal year shall be obligated under this section—

"(i) in nonattainment or maintenance areas of the State with a weighted population of over **[__]**, and

"(ii) in other nonattainment or maintenance areas of the State,

in proportion to their relative share of the State's weighted population for all nonattainment or maintenance areas in the State.

"(B) DISTRIBUTION BETWEEN NONATTAINMENT OR MAINTENANCE AREAS WITH A WEIGHTED POPULATION OF OVER **[__]**.—The amount of funds that a State is required to obligate under subparagraph (A)(i) shall be obligated in the nonattainment or maintenance areas of the State described in subparagraph (A)(i) based on the relative weighted population of such areas.

"(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

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

"(B) establish a publically available electronic database that will serve as a clearinghouse of—

"(i) information on the transportation control measures and projects receiving funding under this section; and

"(ii) information providing technical assistance on effective strategies, techniques, and best practices to be utilized by States, counties, and urbanized areas in reducing congestion and meeting national ambient air quality standards.

"(2) REPORT.—Not later than one year after the date of enactment of the Surface Transportation Authorization Act of 2009, and annually thereafter, the Secretary, in consultation with the Administrator, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing—

"(A) a description of the projects funded under this section;

"(B) an assessment of the direct and indirect impacts on air quality and congestion levels of a representative sample of projects funded under this section; and

"(C) such recommendations as the Secretary may have for improvements in the operation and evaluation of the program established under this section.".

SEC. 1110. CRITICAL ASSET INVESTMENT PROGRAM.

(a) IN GENERAL.—Chapter 1 is amended by inserting after section 149 the following:

"§ 150. Critical asset investment program

"(a) ESTABLISHMENT.—The Secretary shall establish and implement a critical asset investment program in accordance with this section.

"(b) PURPOSES.—The purposes of the CAI program shall be to—

"(1) establish national priorities and goals for bringing the National Highway System into a state of good repair and preserving that state of good repair;

"(2) focus Federal investment on preserving and improving the condition of roadways and highway bridges located on the National Highway System; and

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

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

"(d) ELIGIBLE PROJECTS.—

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

"(A) be a project for preservation, rehabilitation, protection, or replacement of an eligible facility; and

"(B) be consistent with the investment strategy of the State in which the project is located.

"(2) ELIGIBLE FACILITIES.—For the purposes of paragraph (1), the following facilities are eligible facilities:

"(A) A highway located on the National Highway System.

"(B) A highway bridge located on a Federal-aid highway.

"(3) LIMITATION.—

"(A) IN GENERAL.—A project cost attributable to expansion of the capacity of a highway located on the National Highway System shall not be eligible for funding under this section if such new capacity consists of one or more new travel lanes that are not auxiliary lanes.

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

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

"(1) Development and implementation of management systems in support of CAI plans.

"(2) Inspection activities for highway bridges and tunnels in the State.

"(3) Training of personnel responsible for inspection of highway tunnels and inspection and load rating of highway bridges in the State.

"(4) Data collection to monitor the condition of 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

and rated as being structurally deficient, as determined by the Secretary.

"(C) A [__] percent reduction over the 6-year period covered by such targets in the State's lane miles that are located on the Interstate System and rated as being in poor condition, as determined by the Secretary based on a broadly-accepted measure of the condition or structural adequacy of the highway.

"(D) A [__] percent reduction over the 6-year period covered by such targets in the State's lane miles that are located on the Interstate System and rated as being in either fair or poor condition, as determined by the Secretary based on a broadly-accepted measure of the condition or structural adequacy of the highway.

"(E) A [__] percent reduction over the 6-year period covered by such targets in the State's lane miles that are located on the National Highway System and rated as being in poor condition, as determined by the Secretary based on a broadly-accepted measure of the condition or structural adequacy of the highway.

"(F) A [__] percent reduction over the 6-year period covered by such targets in of the State's lane miles that are located on the National Highway System and rated as being in either fair or poor condition, as determined by the Secretary based on a broadly-accepted measure of the condition or structural adequacy of the highway.

"(4) PERFORMANCE MEASURES FOR HIGHWAYS.—For purpose of paragraphs (3)(C), (3)(D), (3)(E), and (3)(F), until such time as the Secretary establishes, by rule, a superseding measure of highway condition or structural adequacy—

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

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

"(g) STATE CAI PLANS.—

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

ance targets under subsection (f), a State shall develop and submit to the Secretary for approval a CAI plan.

"(2) UPDATES.—

"(A) BIENNIAL UPDATES.—Not later than July 31 of the second fiscal year beginning after the date of submission of a State's CAI plan under paragraph (1), and biennially thereafter, the State shall develop and submit to the Secretary for approval an update of the plan.

"(B) UPDATES DUE TO EMERGENCY.—Notwithstanding the schedule of plan updates under subparagraph (A), a State may develop and submit to the Secretary for approval an update of the plan when—

"(i) highway facilities eligible under this section in a State have suffered serious damage due to an event that results in the declaration of a state of emergency by the Governor of the State or if the President has declared such event to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

"(ii) unforeseen events significantly impact a State's ability to meet one or more of its CAI performance targets, as determined by the Secretary.

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

"(A) DOCUMENTATION ON CONDITION OF ELIGIBLE FACILITIES.—The plan and any update shall include documentation on the condition of—

"(i) highways on the National Highway System located in the State; and

"(ii) highway bridges on Federal-aid highways located in the State.

"(B) MULTI-YEAR INVESTMENT STRATEGY.—The plan and any update shall include an investment strategy that—

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

"(I) facilities in good condition, 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.

"(C) INTERIM PROGRESS IN MEETING PERFORMANCE TARGETS.—In determining whether to approve an update of a plan under this paragraph, the Secretary shall consider, at a minimum—

"(i) the State's progress relative to the State's CAI performance targets; and

"(ii) the time remaining for the State to meet the State's CAI performance targets.

"(D) DISAPPROVAL OF PLANS.—If the Secretary disapproves a State's CAI plan or an update of the plan, the Secretary shall notify the State of the reasons for the disapproval and require the State to resubmit the plan or update to the Secretary with such modifications as the Secretary may require.

"(E) EFFECT OF DISAPPROVAL OF PLANS.—If the Secretary disapproves a State's CAI plan or an update of the plan, the Secretary shall not approve the obligation of funds under this section for a project in the State that was not being carried out in the fiscal year preceding the date of such disapproval until the Secretary approves the State's CAI plan or the

update of the plan, except that the Secretary shall not withhold approval of the obligation of funds for projects in the State under this section until 60 days after the date of such disapproval.

"(F) STATES RECEIVING INSUFFICIENT APPORTIONMENTS TO MEET TARGETS.—If, in conducting a review of a State's CAI plan or an update of the plan, the Secretary determines that the State's ability to meet its CAI performance targets under this section is substantially limited by the amount of funds apportioned to the State to carry out this section, the Secretary may reduce such performance targets to take into account the amount of the funding shortfall and make a determination under subparagraph (B) concerning approval or disapproval of the plan or update based on the reduced CAI performance targets.

"(G) REDUCTION IN TARGETS DUE TO EMERGENCY.—The Secretary may temporarily reduce one or more of a State's CAI performance targets and make a determination under 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;

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

"(D) an identification of the distribution of highway and bridge facilities, by level of ownership (Federal, State, tribal, and local) and by functional classification, on which the State has obligated such funds during the most recent fiscal year;

"(E) an assessment of the progress that the State has made toward meeting each of the State's CAI performance targets based on the projects that the State has carried out under this section and the contribution that those projects have made or will make, once complete, to the State meeting such performance targets; and

"(F) an identification of the average unit cost (per lane mile or highway bridge unit) for projects that the State has delivered through its use of CAI funds apportioned to the State during the most recent fiscal year.

"(i) SPECIAL RULES FOR FISCAL YEARS 2010 AND 2011.—

"(1) ELIGIBILITY FOR FUNDING.—For fiscal years 2010 and 2011, a project shall be eligible for funding under this section without regard to subsection (d)(1)(B).

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

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

"(B) the State uses at least [__] percent of the CAI funds only on bridge projects located on Federal-aid highways other than the Interstate System.

"(j) OVERSIGHT.—

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

"(2) TIMING OF OVERSIGHT.—The Secretary shall conduct oversight of a State's use of funds under paragraph (1)—

"(A) upon any revision to the State's statewide transportation plan under section 135;

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

"(C) additionally throughout a fiscal year as the Secretary considers necessary to assess the State's compliance with its investment strategy.

"(3) WITHHOLDING OF PROJECT APPROVALS.—If the Secretary determines under paragraph (1) that a State's use of funds under this section is not consistent with the State's investment strategy approved under this section, the Secretary shall not approve the obligation of funds under this section for a project in the State that was not being carried out in the fiscal year preceding the date of such determination until the State enters into a legally binding agreement with the Secretary to use CAI funds apportioned to the State in accordance with the State's investment strategy approved under this section.

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

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

"(1) an evaluation of each State's performance in relation to the State's investment strategy approved under this section and the CAI performance targets established for the State under this section; and

"(2) such recommendations as the Secretary may have for improvements of the program authorized by this section.

"(l) APPLICABILITY OF PLANNING REQUIREMENTS.—Nothing in this section shall be construed as limiting the applicability of sections 134 and 135 to projects carried out under this section.

"(m) CONTINUATION OF CURRENT REVIEW PRACTICE.—Because individual projects that are carried out under the investment strategy described in a State's CAI plan are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), a decision by the Secretary concerning a CAI plan or an update of the plan in connection with this section shall not be considered to be a Federal action subject to review 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

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

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

(4) Section 137 is amended by striking subsection (f).

(5) Section 142 is amended—

(A) in subsection (a)(2) by striking ''the the'' and inserting ''the'';

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

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

(D) in subsection (f) (as so redesignated) by striking ''air space exits'' and inserting ''air space exists''.

(6) Section 146(a) is amended by striking ''sections 104(b)(1) and'' and inserting ''section''.

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

SEC. 1111. SAFE ROUTES TO SCHOOL PROGRAM.

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

"§ 152. Safe routes to school program

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

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

''(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

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

''(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

''(c) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under section 104(b)(7) shall be administered by the State's department of transportation.

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

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

"(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

"(1) INFRASTRUCTURE-RELATED PROJECTS.—

"(A) IN GENERAL.—Amounts apportioned to a State under section 104(b)(7) may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk, bicycle, and use other modes of nonmotorized transportation to travel to and from school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

"(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

"(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

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.

"(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under section 104(b)(7) for a fiscal year shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State's safe routes to school program.

"(4) PLANNING GRANTS.—Amounts apportioned to a State under section 104(b)(7) may be used for developing State plans for implementing projects and activities, including noninfrastructure-related activities, under the State's safe routes to school program.

"(5) DATA COLLECTION.—For fiscal year 2011, and each fiscal year thereafter, a State receiving an apportionment of funds under section 104(b)(7) shall require eligible recipients described in subsection (d) to use a standardized form, as developed by the Secretary, in consultation with the nonprofit organization under subsection (g)(2)(A), to record data collected under the State's safe routes to school program.

"(f) CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools to—

"(A) operate a national safe routes to school clearinghouse;

"(B) develop information and educational programs on safe routes to school;

"(C) provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs; and

"(D) develop and disseminate best practices to include children with disabilities in State safe routes to school programs, particularly with respect to noninfrastructure-related activities.

"(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under section 104(b)(7)(B).

"(g) COMPREHENSIVE DATA COLLECTION.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Surface Transportation Authorization Act of 2009, the Secretary, in consultation with the nonprofit organization described in subsection (f), shall develop and implement a comprehensive plan for the collection of data relating to the safe routes to school program.

"(2) CONTENTS OF COMPREHENSIVE PLAN.—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.

"(2) NON-FEDERAL CONTRIBUTIONS.—A State may permit contributions from non-Federal sources for projects and activities carried out under this section if the State provides assurances satisfactory to the Secretary that the contributions will not serve as a factor in the selection of projects and activities to receive assistance under this section.

"(j) TREATMENT OF PROJECTS.—For purposes of this chapter, a project funded using amounts made available under this section that does not involve construction work shall not be considered to be a project on the Federal-aid system.

"(k) EXPEDITING INFRASTRUCTURE PROJECTS.—

"(1) GUIDANCE.—Not later than one year after the date of enactment of this subsection, the Secretary, in consultation with the Office of Livability established under section 331, shall issue guidance on best practices to facilitate the timely implementation of infrastructure-related projects under this section.

"(2) CONTENTS.—In issuing the guidance, the Secretary shall address, at a minimum—

"(A) the applicability of categorical exclusions to projects in the environmental review 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 "(l) 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.

"(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—

"(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

"(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

"(i) jurisdiction over the road; or

"(ii) responsibility for managing the road.

"(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

"(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

"(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

"(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States and Indian tribes to—

"(A) implement projects on highways designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads;

"(iii) America's Byways;

"(iv) State scenic byways; or

"(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) An activity related to the planning, design, or development of a State or Indian tribe scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byway marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State or Indian tribe as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

"(f) BYWAYS RESOURCE CENTER.—

"(1) IN GENERAL.—In accordance with paragraph (3), the Secretary shall allocate funds made available to carry out this section to the America's Byways Resource Center established pursuant to section 1215(b)(1) of the Transportation Equity Act

for the 21st Century (112 Stat. 209). The Center shall use such funds to continue to provide technical support and conduct educational activities for the national scenic byways program under this section.

"(2) ELIGIBLE ACTIVITIES.—Technical support and educational activities carried out under this subsection shall provide local officials and organizations associated with National Scenic Byways, All-American Roads, and America's Byways with proactive, technical, and on-site customized assistance, including training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain such byways and roads.

"(3) FUNDING.—Of amounts made available to carry out this section, the Secretary shall set aside **[**$**]** for each of fiscal years 2010 through 2015 for allocations under this subsection.

"(g) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that—

"(1) the Federal share of activities funded under subsection (f) shall be 100 percent; and

"(2) in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.".

SEC. 1113. FEDERAL AND TRIBAL LANDS, PUERTO RICO, AND TERRITORIAL HIGHWAY PROGRAM.

(a) AUTHORIZATIONS.—Section 201 is amended—

(1) by striking "park road, parkways" and inserting "park roads and parkways"; and

(2) by striking "and defense access roads" and inserting "defense access roads, national forest system roads, Bureau of Land Management roads, territorial highways, and Puerto Rico highways".

(b) ALLOCATIONS.—

(1) PUBLIC LANDS HIGHWAYS.—[to be supplied]

(2) FOREST DEVELOPMENT ROADS AND TRAILS.—Section 202(a) is amended by striking the subsection heading and inserting "FOREST DEVELOPMENT ROADS AND TRAILS.—".

(3) FOREST HIGHWAYS.—Section 202(b) is amended to read as follows:

"(b) FOREST HIGHWAYS.—

"(1) ALLOCATION OF FUNDING.—On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for that fiscal year for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

"(2) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under paragraph (1), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

"(A) renewable resource and land use planning; and

"(B) assessments of the impact of that planning on transportation facilities.".

(4) PARK ROADS AND PARKWAYS.—Section 202(c) is amended by inserting "PARK ROADS AND PARKWAYS.—" before "On October 1".

(5) INDIAN RESERVATION ROADS.—

(A) ADMINISTRATIVE EXPENSES.—Section 202(d)(2)(F) is amended—

(i) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—Of the funds authorized to be appropriated for Indian reservation roads, [$] for fiscal year 2010, [$] for fiscal year 2011, [$] for fiscal year 2012, [$] for fiscal year 2013, [$] for fiscal year 2014, and [$] for fiscal year 2015 may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses."; and

(ii) in clause (ii) by striking "and SAFETEA–LU" and inserting "SAFETEA–LU (Public Law 109–59), and Surface Transportation Authorization Act of 2009".

(6) RESERVATION OF FUNDS.—Section 202(d) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(7) ALLOCATIONS FOR NATIONAL FOREST SYSTEM ROADS, BUREAU OF LAND MANAGEMENT ROADS, TERRITORIAL HIGHWAYS, AND PUERTO RICO HIGHWAYS.—Section 202 is amended by adding at the end the following:

"(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

population, land area, and miles of territorial highways.

"(2) TERRITORY DEFINED.—In this section, the term 'territory' means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the United States Virgin Islands.

"(i) PUERTO RICO HIGHWAYS.—

"(1) ALLOCATION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall allocate the sums made available for the fiscal year for Puerto Rico highways to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

"(2) APPLICABILITY OF CHAPTER 1.—Except as provided in paragraph (3), funds made available for Puerto Rico highways shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1.

"(3) TREATMENT OF FUNDS.—Amounts made available for a fiscal year for Puerto Rico highways shall be administered as follows:

"(A) APPORTIONMENT.—

"(i) IN GENERAL.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as

being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—

"(I) the aggregate of the amounts for the fiscal year; by

"(II) the ratio that—

"(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(ii) EXCEPTION.—Funds identified under subparagraph (A) as having been apportioned for the interstate maintenance and National Highway System programs shall be deemed to have been apportioned for the critical asset investment program for purposes of imposing such penalties.

"(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each

section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under section 104(b) for purposes of the imposition of any penalty under this title or title 49.

''(4) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (3)(B), nothing in this subsection affects any allocation or apportionment under section 105 or any apportionment under section 104.''.

(c) AVAILABILITY OF FUNDS.—Section 203 is amended—

(1) in the first sentence by striking ''and public lands highways'' and inserting ''public lands highways, forest highways, national forest system roads, and Bureau of Land Management roads'';

(2) in the fourth sentence by striking ''and public lands highways'' and inserting ''public lands highways, forest highways, national forest system roads, and Bureau of Land Management roads''; and

(3) by striking the last sentence and inserting the following: ''Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a project under section

204 (other than a Puerto Rico highway project or a territorial highway project), or the approval by the Secretary of plans, specifications, and estimates for construction of a project under section 204 (other than a Puerto Rico highway project or a territorial highway project), shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.''.

(d) FEDERAL AND TRIBAL LANDS, PUERTO RICO, AND TERRITORIAL HIGHWAY PROGRAM.—

(1) ESTABLISHMENT.—Section 204 is amended by striking the section designation and all that follows through subsection (a) and inserting the following:

"§ 204. Federal and tribal lands, Puerto Rico, and territorial highway program

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Recognizing the need for all territorial highways, Puerto Rico highways, tribal roads, and Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal and tribal lands, Puerto Rico, and territorial highway program (in this section referred to as the 'lands program') that shall

apply to forest highways, park roads and parkways, refuge roads, Indian reservation roads, national forest system roads, Bureau of Land Management roads, territorial highways, and Puerto Rico highways (in this section referred to as 'lands program highways').

"(2) TRANSPORTATION PLANNING PROCEDURES.—

"(A) IN GENERAL.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(B) SPECIAL RULE FOR TERRITORIAL HIGHWAYS.—Projects funded under subsection (o) shall be subject to the metropolitan and statewide planning processes and procedures required under sections 134 and 135 to the extent that the Secretary determines the processes and procedures to be consistent with the needs of the territories.

"(C) SPECIAL RULE FOR PUERTO RICO HIGHWAYS.—Projects funded under subsection

(p) shall be subject to the metropolitan and statewide planning processes and procedures required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant lands program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate lands program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved lands program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appro-

priate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under this section (except for safety, pavement, and congestion management systems for Puerto Rico highways and territorial highways).''.

(2) USE OF FUNDS.—Section 204(b) is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A)—

(i) by striking ''public lands'' and inserting ''forest''; and

(ii) by inserting ''Bureau of Land Management roads,'' before ''and Indian reservation roads''; and

(B) in paragraph (5) by striking ''Federal lands highways'' each place it appears and inserting ''lands program highways''.

(3) CONDITIONS FOR PROJECT APPROVAL.—Section 204(c) is amended—

(A) by inserting ''CONDITIONS FOR PROJECT APPROVAL.—'' before ''Before approving''; and

(B) in the first sentence by striking ''or section 144''.

(4) ADMINISTRATION OF APPROPRIATIONS.—Section 204(f) is amended to read as follows:

"(f) ADMINISTRATION OF APPROPRIATIONS.—All appropriations for the construction and improvement of each class of lands program highways shall be administered in conformity with regulations and agreements—

"(1) in the case of territorial highways and Puerto Rico highways, approved by the Secretary; and

"(2) in the case of Forest highways, forest development roads and trails, park roads and parkways, Indian reservation roads, refuge roads, public lands highways, national forest system roads, and Bureau of Land Management roads, jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.".

(5) ADMINISTRATIVE EXPENSES OF FOREST SERVICE.—Section 204(g) is amended—

(A) by inserting "ADMINISTRATIVE EXPENSES OF FOREST SERVICE.—" before "The Secretary"; and

(B) by inserting "and national forest system roads" after "forest highways" each place it appears.

(6) ELIGIBLE PROJECTS.—Section 204(h) is amended—

(A) in the subsection heading by striking ''ELIGIBLE PROJECTS'' and inserting ''ADDITIONAL ELIGIBILITIES''; and

(B) in the matter preceding paragraph (1) by striking ''Federal lands highways'' and inserting ''lands program highways''; and

(C) by striking paragraph (8).

(7) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—Section 204(i) is amended—

(A) by striking paragraph (1) and inserting the following:

''(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for park roads and parkways, forest highways, refuge roads, Indian reservation roads, national forest system roads, and Bureau of Land Management roads such amounts as are necessary to pay necessary administrative costs of the agency in connection with public roads that are within or adjacent to, or that provide access to, Federal lands, if funding for nec-

essary administrative costs is not otherwise provided under this section.''.

(B) in paragraph (2) by striking ''public lands highways'' and inserting ''lands program highways''.

(8) REFUGE ROADS.—Section 204(k)(1) is amended—

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

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

(C) by adding at the end the following:

''(F) construction, operation, and maintenance of transit facilities located in wildlife refuges;

''(G) transportation planning; and

''(H) development of management systems under subsection (a).''.

(9) USE OF FUNDS MADE AVAILABLE FOR NATIONAL FOREST SYSTEM ROADS, BUREAU OF LAND MANAGEMENT ROADS, TERRITORIAL HIGHWAYS, AND PUERTO RICO HIGHWAYS.—Section 204 is amended by adding at the end the following:

''(m) NATIONAL FOREST SYSTEM ROADS.—

"(1) ELIGIBLE PROJECTS.—Notwithstanding any other provision of this title, funds made available for national forest system roads shall be used by the Secretary and the Secretary of Agriculture only to pay the costs of—

"(A) restoration, reconstruction, and rehabilitation of national forest system roads;

"(B) maintenance of national forest system roads; and

"(C) constructing, maintaining, replacing, or removing culverts and other barriers to facilitate the passage of aquatic species beneath national forest system roads.

"(2) ELIGIBLE FACILITIES.—

"(A) IN GENERAL.—To be eligible to receive funds under this subsection, a project shall be located on a national forest system road included in the inventory described in subparagraph (B).

"(B) INVENTORY.—

"(i) IN GENERAL.—Not later than 6 months after the enactment of this subsection, the Secretary of Agriculture shall develop and make available to the public

an inventory of national forest system roads that are—

"(I) maintenance level 3, 4, or 5, as defined in the United States Department of Agriculture Forest Service Handbook; and

"(II) most used by passenger vehicles to access major recreation sites, as defined by the Secretary of Agriculture.

"(ii) UPDATES.—The Secretary of Agriculture shall update the inventory under clause (i) annually and make each such update available to the public.

"(C) REVIEW.—A decision to add a road to or remove a road from the inventory under subparagraph (B) shall not be considered a Federal action for purposes of review under the National Environmental Protection Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) PROHIBITION ON CONSTRUCTION OF NEW ROADS.—Funds made available under this subsection shall not be used for the construction of a new national forest system road.

"(n) BUREAU OF LAND MANAGEMENT ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for Bureau of Land Management roads shall be used by the Secretary and the Secretary of the Interior only to pay the cost of—

"(A) maintenance, repair, reconstruction, restoration and rehabilitation of Bureau of Land Management roads; and

"(B) construction, maintenance, replacement, or removal of culverts and other barriers to facilitate the passage of aquatic species beneath Bureau of Land Management roads.

"(2) ELIGIBLE FACILITIES.—

"(A) IN GENERAL.—To be eligible to receive funds under this subsection, a project shall be located on a Bureau of Land Management road included in the inventory described in subparagraph (B).

"(B) INVENTORY.—

"(i) IN GENERAL.—Not later than 6 months after the enactment of this subsection, the Secretary of the Interior shall develop and make available to the public an inventory of Bureau of Land Management roads—

"(I) that are public roads; and

"(II) that are most used by passenger vehicles to access recreation sites.

"(ii) UPDATES.—The Secretary of the Interior shall update the inventory under clause (i) annually and make each such update available to the public.

"(C) REVIEW.—A decision to add a road to or remove a road from the inventory under subparagraph (B) shall not be considered a Federal action for purposes of review under the National Environmental Protection Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) PROHIBITION ON CONSTRUCTION OF NEW ROADS.—Funds made available under this subsection shall not be used for the construction of a new Bureau of Land Management road.

"(o) TERRITORIAL HIGHWAYS.—

"(1) IN GENERAL.—Funds made available for territorial highways shall be used for the construction and improvement of, in each territory, a system of arterial and collector highways, and necessary 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).

"(3) APPLICABILITY OF CERTAIN PROVISIONS.—

"(A) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the purposes described in paragraph (1), chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the purposes described in paragraph (1).

"(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (4) for each territory shall identify the sections of chapter 1 that are applicable to that territory and the extent of the applicability of those sections.

"(C) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(h).

"(4) AGREEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available for territorial highways shall be available for obligation or expenditure with respect

to any territory until the chief executive officer of the territory enters into an agreement with the Secretary providing that the government of the territory shall—

"(i) carry out any activities under this subsection in accordance with applicable provisions of chapter 1 and paragraph (3);

"(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

"(I) appropriate for each territory; and

"(II) approved by the Secretary;

"(iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and

"(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

"(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

"(i) specify the kind of technical assistance to be provided under this subsection;

"(ii) include appropriate provisions regarding information sharing among the territories; and

"(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

"(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

"(D) EXISTING AGREEMENTS.—With respect to an agreement under the section between the Secretary and the chief executive officer of a territory that is in effect as of August 10, 2005—

"(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

"(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or 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.

"(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

"(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for territorial highways shall be obligated or expended for routine maintenance.

"(6) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.

"(7) TERRITORY DEFINED.—In this subsection, the term 'territory' means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the United States Virgin Islands.

"(p) PUERTO RICO HIGHWAYS.—

"(1) ELIGIBLE USES OF FUNDING.—Notwithstanding any other provision of this title, funds made available for Puerto Rico highways may be used to pay the cost of any project or activity eligible under chapter 1.

"(2) FEDERAL SHARE.—The Federal share of projects funded under this subsection shall be in accordance with section 120.".

(10) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 204 and inserting the following:

"204. Federal and tribal lands, Puerto Rico, and territorial highway program.".

(e) CONFORMING AMENDMENTS.—

(1) FEDERAL SHARE.—Section 120(l) is amended—

(A) in the subheading by striking "FEDERAL LANDS HIGHWAYS PROGRAM" and inserting "FEDERAL AND TRIBAL LANDS, PUERTO RICO, AND TERRITORIAL HIGHWAY PROGRAM";

(B) by striking "Federal lands highways program" and inserting "Federal and tribal lands, Puerto Rico, and territorial highway program"; and

(C) by inserting after "section 204" the following: "(except for funds authorized to be appropriated for Puerto Rico highways)".

(2) EMERGENCY RELIEF.—Section 120(e) is amended by striking "and Indian reservation roads" and inserting "Indian reservation roads, National Forest System roads, and Bureau of Land Management roads".

(3) EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.—The paragraph heading for section 139(j)(3) is amended by striking "FEDERAL LANDS HIGHWAY" and inserting "FEDERAL AND TRIBAL LANDS, PUERTO RICO, AND TERRITORIAL HIGHWAY".

(4) PUERTO RICO HIGHWAY PROGRAM.—Section 165, and the item relating to that section in the analysis for chapter 1, are repealed.

(5) TERRITORIAL HIGHWAY PROGRAM.—Section 215, and the item relating to that section in the analysis for chapter 2, are repealed.

(f) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding—

(1) to review the Department's formula for allocating territorial highway funds under section 202(h) of title 23, United States Code (as added by this section), among the territories;

(2) to determine whether the formula described in paragraph (1) allocates funding equitably among the territories based on a consideration of the factors listed in section 202(h) of such title; and

(3) to revise the formula if necessary to allocate territorial highway funds in closer proportion to each

territory's relative share based on the factors listed in section 202(h) of such title.

SEC. 1114. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Section 206(h) is amended by adding at the end the following:

"(5) USE OF YOUTH CONSERVATION AND SERVICE CORPS.—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation and service corps to perform construction and maintenance of recreational trails under this section.".

(b) CONFORMING AMENDMENT.—Section 1109(f) of SAFETEA-LU (119 Stat. 1170) is repealed.

SEC. 1115. NONMOTORIZED TRANSPORTATION PILOT PROGRAM.

(a) ESTABLISHMENT.—Section 1807(a) of SAFETEA-LU (119 Stat. 1460) is amended by striking "and pedestrian and bicycle trails" and inserting "pedestrian and bicycle trails, and other design features of benefit in fulfilling the purposes of the program".

(b) STATISTICAL INFORMATION.—Section 1807(d) of SAFETEA-LU (119 Stat. 1460) is amended by inserting after "energy usage," the following: "improve safety for cyclists and pedestrians,".

(c) REPORTS.—Section 1807(e) of SAFETEA-LU (119 Stat. 1460) is amended to read as follows:

"(e) REPORTS.—

"(1) IN GENERAL.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

"(A) an interim report on the results of the program not later than September 30, 2007; and

"(B) a final report on the results of the program not later than March 31, 2012.

"(2) CONTENTS.—The report submitted under paragraph (1)(B) shall also include the statistical information developed under subsection (d) and the Secretary's recommendations to Congress on whether or not the program should be expanded into an ongoing and national approach or program.".

(d) FUNDING.—Section 1807(f) of SAFETEA-LU (119 Stat. 1460) is amended by striking paragraph (2) and inserting the following:

"(2) STATISTICAL INFORMATION.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account)

to carry out the activities under subsections (d) and (e) [$] for each of fiscal years 2010 through 2012.

"(3) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds made available to carry out this section shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities carried out using such funds shall be 100 percent and such funds shall remain available until expended.".

(e) TREATMENT OF PROJECTS.—Section 1807(g) of SAFETEA-LU (119 Stat. 1461) is amended by inserting after "this subsection" the following: "(other than projects that do not involve or lead directly to construction)".

SEC. 1116. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) APPORTIONMENT.—Subject to subsection (b), the Secretary shall apportion funds made available by section 1102(a)(6) of this Act for each of fiscal years 2010 through 2015 among the States in the ratio that—

(1) the latest available cost to complete estimate for the Appalachian development highway system under section 14501 of title 40, United States Code, in each State; bears to

(2) the latest available cost to complete estimate for the Appalachian development highway system under section 14501 of title 40, United States Code, in all States.

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

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

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

(c) CORRIDOR X–1.—

(1) COST TO COMPLETE.—In determining the cost to complete estimate for the Appalachian development highway system under section 14501 of title 40, United States Code, the total Federal share of the cost to complete Corridor X–1 in Alabama, as designated in section 123 of title I of division F of Public Law 108–199 (118 Stat. 296), shall not exceed $500,000,000.

(2) REVISION OF COST TO COMPLETE ESTIMATE.—Not later than 60 days after the date of enactment of this Act, the Appalachian Regional Commission shall revise the cost to complete estimate for 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) the rate of obligations of funds apportioned for the Appalachian development highway system for the preceding 4 fiscal years;

(2) a listing of any unobligated balances that are rescinded pursuant to subsection (e); and

(3) a listing of any unobligated balances of funds apportioned under this section that have lapsed or obligation authority provided in section 1103 for the Appalachian development highway system that have expired.

(g) LOCAL ACCESS ROADS.—Section 14501(a) of title 40, United States Code, is amended by striking ''1,400 miles'' and inserting ''1,000 miles''.

(h) REPEAL OF CORRIDOR O–1 DESIGNATION.—Section 1117(d) of the Transportation Equity Act for the 21st Century (112 Stat. 161) is repealed and the designation made by that section shall no longer be effective.

SEC. 1117. DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.

Section 1308(h) of SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1218) is amended to read as follows:

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section **【**$**】** for each of fiscal years 2010 through 2015.''.

SEC. 1118. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.

Section 1906(e) of SAFETEA–LU (119 Stat. 1469) is amended—

(1) in paragraph (1) by striking ''$7,500,000 for each of fiscal years 2005 through 2009'' and inserting ''**[**$**]** for each of fiscal years 2010 through 2015''; and

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

''(2) APPLICABILITY OF CHAPTER 1 OF TITLE 23, UNITED STATES CODE.—Funds made available to carry out this section shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities carried out using such funds shall be 80 percent.''.

SEC. 1119. TECHNICAL AMENDMENTS.

(a) TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.—Section 126, and the item relating to that section in the analysis for chapter 1, are repealed.

(b) INTERSTATE OASIS PROGRAM.—Section 1310 of SAFETEA–LU (23 U.S.C. 111 note; 119 Stat. 1219), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

Subtitle B—Intermodal and Organizational Innovations

SEC. 1201. INTERMODALISM.

(a) UNDER SECRETARY.—Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i);

(2) by inserting after subsection (d) the following:

''(e) UNDER SECRETARY OF TRANSPORTATION FOR INTERMODALISM.—The Department of Transportation shall have an Under Secretary of Transportation for Intermodalism appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States. The Under Secretary shall act for the Secretary when the Secretary, the Deputy Secretary, and the Under Secretary of Transportation for Policy are absent or unable to serve, or when the offices of Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are vacant.'';

(3) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) by striking ''and'' after ''Deputy Secretary,''; and

(B) by inserting '', and Under Secretary of Transportation for Intermodalism'' after ''for Policy'' each place it appears; and

(4) in subsection (g)(1) (as redesignated by paragraph (1) of this subsection) by inserting ''Office of Intermodalism in the'' after ''within the''.

(b) COUNCIL ON INTERMODALISM.—

(1) IN GENERAL.—Section 5502 of title 49, United States Code, is amended to read as follows:

''§ 5502. Council on Intermodalism

''(a) ORGANIZATION.—The Council on Intermodalism shall be a council in the Office of the Secretary of Transportation.

''(b) MEMBERSHIP.—

''(1) VOTING MEMBERS.—The voting membership of the Council shall consist of the Secretary, who shall serve as chairman, the Under Secretary of Transportation for Intermodalism, who shall serve as chairman in the absence of the Secretary, and the Administrators of—

''(A) the Federal Highway Administration;

''(B) the Federal Aviation Administration;

''(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.

"(4) COORDINATION OF INTERMODAL PROGRAMS.—

"(A) IN GENERAL.—The Under Secretary shall—

"(i) oversee the establishment of the metropolitan mobility and access program under section 701 of title 23;

"(ii) oversee the establishment of the projects of national significance program under section 702 of title 23;

"(iii) oversee the development of selection criteria and issuance of rules under such sections; and

"(iv) lead the implementation of such programs, including—

"(I) the solicitation and review of applications;

"(II) the selection of activities and projects for funding; and

"(III) the development of letters of intent, full funding grant agreements, and early system work agreements for activities and projects.

"(B) APPROVAL BY COUNCIL ON INTERMODALISM.—

"(i) METROPOLITAN MOBILITY PLANS.—No project or activity shall receive Federal assistance under section 701 of title 23 until—

"(I) the Under Secretary has presented to the Council on Intermodalism recommendations that the metropolitan mobility plan in which such project or activity is included be funded; and

"(II) the Council on Intermodalism has approved the recommendations.

"(ii) PROJECTS OF NATIONAL SIGNIFICANCE.—No project or activity shall receive Federal assistance under section 702 of title 23 until—

"(I) the Under Secretary has presented to the Council on Intermodalism recommendations that such project or activity be funded; and

"(II) the Council on Intermodalism has approved the recommendations.

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

the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of its review under subparagraph (A), which shall include, at a minimum—

(i) a description of barriers that inhibit intermodal transportation;

(ii) an evaluation of any actions that the Department of Transportation has taken to address these barriers; and

(iii) recommendations on any additional actions that the Department could take to better address any remaining barriers to intermodal transportation.

(2) REPORT ON DEPARTMENT'S PROGRESS REGARDING HAZARDOUS MATERIAL TRANSPORTATION.—Not later than December 31, 2010, the Inspector General of the Department of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report evaluating the efforts of the Department in establishing and implementing the process established in sub-

section (c)(2)(F) of section 5503 of title 49, United States Code, together with any recommendations the Inspector General may have for improving the process.

(e) MODEL INTERMODAL TRANSPORTATION PLANS.—Section 5504, and the item relating to that section in the analysis for chapter 55 of title 49, United States Code, are repealed.

(f) POSITION OF UNDER SECRETARY IN EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting after the undesignated paragraph relating to the Under Secretary of Transportation for Policy the following:

"Under Secretary of Transportation for Intermodalism.".

SEC. 1202. OFFICE OF EXPEDITED PROJECT DELIVERY.

(a) IN GENERAL.—Chapter 3 is amended by adding at the end the following:

"§ 330. Office of Expedited Project Delivery

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Expedited Project Delivery in the Federal Highway Administration to enhance the speed of project delivery for highway construction projects.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary.

"(c) DUTIES OF DIRECTOR.—The Director shall provide national leadership to enhance the speed of delivery of highway construction projects, with particular focus on significant highway construction projects and substantially delayed projects.

"(d) ACTIONS TO SPEED DELIVERY OF SIGNIFICANT HIGHWAY CONSTRUCTION PROJECTS.—

"(1) IN GENERAL.—For a significant highway construction project, the Director shall—

"(A) monitor the project throughout the project delivery process;

"(B) monitor whether headquarters offices, Federal-aid division offices, other Federal agencies, and other relevant parties are fully implementing and complying with section 139 (relating to efficient environmental reviews for project decisionmaking) and assist such parties in reaching full compliance if necessary;

"(C) participate in the development of any schedule for completion of the environmental review process for the project established as part of a coordination plan under section 139(g)(1)(B);

"(D) assist the State in the development of a project delivery schedule that must—

"(i) be submitted to the Secretary prior to the completion of the environmental review process for the project under NEPA;

"(ii) encompass the time period between the completion of the environmental review process for the project and the completion of the project; and

"(iii) set forth the expected start and completion dates for each of the remaining phases of the project, and any other relevant milestones in the project delivery timeline;

"(E) promote and assist in the use of practices and techniques (including best practices from other States) that enhance the speed of project delivery when suitable and allowable under Federal, State, and local law, including—

"(i) using design-build procurement methods;

"(ii) using other procurement methods that enhance the speed of project delivery (such as cost-plus-time bidding, lane rental, 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);

"(viii) using conflict resolution techniques and professionals, as appropriate; and

"(ix) establishing programmatic agreements, including memoranda of agreement, between State departments of transportation and the Federal Highway Administration or environmental resource agencies (such as the United States Fish and Wildlife Service) regarding the NEPA process in general and categorical exclusions in particular;

"(F) coordinating the activities of relevant parties (including the parties described in subparagraph (E)(vii)) and encouraging the parties to collaborate throughout the phases of the project delivery process; and

"(G) working with the designated points of contact to expedite the project's delivery and to monitor the project's progress.

"(2) SUBSTANTIALLY DELAYED SIGNIFICANT HIGHWAY CONSTRUCTION PROJECTS.—For a significant highway construction project that is experiencing substantial delays, as determined by the Director based on the monitoring of the project and

any additional information obtained from designated points of contact and other relevant parties, the Director shall—

"(A) inform the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the project in a quarterly report, to be submitted not later than the last day of each quarter of a fiscal year, that contains for each such project a description of—

"(i) the project;

"(ii) the location of the project;

"(iii) the estimated cost of the project;

"(iv) when the delays began;

"(v) the nature of the delays;

"(vi) the steps that the Director took or will take to resolve the delays;

"(vii) the effectiveness of any steps taken; and

"(viii) the current status of the project;

"(B) identify and resolve the obstacles in project delivery that are causing the delays, in-

cluding by working with the designated points of contact;

"(C) coordinate relevant parties (including the parties described in paragraph (1)(E)(vii)) to help resolve the delays;

"(D) utilize conflict resolution techniques and professionals, as appropriate, to help resolve the delays; and

"(E) intensify the monitoring of the project under paragraph (1)(A) after the delays have been resolved in order to prevent, or identify and resolve, any further delays.

"(e) ACTIONS TO RESOLVE OBSTACLES TO DELIVERY OF OTHER SUBSTANTIALLY DELAYED PROJECTS.—

"(1) IN GENERAL.—For highway construction projects not covered under subsection (d), the Director shall identify and resolve substantially delayed projects according to this subsection.

"(2) DATA MONITORING AND REPORTS.—The Director shall obtain information on delays of highway construction projects as follows:

"(A) The Director shall track and analyze data on the progress of individual projects and the time spent in different phases of project delivery.

"(B) A Federal-aid division office shall submit to the Director a report on any project that the office considers to be experiencing significant delays.

"(C) A headquarters office, in which there is a designated point of contact, shall submit to the Director a report on any project that the office considers to be experiencing significant delays.

"(3) CONTENTS OF REPORTS.—A report on a project submitted under paragraph (2) shall include, at a minimum, a description of—

"(A) the project;

"(B) the location of the project;

"(C) the estimated cost of the project;

"(D) when the delays began;

"(E) the nature of the delays; and

"(F) any steps that the reporting office believes that could be taken to resolve the delays.

"(4) IDENTIFICATION OF SUBSTANTIALLY DELAYED PROJECTS.—Based on information obtained on a project under paragraph (2), and after acquiring any additional information needed on the project from designated points of contact and other relevant 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) monitor whether headquarters offices, Federal-aid division offices, other Federal agencies, and other relevant parties are fully implementing and complying with section 139 (relating to efficient environmental reviews for project decisionmaking) and assist such parties in reaching full compliance with such requirements if necessary;

"(2) compile information on practices and techniques (including practices and techniques described in subsection (d)(1)(E)) that serve to enhance the speed of project delivery;

"(3) disseminate to States information on such practices and techniques;

"(4) promote the use of such practices and techniques if suitable and allowable under Federal, State, and local law;

"(5) serve as a clearinghouse among the States for best practices in enhancing the speed of project delivery;

"(6) coordinate the provision of technical assistance to States by headquarters offices, Federal-aid division offices, and other entities regarding practices and techniques that serve to enhance the speed of project delivery; and

"(7) provide support to designated points of contact within the Office of the Secretary in their activities relating to any Executive order or interagency body concerning enhancing the speed of project delivery or expediting environmental reviews.

"(g) INTERMODAL COORDINATION.—The Office shall coordinate its efforts with the Office of Expedited Project Delivery of the Federal Transit Administration established under section 5326 of title 49, particularly in the case of projects that encompass both highway and public transportation elements and in developing techniques and best practices to enhance the speed of project delivery that are applicable to both highway and public transportation projects.

"(h) DESIGNATION OF POINTS OF CONTACT.—The Secretary shall designate, to work with the Office in its efforts to enhance the speed of project delivery, one or more points of contact within—

"(1) the Office of the Secretary, with at least one point of contact located in the Office of the Assistant Secretary for Transportation Policy;

"(2) each Federal-aid division office; and

"(3) such headquarters offices as the Secretary, in consultation with the Director, considers appropriate.

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;

"(E) an identification of remaining obstacles to faster project delivery;

"(F) a description of future steps that the Office will take to enhance the speed of project delivery and future goals for enhancing the speed of project delivery;

"(G) an assessment of whether headquarters offices, Federal-aid division offices, other Federal agencies, and any other relevant parties are fully implementing and complying with section 139 (relating to efficient environmental reviews for project decisionmaking) and a description of the steps that the Office has taken or intends to take to ensure full implementation and compliance with section 139; and

"(H) such recommendations as the Secretary may have for improvements to the functions and roles of the Office and other measures to enhance the speed of project delivery.

"(j) REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 4 years after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of 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 forts 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).

"(8) PROJECT DELIVERY.—The term 'project delivery' means planning, environmental review, permitting, design, right-of-way acquisition, and construction for a highway construction project.

"(9) PROJECT DELIVERY SCHEDULE.—The term 'project delivery schedule' means a project delivery schedule under section 106(h), 106(i), or 702.

"(10) SIGNIFICANT HIGHWAY CONSTRUCTION PROJECT.—The term 'significant highway construction project' means a highway construction project that—

"(A) has an estimated total cost of $500,000,000 or more;

"(B) requires an environmental impact statement under NEPA;

"(C) is a project of national significance under section 702; or

"(D) meets the requirements of any combination of subparagraphs (A), (B), and (C).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 is amended by adding at the end the following:

"Sec. 330. Office of Expedited Project Delivery.".

SEC. 1203. OFFICE OF LIVABILITY.

(a) IN GENERAL.—Chapter 3 (as amended by this 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.

"(7) Transportation costs account for approximately 18 percent of an average household's expenditures.

"(8) Over reliance on automobiles can have adverse impacts on public health, both through lessened physical activity and from increased pollutants.

"(9) In order to reduce the financial, environmental, and quality of life impacts of traffic congestion and to create modal choice for all users, our transportation system must include alternate modes of transportation to complement personal vehicle travel, including public transit, walking, and cycling.

"(10) Public transit, walking, and cycling are sustainable modes of transportation that result in 5,600,000,000 gallons of fuel savings and reduce carbon dioxide emissions by 49,000,000 metric tons each year.

"(11) Sustainable modes of transportation can provide affordable transportation choices and have the ability to reduce the transportation cost burden.

"(12) Cyclists and pedestrians are intended users of the surface transportation system, except where prohibited by law; and it is the policy of the Federal Government to encourage maximum accessibility and safety of the surface transportation sys-

tem for cyclists and pedestrians as intended users when designing and constructing surface transportation facilities.

"(13) In order to provide access to sustainable modes of transportation, land use and planning decisions must include considerations about transportation options.

"(14) A modally balanced surface transportation system will benefit all users through improved accessibility, mobility, and quality of life.

"(15) Increasing the availability and use of sustainable modes of transportation and the development of livable communities are national priorities.

"(b) ESTABLISHMENT.—The Secretary shall establish within the Federal Highway Administration an office, to be known as the 'Office of Livability', to provide leadership and support for policies and decision-making at all levels of government that increase modal choice and enhance livability and sustainable modes of transportation.

"(c) DIRECTOR.—The Office shall be headed by a director who shall be known as the 'Director of the Office of Livability' and who shall be appointed by the Secretary.

"(d) GENERAL DUTIES OF THE DIRECTOR.—The duties 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).

"(C) Transportation enhancements under section 133.

"(D) The recreational trails program under section 206.

"(E) The national scenic byways program under section 162.

"(F) The U.S. bicycle route system program under subsection (k).

"(2) COLLABORATION.—The Director shall work collaboratively to ensure the expeditious and successful implementation of projects and programs by offices within the Federal Highway Administration and the Federal Transit Administration under the following:

"(A) Section 134, relating to metropolitan planning.

"(B) Section 135, relating to statewide transportation planning.

"(C) The Transit in the Parks Program of section 5320 of title 49.

"(D) Section 5309 of title 49, relating to capital investment grants.

"(E) Any other transportation programs 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

that serve to enhance nonmotorized transportation project delivery.

"(g) DEVELOPMENT AND DISSEMINATION OF BEST PRACTICES.—The Office shall act as a leadership resource to develop and disseminate information or best practices and provide technical assistance or training to the States and other appropriate regional and local governmental entities and Indian tribes relating to the following topics, at a minimum:

"(1) Promotion of the integration of land use and planning and transit-oriented development to support the creation of livable communities.

"(2) The expeditious delivery of nonmotorized transportation projects.

"(3) Innovative design of nonmotorized transportation facilities.

"(4) Adoption and implementation of comprehensive street design policies and principles and practical design standards.

"(5) Implementation of the U.S. bicycle route system program.

"(6) Projects, programs, and activities that support the achievement of national mode share targets 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.

"(D) Any other information the Director determines is necessary and is related to the status and expansion of sustainable modes of transportation and livable communities.

"(2) INCLUSION IN ANNUAL REPORT.—The Director shall include the statistics and other information determined under paragraph (1) in the annual report to Congress under subsection (i).

"(3) COORDINATION.—The development of capabilities and the making of determinations under paragraph (1) may be conducted in coordination with the nonmotorized transportation pilot program under section 1807 of SAFETEA–LU to the extent the Director determines appropriate.

"(4) WORKING WITH CLEARINGHOUSES AND RESOURCE CENTERS.—The Director may work collaboratively with any appropriate federally-established clearinghouses or resource centers to disseminate the statistics developed, and other information determined, under paragraph (1).

"(i) ANNUAL REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than September 30, 2011, and September 30 of every year thereafter, the Director shall submit to the Committee on 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)

and activities the Office has undertaken to promote achievement of the targets.

"(I) Information on the status of the establishment and implementation of the U.S. bicycle route system program.

"(J) Information on the adoption and implementation of comprehensive street design policies and principles and practical design standards and the Office's activities in overseeing the requirements of section 109(a)(1) relating to such information.

"(K) Such recommendations as the Director may have for improvements to the functions or roles of the Office or other measures relating to the intersection of surface transportation and quality of life through comprehensive planning, access to modal choices, enhanced environmental quality, and improved public health.

"(j) COMPREHENSIVE STREET DESIGN POLICIES AND PRINCIPLES AND PRACTICAL DESIGN STANDARDS.—

"(1) PURPOSES.—The Director shall encourage the adoption and implementation by States and regional and local governmental entities and Indian tribes of comprehensive street design policies and 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-

cover damages for injuries sustained on these facilities.

"(C) GUIDANCE AND MODEL LEGISLATION FOR STATES.—Not later than 18 months after the date of enactment of this subsection, the Director shall develop and disseminate guidance and model legislation for use by States and other appropriate entities in—

"(i) establishing the rights of bicyclists and pedestrians to use transportation facilities as permitted and intended users; and

"(ii) ensuring that bicyclists and pedestrians have the same ability as motorists and their passengers to recover damages for injuries sustained on transportation facilities.

"(k) U.S. BICYCLE ROUTE SYSTEM.—

"(1) IN GENERAL.—The Director shall establish a U.S. bicycle route system and a program for the award of grants under this section for activities or projects that are on or are related to portions of the U.S. bicycle route system that have been approved by the Secretary under the criteria developed under paragraph (3).

"(2) PURPOSE.—The purpose of the U.S. bicycle route system program shall be to provide for the establishment and support of an interconnected, intercity network of bicycle facilities of all classes, to improve and enhance mobility, modal choice, economic development, and quality of life.

"(3) DESIGNATION OF THE U.S. BICYCLE ROUTE SYSTEM.—The Director shall issue regulations—

"(A) to establish and implement a process for the designation of a U.S. bicycle route system that shall include procedures for the approval of routes by the Secretary, numerical designation of such routes, and standard signage for such routes; and

"(B) to establish the criteria for selection of recipients of grants under this section.

"(4) GRANTS.—The Director shall make grants under this subsection to States and Indian tribes for the purpose of implementing and enhancing a U.S. bicycle route system in accordance with the regulations issued under paragraph (2).

"(5) SELECTION CRITERIA.—In making grants to States and Indian tribes under this subsection,

the Secretary shall take into consideration the following:

"(A) The extent to which the State or Indian tribe has identified other sources of Federal, State, regional, local, tribal, or private funds to support the implementation of the U.S. bicycle route system components within that State, region, locality, or Indian reservation.

"(B) The extent to which the State or Indian tribe has demonstrated an ability to work with various levels of government that will be involved in the implementation of the U.S. bicycle route system program.

"(C) The extent to which cyclists will be able to travel safely on proposed routes of the system.

"(D) Any other factors that the Secretary determines are appropriate.

"(6) ELIGIBLE ACTIVITIES.—Eligible activities for grants under this section include the following activities that are on or are related to portions of the U.S. bicycle route system:

"(A) Planning.

"(B) Mapping.

"(C) Signage.

"(D) Development of informational or promotional materials.

"(E) Construction of components of the system.

"(7) SPECIAL RULE FOR CONSTRUCTION.—The Secretary shall ensure that no more than 50 percent of funds under this subsection are used for the activities listed under paragraph (5)(E).

"(8) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out using amounts from a grant received under this subsection shall be 80 percent of the cost of the project or activity.

"(9) FUNDING.—[to be supplied.]

"(l) LIVABILITY, SUSTAINABILITY, AND PLANNING.—The Director shall compile information and provide technical assistance, training, and best practices to States and metropolitan planning organizations to assist in their compliance with livability and sustainability requirements and performance targets under sections 134, 135, and 701.

"(m) DESIGNATION OF POINTS OF CONTACT.—The Secretary, in consultation with the Director, shall des-

ignate to work with the Office to carry out its functions under this section—

"(1) one or more points of contact within the Office of the Assistant Secretary for Transportation Policy of the Department of Transportation;

"(2) a point of contact within each of the Federal-aid Division Offices;

"(3) a point of contact within each of the Federal Transit Administration Regional Offices; and

"(4) a point of contact within each of the headquarters offices.

"(n) CAREER RESERVED POSITION.—The position of Director shall be treated for purposes of title 5 as a career reserved position, as defined in section 3132(a)(8) of title 5.

"(o) FUNDING.—[to be supplied]

"(p) SAVINGS PROVISION.—Nothing in this section shall be construed as—

"(1) superseding, amending, or modifying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), any other Federal environmental law, or any requirement of this title; or

"(2) affecting the responsibility of any Federal officer to comply with or enforce any such law or requirement.

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.

"(3) FEDERAL TRANSIT ADMINISTRATION REGIONAL OFFICE.—The term 'Federal Transit Administration Regional Office' means a regional office of the Federal Transit Administration.

"(4) HEADQUARTERS OFFICE.—The term 'headquarters office' means a headquarter office of the Federal Highway Administration and a headquarters office of the Federal Transit Administration.

"(5) PRACTICAL DESIGN STANDARD.—The term 'practical design standard' means a collaborative, interdisciplinary approach that involves interested entities to develop a transportation facility that fits its physical setting, balances costs with the necessary scope of the project, and preserves scenic, aesthetic, historic, and environmental resources, while maintaining safety and mobility.

"(6) PROJECT DELIVERY.—The term 'project delivery' means planning, environmental review, permitting, design, right-of-way acquisition, and construction of a project.

"(7) SUSTAINABLE MODES OF TRANSPORTATION.—The term 'sustainable modes of transportation' means public transit, walking, and bicycling.

"(8) U.S. BICYCLE ROUTE SYSTEM.—The term 'U.S. bicycle route system' means a national, intercity system of interconnected urban, suburban, and rural bicycle facilities of all classes.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 (as amended by this Act) is amended by adding at the end the following:

"331. Office of Livability.".

SEC. 1204. OFFICE OF PUBLIC BENEFIT.

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

"§ 611. Office of Public Benefit

"(a) ESTABLISHMENT.—There is established in the Federal Highway Administration an Office of Public Benefit to provide for the protection of the public interest in relation to highway toll projects and public-private partnership agreements on Federal-aid highways.

"(b) DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Secretary.

"(c) DUTIES.—The Director shall carry out the following duties:

"(1) LEADERSHIP AND TECHNICAL ASSISTANCE.—The Director shall—

"(A) provide national leadership in ensuring the protection of the public interest in relation to highway toll projects and public-private

partnership agreements on Federal-aid highways;

"(B) compile and promote the use of policies, practices, and techniques for protecting the public interest in relation to highway toll projects and public-private partnership agreements on Federal-aid highways; and

"(C) upon request, assist State and local transportation departments, elected officials, and other public officials in implementing such policies, practices, and techniques.

"(2) ADMINISTRATION OF TOLL AGREEMENTS.—The Director shall administer toll agreements under section 129, including—

"(A) reviewing and approving or disapproving proposed toll rate schedules in accordance with section 129(a)(3)(G);

"(B) reviewing and approving or disapproving any substantial proposed change to such toll rate schedules in accordance with such section; and

"(C) any other activities that the Secretary determines necessary under section 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;

"(B) pursuant to section 112(h), that any contract awarded under section 112(b) for a project that involves a public-private partnership agreement—

"(i) includes provisions to prohibit the closing of the highway facility or portions thereof to vehicular traffic except in specifically enumerated circumstances;

"(ii) does not include any provision under which the State is prevented from improving or expanding the capacity of public roads in the same travel corridor as the highway facility;

"(iii) includes provisions to allow the public authority the option of reclaiming ownership of the highway facility prior to the end of the term of the public-private partnership agreement; and

"(iv) sets forth standards that the highway facility must meet or must be brought up to by the private partner at the end of the term of the public-private partnership agreement; and

"(C) any other requirement of section 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—

"(i) a description of the Director's oversight activities under subsection (c);

"(ii) a description of any toll agreements that the Director administered under subsection (c)(2); and

"(iii) a description of actions that the Secretary has taken in response to any noncompliance described under paragraph (2);

"(B) a description of the compliance or noncompliance of State and public authorities in the year prior to submission of the report with the requirements of sections 112(h), 129, and 156(c); and

"(C) a description of significant activities (statutory, policy, or otherwise) that States and other public entities have taken in that annual period to protect the public interest in relation to highway toll projects and public-private partnership agreements on Federal-aid highways; and

"(D) such recommendations as the Secretary may have for enhancing the ability of the Director to meet the objectives of this section.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) HIGHWAY TOLL PROJECT.—The term 'highway toll project' means a project that—

"(A) involves the institution of tolls on a Federal-aid highway; and

"(B) is subject to the requirements of section 129.

"(2) PRIVATE PARTNER.—The term 'private partner' has the meaning given that term in section 112(h).

"(3) PUBLIC AUTHORITY.—The term 'public authority' has the meaning given that term in section 112(h).

"(4) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT.—The term 'public-private partnership agreement' has the meaning given that term in section 112(h).".

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

"611. Office of Public Benefit.".

SEC. 1205. METROPOLITAN MOBILITY AND ACCESS PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) According to the National Surface Transportation 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

hours and 2,900,000,000 gallons of fuel sitting in traffic jams.

(8) This congestion represents an annual congestion tax of between $600 and $1,600 in lost time and fuel and results in travelers losing the equivalent of almost 8 work days each year stuck in traffic.

(9) In the largest cities, highway congestion impacts 67 percent of travel, lasts 7 hours per day, and increases by 37 percent the length of the average rush hour driver's trip.

(10) Traffic congestion undermines air quality with vehicles caught in traffic emitting far more pollutants than they do when operating without frequent braking and acceleration.

(11) With truck transportation accounting for 77 percent of transportation costs, congestion increases logistics costs on business and undermines business productivity.

(12) The logistics cost relating to intercity trucking reached $455,000,000,000 in 2007, an increase of 6.1 percent over 2006. Total truck transportation accounted for $671,000,000,000 of transportation costs in 2007.

(13) Overall, logistics costs accounted for 10.1 percent of the gross domestic product in 2007, up from 8.8 percent in 2004.

(b) IN GENERAL.—Title 23 is amended by adding at the end the following:

"CHAPTER 7—INTERMODALISM

"701. Metropolitan mobility and access program.
"702. Projects of national significance program.
"703. National transportation strategic plan.

"§ 701. Metropolitan mobility and access program

"(a) ESTABLISHMENT.—The Secretary shall establish a metropolitan mobility and access program in accordance with this section and sections 5502(c)(2) and 5503(c)(4) of title 49.

"(b) PURPOSE.—The purpose of the metropolitan mobility and access program shall be to provide multimodal transportation funding and financing authority directly to metropolitan planning organizations, thereby allowing MPOs broad multi-modal flexibility in planning and implementing programs of surface transportation projects to reduce vehicular congestion, to maximize mobility and access of people and goods, and to improve safety, environmental sustainability, and livability in large urbanized areas.

"(c) PROGRAMS OF PROJECTS.—A program of surface transportation projects carried out using Federal financial 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.

"(2) SUBMISSION OF RECOMMENDATIONS.—Not later than 9 months after the date of enactment of this section, the Transportation Research Board shall submit the recommendations described in paragraph (1) to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Environment and Public Works and Banking, Housing, and Urban Affairs of the Senate.

"(e) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Secretary shall establish, by regulation, requirements to carry out this section, including requirements for—

"(1) the eligibility of an MPO to receive funding under this section, in accordance with subsection (f);

"(2) the eligibility of a project to receive funding under this section, in accordance with subsection (g);

"(3) the requirements for metropolitan mobility plans under this section, in accordance with subsection (h);

"(4) the allocation of grants to eligible recipients under this section, in accordance with subsection (i); and

"(5) the identification of performance areas, establishment of performance measures, and implementation of performance-based transportation planning processes under this section, in accordance with subsection (l).

"(f) PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—To be eligible to receive Federal assistance under this section, an entity shall—

"(A) be an MPO that serves a metropolitan planning area that encompasses, in whole or in part, an urbanized area with a population of more than 500,000 individuals;

"(B) submit to the Secretary an application that is in such form and contains such information as the Secretary may require;

"(C) have in effect a metropolitan mobility plan that has been approved by the Secretary under subsection (h);

"(D) demonstrate and certify to the Secretary that the entity, or an eligible subrecipient of the entity, has, or will have, the legal, financial, and technical capacity to carry out the metropolitan mobility plan;

"(E) carry out a congestion management process that, as determined by Secretary, complies with the requirements of section 134(k)(3); and

"(F)(i) demonstrate to the Secretary that the entity has implemented low cost traffic management strategies and systems, such as incident management systems and traffic light signalization, designed to optimize traffic flows; or

"(ii) certify to the Secretary that the entity has identified funding sufficient to implement such strategies and systems and that the entity plans to implement such strategies and systems before completing the projects or activities for which the entity seeks assistance under this section.

"(2) TIER ONE GRANTS.—To be eligible to receive a tier one grant under this section, in addition to meeting the requirements of paragraph (1), an eligible recipient shall be an MPO serving a metropolitan planning area that encompasses, in whole or in part, an urbanized area that—

"(A) has a population of more than 1,000,000 individuals; and

"(B) experiences substantial travel time delays, as determined in accordance with regulations issued under subsection (e).

"(3) TIER TWO GRANTS.—To be eligible to receive a tier two grant under this section, in addition to meeting the requirements of paragraph (1), an MPO shall not have received a tier one grant under this section.

"(g) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—Subject to sections 5502(c)(2) and 5503(c)(4) of title 49, the Secretary may provide Federal assistance under this section to an eligible recipient with respect to a proposed project or activity only if the Secretary determines that—

"(A) the project or activity is eligible for funding under this title or chapter 53 of title 49, or both;

"(B) the project or activity is included in a metropolitan mobility plan of the eligible recipient that has been approved by the Secretary under subsection (h); and

"(C) the project or activity is part of an approved transportation plan and program of projects required under section 134 or 135 for

the urbanized area served by the eligible recipient.

"(2) LIMITATION.—Federal assistance provided under this section may not be used to carry out activities to meet the requirements of subsection (f)(1)(F).

"(h) METROPOLITAN MOBILITY PLANS.—

"(1) IN GENERAL.—Not later than 6 months after the date on which final regulations are issued under subsection (e), an eligible recipient seeking Federal assistance under this section shall develop, and submit to the Secretary for approval, a metropolitan mobility plan that identifies projects that the eligible recipient, or another entity described in and subject to the plan, proposes to address surface transportation congestion and its impacts within the urbanized area served by the eligible recipient.

"(2) PLAN REQUIREMENTS.—A metropolitan mobility plan submitted by an eligible recipient to the Secretary under paragraph (1) shall contain, at a minimum—

"(A) a certification that the eligible recipient has complied with the requirements of subsection (f)(1)(F);

"(B) an assessment of the congestion, mobility, access, and livability challenges facing the surface transportation systems and facilities in the urbanized area served by the eligible recipient;

"(C) a range of low-cost congestion reduction and mobility, access, and livability improvement activities and projects that the eligible recipient , or another entity described in and subject to the plan, proposes to implement in the urbanized area within 2 fiscal years;

"(D) additional congestion reduction and mobility, access, and livability improvement projects and activities that the eligible recipient , or another entity described in and subject to the plan, proposes to implement in the urbanized area within 6 fiscal years;

"(E) a detailed analysis of the effects that the activities and projects described in subparagraphs (C) and (D) will have on the challenges described in subparagraph (B); and

"(F) an analysis of any additional beneficial effects that the activities and projects described in subparagraphs (C) and (D) will have on the urbanized area, including energy and en-

vironmental benefits, economic development benefits, reductions in transportation costs, and benefits resulting from land use policies and future growth patterns.

"(3) REGIONAL COORDINATION.—An eligible recipient shall develop a metropolitan mobility plan under this section for the urbanized area served by the eligible recipient in coordination with the State and local transit authorities.

"(4) REVIEW OF PLANS.—

"(A) IN GENERAL.—The Secretary shall review and approve, or disapprove, each metropolitan mobility plan submitted by an eligible recipient under this subsection based on a consideration of the criteria described in subparagraph (B).

"(B) CRITERIA.—In reviewing the metropolitan mobility plan of an eligible recipient under subparagraph (A), the Secretary shall consider, at a minimum, the following criteria:

"(i) The extent of the urbanized area's roadway congestion delays, including—

"(I) the urbanized area's annual 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-

vate partnership agreement on a Federal-aid highway.

"(i) ALLOCATION OF FUNDING.—

"(1) IN GENERAL.—The Secretary shall allocate the Federal funds made available to carry out this section for each fiscal year as follows:

"(A) 40 percent of such funds for tier one grants; and

"(B) 60 percent of such funds for tier two grants.

"(2) LIMITATIONS.—

"(A) LIMITATIONS ON TIER ONE GRANTS.—The Secretary shall provide financial assistance to not more than 10 eligible recipients through tier one grants under this section.

"(B) LIMITATIONS ON TIER TWO GRANTS.—In allocating tier two grants under this section, the Secretary shall ensure a geographically equitable distribution of financial assistance through such grants.

"(3) CONSIDERATIONS.—

"(A) AWARD OF TIER ONE GRANTS.—The Secretary shall provide tier one grants under this section to eligible recipients based on a consideration of—

"(i) whether the eligible recipient meets the requirements of subsection (f)(2);

"(ii) the criteria listed in subsection (h)(4)(B); and

"(iii) the limitations described in paragraph (2).

"(B) AWARD OF TIER TWO GRANTS.—The Secretary shall provide tier two grants under this section to each eligible recipient with an approved metropolitan mobility plan based on a consideration of—

"(i) whether the eligible recipient meets the requirements of subsection (f)(3);

"(ii) the criteria listed in subsection (h)(4)(B); and

"(iii) the limitations described in paragraph (2)(B).

"(4) SUBALLOCATION OF FUNDS.—A recipient of a grant under this subsection may suballocate funds from a grant to an eligible subrecipient to carry out project under this section.

"(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

Secretary, that the eligible recipient has shown reasonable diligence in seeking the most favorable financing terms.

"(D) INFORMATION COLLECTION AND ANALYSIS AGREEMENT.—

"(i) ELIGIBLE COST.—Preparation of the agreement under paragraph (1)(E) shall be an eligible project cost under the full funding grant agreement.

"(ii) CONTENTS OF PLAN.—The agreement under paragraph (1)(E) shall provide for—

"(I) documentation of predicted system performance in relation to each performance target established in the agreement; and

"(II) collection of data sufficient to determine whether each performance target established in the agreement is achieved within the period of time provided in the agreement.

"(E) EXECUTION OF PLAN.—The amount stipulated in the full funding grant agreement under this paragraph for a metropolitan mobility plan shall be sufficient to execute the plan.

"(3) ADMINISTRATION.—Any project or activity included in a metropolitan mobility plan and eligible to receive funding under this section shall be administered in accordance with subsection (o).

"(k) NOTIFICATION OF CONGRESS.—At least 21 days before entering into a full funding grant agreement for a metropolitan mobility plan under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Environment and Public Works of the Senate of the proposed grant agreement. The Secretary shall include with the notification a copy of the proposed agreement as well as the Secretary's evaluation of the plan.

"(l) PERFORMANCE MANAGEMENT.—

"(1) IN GENERAL.—As part of a full funding grant agreement made under subsection (j)—

"(A) the Secretary shall identify performance areas for the eligible recipient entering into the agreement, including—

"(i) reducing delay hours on highways, arterials, and public transportation systems within the urbanized area;

"(ii) improving travel time reliability 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

and shall designate target levels of performance for each performance area identified under subparagraph (A) to track progress within the urbanized area.

"(2) ANNUAL REPORT.—Beginning in fiscal year 2012, and in each fiscal year thereafter, an eligible recipient receiving Federal assistance under this section in that fiscal year shall submit to the Secretary, at the time prescribed by the Secretary, an annual report that, at a minimum—

"(A) lists and describes the projects and activities carried out by the eligible recipient during the fiscal year under its metropolitan mobility plan;

"(B) describes and analyzes the impact of the projects and activities contained in the metropolitan mobility plan in relation to the objectives of this section;

"(C) in any case in which the Federal assistance is provided under a full funding grant agreement—

"(i) evaluates the degree to which the eligible recipient during the fiscal year met its performance targets designated under paragraph (1)(C); and

"(ii) provides a rationale for any instance in which the eligible recipient in implementing the metropolitan mobility plan failed to achieve one or more of such performance targets.

"(3) REVIEW OF CERTAIN ANNUAL REPORTS.—

"(A) IN GENERAL.—Not later than 2 months after the date of receipt of an annual report under this subsection from an eligible recipient that entered into a full funding grant agreement with the Secretary under this section, the Secretary shall review and assess the annual report to determine, at a minimum—

"(i) the eligible recipient's progress relative to the performance targets designated under paragraph (1)(C); and

"(ii) the time remaining for the eligible recipient to achieve those performance targets.

"(B) RESUBMISSION.—

"(i) IN GENERAL.—If the Secretary determines, based on a review of an annual report under subparagraph (A), that the eligible recipient has failed to demonstrate progress in achieving one of its perform-

ance targets designated under paragraph (1)(C), the Secretary shall require the eligible recipient to resubmit to the Secretary for approval the metropolitan mobility plan of the eligible recipient with the modifications that the Secretary determines necessary to enable the eligible recipient to meet the performance target.

"(ii) SUSPENSION OF PROJECT APPROVALS.—Until an eligible recipient described in clause (i) resubmits its metropolitan mobility plan and the Secretary approves the resubmitted plan, the Secretary shall not provide approvals for projects and activities contained in the metropolitan mobility plan previously submitted by the eligible recipient.

"(m) GOVERNMENT'S SHARE OF COSTS.—For a grant to carry out a project or activity contained in a metropolitan mobility plan under this section, the Federal Government's share of the costs shall be 80 percent of the cost of each project or activity carried out under the grant. The eligible recipient may provide additional local matching amounts.

"(n) AVAILABILITY OF AMOUNTS.—An amount made available or appropriated to carry out this section shall remain available for 3 fiscal years after the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

"(o) TERMS, CONDITIONS, AND GRANT ADMINISTRATION.—

"(1) TITLE 49 PROJECTS.—Except as otherwise provided by this section, a grant for any project or activity included in a metropolitan mobility plan under subsection (h) that is eligible to receive Federal assistance under chapter 53 of title 49 shall be subject to the requirements of section 5307 of title 49.

"(2) TITLE 23 PROJECTS.—Except as otherwise provided by this section, a grant for any project included within the metropolitan mobility plan under subsection (h) that is not eligible to receive Federal assistance under chapter 53 of title 49 shall be subject to the requirements of this title.

"(3) OTHER TERMS AND CONDITIONS.—In addition to the requirements of paragraphs (1) and (2), the Secretary shall require that all grants under

this section be subject to such terms, conditions, and requirements as the Secretary decides are necessary or appropriate to carry out this section.

"(p) METROPOLITAN INFRASTRUCTURE BANK.—An eligible recipient that has a metropolitan mobility plan approved under this section may enter into a cooperative agreement with the Secretary under section 612 for the establishment of a metropolitan infrastructure bank for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects and activities described in the eligible recipient's metropolitan mobility plan.

"(q) USE OF TOLLS.—Notwithstanding section 301, the Secretary may permit Federal participation under this section in a toll facility in an urbanized area that is subject to a metropolitan mobility plan approved under this section. Such participation shall be in accordance with a toll agreement entered into with the Secretary that meets the requirements of section 129(a)(3).

"(r) REPORTS ON METROPOLITAN MOBILITY PROGRAM.—

"(1) ANNUAL REPORT ON PROGRAM.—Not later than November 30, 2011, and November 30 of each year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of

the House of Representatives and the Committees on Environment and Public Works and Banking, Housing, and Urban Affairs of the Senate a report that includes, at a minimum—

"(A) a report on metropolitan mobility plans that the Secretary has approved under this section and a summary of the annual reports submitted to the Secretary under subsection (l)(2);

"(B) an evaluation of the degree to which an eligible recipient receiving Federal assistance through a full funding grant agreement under this section met its performance targets designated under the agreement; and

"(C) such recommendations as the Secretary may have for improvements to the program authorized by this section.

"(2) ANNUAL GAO REVIEW OF PROGRAM.—The Comptroller General shall—

"(A) conduct an annual review of—

"(i) the processes and procedures for evaluating and selecting metropolitan mobility plans for funding under this section; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) report to Congress on the results of such review by May 31 of each year.

"(s) DEFINITIONS.—In this section, the following definitions apply:

"(1) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means an entity that meets the requirements of subsection (f).

"(2) ELIGIBLE SUBRECIPIENT.—The term 'eligible subrecipient' means a State or local governmental authority, federally-recognized Indian tribe, or other organization with the authority to finance, build, operate, or maintain toll or toll-free facilities or an organization engaged in the business of providing public transportation that receives a grant under this section indirectly through a metropolitan transportation organization.

"(3) LOW-COST CONGESTION MANAGEMENT STRATEGY.—The term 'low-cost congestion management strategy' includes strategies and systems, such as incident management systems and traffic light signalization, designed to optimize traffic flows.

"(4) METROPOLITAN PLANNING ORGANIZATION; 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

"(B) in the case of a project located in more than one State, 75 percent of the greatest amount apportioned under chapter 1 to any one of such States for the most recent fiscal year.

"(d) PROJECT TYPE.—

"(1) IN GENERAL.—To be eligible for assistance under this section, a project shall be a capital project—

"(A) that is eligible for Federal assistance under this title or chapter 53 of title 49;

"(B) for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

"(C) for a public freight rail facility or a private freight rail facility providing public benefit for highway users;

"(D) for an intermodal freight transfer facility;

"(E) for a means of access to a facility described in subparagraph (C) or (D);

"(F) for a service improvement for a facility described in subparagraph (C) or (D) (including a capital investment for an intelligent transportation system); or

"(G) that comprises a series of projects described in subparagraphs (C) through (F) with the common objective of improving the flow of goods.

"(2) PORT PROJECTS.—A project located within the boundaries of a port terminal may only be eligible for assistance under this section if the project is for such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

"(e) PROJECT FUNDING.—

"(1) FUNDING SOURCES.—The non-Federal share of the cost of an eligible project may be funded through a combination of private and public sector funds, including investment of public funds in private sector facility improvements.

"(2) NEED FOR FEDERAL SUPPORT.—To be eligible for assistance under this section, the Secretary must determine, based on information provided by the applicant, that the project cannot be readily and efficiently carried out without Federal support and participation.

"(3) NON-FEDERAL FINANCIAL COMMITMENT.—

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

sources of non-Federal financing under this paragraph, the Secretary shall consider—

"(i) existing financial commitments;

"(ii) the degree to which financing sources are dedicated to the purposes proposed;

"(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

"(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.

"(f) CONSISTENCY WITH PLANS.—To be eligible for assistance under this section, a project shall be consistent with—

"(1) for each State in which all or a portion of the project is located, the long-range statewide transportation plan and statewide transportation improvement program required by section 135 and the State freight plan required by section 119;

"(2) for each metropolitan planning area in which all or a portion of the project is located, the transportation plan and transportation improvement program required by section 134;

"(3) in the case of a project that is located in a corridor subject to a freight corridor plan under section 119(i), the freight corridor plan; and

"(4) the national transportation strategic plan developed under section 703.

"(g) APPLICATIONS.—

"(1) IN GENERAL.—Each State seeking a grant under this section for a project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

"(2) CONTENTS.—An application under this subsection shall include, at a minimum, a project delivery schedule that meets the requirements of section 106(h).

"(3) APPLICATION FOR MULTISTATE PROJECT.—In the case of a project to be located in more than one State, the application for the project may be submitted by all of such States, with one State acting as the lead for the project.

"(4) COLLABORATION IN DEVELOPING APPLICATIONS.—The Secretary shall encourage States, in developing applications to submit under this section, to collaborate with other public and private entities with an interest in the project for which the State

is seeking Federal assistance, including regional and local governments, shippers, carriers, and freight-related associations, as appropriate.

"(h) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish criteria for selecting among projects that meet the eligibility requirements specified in subsections (c), (d), (e), and (f);

"(B) conduct a national solicitation for applications; and

"(C) award grants on a competitive basis.

"(2) SELECTION CRITERIA.—In selecting a project under this section, the Secretary shall consider the extent to which the project—

"(A) is located within, or will otherwise beneficially impact, a corridor or region that experiences high volumes of passenger or freight traffic and related traffic congestion, taking into account—

"(i) the current and projected future volumes of passenger and freight travel within the corridor or region;

"(ii) the extent to which freight traffic in the corridor has increased since the date

of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and

"(iii) the economic, environmental, and other costs arising from congestion in the corridor or region;

"(B) is projected to reduce congestion and increase the speed, reliability, and accessibility of passenger or freight movement, including impacts in the State, region, and Nation;

"(C) is projected to generate national economic benefits, including creating or sustaining jobs, expanding business opportunities, and impacting the gross domestic product;

"(D) will facilitate regional mobility, accessibility, and economic growth and development in areas underserved by existing highway infrastructure;

"(E) is projected to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;

"(F) is projected to otherwise enhance the national transportation system;

"(G) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project;

"(H) helps maintain or protect the environment;

"(I) will be supported by, in addition to Federal grant assistance under this section, other sources of funding and methods of finance, including—

"(i) any other source of Federal transportation funding;

"(ii) a contribution from a State, regional, or local governmental entity or a private organization; and

"(iii) nongrant assistance, including a loan or other credit assistance or direct user charges.

"(3) PROJECT EVALUATION AND RATING.—The Secretary shall evaluate and rate, based on the selection criteria described in paragraph (2), each project for which an application is submitted under this section. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria described in paragraph (2).

"(i) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue regulations to carry out this section.

"(j) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEM WORK AGREEMENTS.—

"(1) LETTER OF INTENT.—

"(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

"(B) TREATMENT.—The issuance of a letter of intent under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.

"(C) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment for a project under this section may be made only when contract authority is allocated to the 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

"(v) identify quantifiable performance outcomes that the project must achieve by not later than 2 years subsequent to the date of substantial completion of the project, including outcomes related to the program objectives and any budgetary or project development milestones or objectives that the Secretary may specify.

"(C) SPECIAL FINANCIAL RULES.—

"(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

"(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of

the project within a reasonable time shall be eligible project costs under a full funding grant agreement; except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(D) BEFORE AND AFTER STUDY.—

''(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

''(I) describes and analyzes the impact of the project in relation to the program purposes;

''(II) evaluates the degree to which the project has met its performance outcomes; and

''(III) provides a rationale for any instance in which the project did

not meet one or more performance outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the project in relation to program objectives and the project's performance outcomes. Preparation of the plan shall be an eligible project cost under the full funding grant agreement.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current performance of the portion of the surface transportation network that is likely to be impacted by the project;

"(bb) documentation of the predicted impacts of the project

in relation to program purposes and the project's performance outcomes;

"(cc) collection of data on the relevant portion of the surface transportation network 2 years after the date of substantial completion of the project, including information analogous to that described in item (aa); and

"(dd) analysis of the consistency of predicted project outcomes with the after data.

"(E) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, the recipient shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed project. Collection of this data shall be an eligible project cost under the full funding grant agreement.

"(3) EARLY SYSTEM WORK AGREEMENTS.—

"(A) CONDITIONS.—The Secretary may make an early systems work agreement with an

applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe a full funding grant agreement for the project will be made.

"(B) CONTENTS.—

"(i) IN GENERAL.—A work agreement under this subsection obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

"(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing

costs of efficiently carrying out the work agreement within a reasonable time shall be eligible project costs under the agreement; except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) LIMITATION ON AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early system work agreements under this subsection for projects of na-

tional significance may be not more than the greater of the amount authorized to carry out this section for such projects or an amount equivalent to the last 3 fiscal years of funding authorized to carry out this section, less an amount the Secretary reasonably estimates is necessary for grants under this section for such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

"(5) NOTIFICATION.—At least 10 days before issuing a letter under paragraph (1) and at least 21 days before entering into a full funding grant agreement under paragraph (2), the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

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

share of the original project cost funded by Federal assistance under this section; and

"(B) authorize the project sponsor to use any additional remainder for any activity eligible to receive Federal assistance under this title or chapter 53 of title 49.

"(m) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (l) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(n) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

"(1) STATE FUNDS.—At the request of a border State, funds provided to a State under this section may be transferred to the General Services Administration for the purpose of funding a project of national significance under this section if—

"(A) the Secretary determines, after consultation with the transportation department of the border State, that the General Services Administration should carry out the project; and

"(B) the General Services Administration agrees to accept the transfer of, and to admin-

ister, those funds in accordance with this section.

"(2) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration the non-Federal share of the cost of the eligible project.

"(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

"(ii) shall be—

"(I) administered, subject to paragraph (1)(B), in accordance with the procedures of the General Services Administration; but

"(II) available for obligation in the same manner as if the funds were apportioned under chapter 1.

"(3) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services

Administration for a project in the same manner and amount as the funds provided for the project under paragraph (1).

"(o) REVIEW AND REPORTS.—

"(1) ANNUAL REPORT ON PROJECTS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report on projects that the Secretary has funded, or proposes to fund, under this section. The annual report under this paragraph shall include—

"(A) project evaluations and ratings, as required under subsection (h); and

"(B) such recommendations as the Secretary may have for improvements to the program authorized by this section.

"(2) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in paragraph (1) a report containing a summary of the results of the studies conducted

under subsection (j)(2)(D) that were completed during the preceding year.

"(3) INDEPENDENT REVIEW.—

"(A) PARTICIPATION OF NATIONAL ACADEMIES.—Not later than 6 months after the date of first award of grants under this section, the Secretary shall enter into appropriate arrangements with the Transportation Research Board of the National Academies to permit the Transportation Research Board to conduct an independent review of the process and procedures by which the Secretary has evaluated, rated, and funded projects of national significance.

"(B) REPORT TO CONGRESS.—Not later than 18 months after the first award of grants under this section, the Transportation Research Board shall submit a report on the results of its review to the Secretary and the committees referred to in paragraph (1).

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph **[**$**]** for each of fiscal years 2010 and 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-

ments to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements; and

"(C) the collection and analysis of data related to the projected and actual impacts of the project.

"(3) ELIGIBLE PROJECT.—The term 'eligible project' means a project that is eligible for assistance under subsections (c), (d), (e), and (f).

"(4) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' has the meaning such term has in section 134(b).

"(5) PERFORMANCE OUTCOMES.—The term 'performance outcomes' means the quantifiable outcomes required under a full funding grant agreement under subsection (j)(2)(B)(v).

"(6) PROGRAM PURPOSES.—The term 'program purposes' means the purposes set forth in subsection (b).

"(7) PROJECT OF NATIONAL SIGNIFICANCE.—The term 'project of national significance' means a project funded under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 7 (as added by this Act) is amended by adding at the end the following:

"702. Projects of national significance program.".

(c) CONFORMING AMENDMENTS.—

(1) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.—Section 1301 of SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1198) is repealed.

(2) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—Section 1302 of SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1204) is repealed.

(3) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—Section 1303 of SAFETEA–LU (23 U.S.C. 101 note; 119 Stat. 1207) is repealed.

SEC. 1207. NATIONAL TRANSPORTATION STRATEGIC PLAN.

(a) NATIONAL TRANSPORTATION STRATEGIC PLAN.—Chapter 7 (as added by this Act) is amended by adding at the end the following:

"§ 703. National transportation strategic plan

''(a) DEVELOPMENT.—

''(1) DEVELOPMENT OF INITIAL PLAN.—

''(A) SOLICITATION.—Not later than 60 days after the date of enactment of this section, the Under Secretary of Transportation for Intermodalism shall publish in the Federal Register a solicitation for States to submit projects to be included in the national transportation strategic plan.

"(B) SUBMISSION OF STATE PROJECT PROPOSALS.—Not later than 60 days after the publishing of the solicitation under subparagraph (A), each State, in consultation with the entities referred to in section 135(f)(2), shall submit to the Under Secretary a list of recommended projects located in the State to be included in the national transportation strategic plan. In recommending such projects, a State shall consider elements of the plan described in paragraph (2).

"(C) REVIEW OF PROJECT PROPOSALS.—

"(i) IN GENERAL.—Not later than 60 days after receiving State submissions under subparagraph (B), the Under Secretary shall review each such submission, and shall select projects described in such submissions for inclusion in the national transportation strategic plan.

"(ii) FAILURE TO SUBMIT PROJECT PROPOSALS.—If a State does not submit by the deadline under subparagraph (B) a list of projects for inclusion in the national transportation strategic plan, the Under Secretary shall determine the projects, if

any, in that State that shall be included in such plan.

"(iii) BASIS FOR SELECTION.—In selecting projects for inclusion in the national transportation strategic plan under clauses (i) and (ii), the Under Secretary shall consider, at a minimum—

"(I) the recommendations submitted by States under subparagraph (B);

"(II) the ability of projects to generate national economic benefits, including——

"(aa) improvements to economic productivity through congestion relief; and

"(bb) improvements to passenger and freight movement;

"(III) the ability of projects to improve mobility by increasing transportation options for passengers and freight; and

"(IV) the degree to which projects create intermodal links between different modes of transpor-

tation, including passenger or freight rail, transit, airports, seaports, and navigable inland waterways.

"(2) ELEMENTS OF THE PLAN.—The national transportation strategic plan shall be modeled after the statewide strategic long-range plans developed pursuant to section 135(f) and shall include, at a minimum, the following:

"(A) IDENTIFICATION OF NATIONALLY SIGNIFICANT TRANSPORTATION PROJECTS.—The national transportation strategic plan shall identify transportation projects (including major highway, transit, freight rail, intercity passenger rail, multimodal and intermodal facility, and intermodal connector projects) that facilitate the development of a national transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.

"(B) IDENTIFICATION OF REGIONALLY SIGNIFICANT TRANSPORTATION PROJECTS.—The national transportation strategic plan shall identify transportation projects (including major highway, transit, freight rail, intercity passenger rail, multimodal and intermodal facil-

ity, and intermodal connector projects) that facilitate the development of an integrated regional transportation system, giving emphasis to those projects that serve important national and regional transportation functions.

"(C) INTERCONNECTIVITY BETWEEN STATES.—The national transportation strategic plan shall provide for a level of interconnectivity among transportation facilities at State borders.

"(D) IDENTIFICATION OF POTENTIAL HIGH-SPEED RAIL AND SHORT SEA SHIPPING ROUTES.—The national transportation strategic plan shall identify potential high-speed passenger rail projects and routes and potential short sea shipping projects and routes.

"(E) COST ESTIMATES FOR PROJECTS IN NATIONAL TRANSPORTATION STRATEGIC PLAN.—The national transportation strategic plan shall include estimates of the costs of each of the projects and strategies identified in subparagraph (A) and a total cost for all of the projects and strategies identified in the plan.

"(3) PROCESS.—Not later than April 30, 2012, and at least once every 2 years thereafter, the Under Secretary, in consultation with State departments of

transportation, shall update the national transportation strategic plan. The Under Secretary shall submit the updated plan to the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Environment and Public Works, Banking, Housing, and Urban Affairs, and Commerce, Science, and Transportation of the Senate.

''(b) DISSEMINATION OF TRANSPORTATION STATISTICS AND DATA FOR DEVELOPMENT OF LONG-RANGE TRANSPORTATION STRATEGIC PLANS.—The Secretary shall develop and disseminate to the States relevant long-range transportation data and statistics that a State or the Under Secretary, as the case may be, shall use in the development of statewide strategic long-range transportation plans and the national transportation strategic plan, including—

''(1) 20-year projections of population growth in each State;

''(2) 20-year projections from the Department of Transportation's Freight Analysis Framework (in this subsection referred to as 'FAF'), including projections for annual average daily truck flow on specific highway routes or segments of routes;

"(3) 20-year projections from the Department of Transportation's Highway Performance Monitoring System (in this subsection referred to as 'HPMS') of estimated peak period congestion on major highway routes or segments of routes and in metropolitan areas;

"(4) HPMS and FAF estimates of traffic volumes on segments of highway that are projected to be classified as moderately or highly congested in 20 years;

"(5) 20-year HPMS and FAF projections for highway bottlenecks;

"(6) 20-year projections of transit use in urbanized areas, including for each urbanized area a comparison of—

"(A) estimated ridership growth and estimated public transportation revenue vehicle miles; to

"(B) both current and projected transit system capacity and asset conditions;

"(7) 20-year projections of aviation passenger enplanements and cargo ton miles flown;

"(8) 20-year projections of increases in unmanned aerial system and general aviation active aircraft and hours flown;

"(9) 20-year projections of capacity-constrained airports and congested air traffic routes;

"(10) 20-year projections of passenger demand for suborbital space tourism;

"(11) 20-year projections of demand on major freight rail lines; and

"(12) 20-year projections of shipping traffic at United States ports.

"(c) SHORT SEA SHIPPING DEFINED.—In this section the term 'short sea shipping' has the same meaning given that term in section 119.".

(c) STATE PLANNING AND RESEARCH FUNDING.—[to be supplied]

(d) CLERICAL AMENDMENT.—The analysis of chapter 7 (as added by this Act) is amended by adding at the end the following:

"703. National transportation strategic plan.".

Subtitle C—Finance

SEC. 1301. TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.

(a) TOLL AGREEMENTS.—Section 129(a)(3) is amended to read as follows:

"(3) TOLL AGREEMENTS.—

"(A) IN GENERAL.—Before the Secretary may permit Federal participation under this subsection or subsection (d), (e), or (f) in a highway, bridge, or tunnel located in a State,

the public authority (including the State transportation department) having jurisdiction over the highway, bridge, or tunnel must enter into an agreement with the Secretary that includes provisions sufficient to satisfy the requirements of this paragraph.

"(B) ADMINISTRATION AND MONITORING OF TOLL AGREEMENTS.—The Secretary, acting through the Office of Public Benefit, shall administer toll agreements entered into under this paragraph and monitor the compliance of public authorities with such agreements.

"(C) PRIMARY USES OF TOLL REVENUES.—All toll revenues received from operation of the toll facility shall be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.

"(D) ELIGIBLE USES OF EXCESS TOLL REVENUES.—

"(i) IN GENERAL.—Subject to subsection (d), if the public authority certifies

annually that the tolled facility is being adequately maintained and that the requirements of subparagraphs (A) and (C) have been met, the public authority may use any additional toll revenues generated from the tolled facility only for—

"(I) projects for which Federal funds may be obligated by a State under this title or chapter 53 of title 49; and

"(II) operating costs of equipment and facilities for use in public transportation.

"(ii) LOCATION.—A project receiving toll revenues under clause (i) shall be located in, and equipment and facilities receiving operating costs from toll revenues under clause (i) shall provide public transportation service in—

"(I) the same travel corridor as the tolled facility (if the toll is applied to a single facility); or

"(II) the area impacted by the toll (if the toll is applied on a cordon or area-wide basis).

"(E) PROHIBITION ON NONCOMPETE AGREEMENTS.—The public authority shall not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads in the same travel corridor.

"(F) PUBLIC COMMENT.—

"(i) IN GENERAL.—The public authority shall offer the public a reasonable opportunity to comment on the rate schedule of any proposed toll before the initial implementation of tolling on the facility and before any substantial modification to such rate schedule (other than changes in toll rates consistent with the original rate schedule).

"(ii) METHODS.—In carrying out clause (i), the public authority, to the maximum extent practicable, shall hold public meetings at convenient and accessible locations and times and make information pertaining to the proposed toll rate schedule available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable oppor-

tunity for consideration of public information under clause (i).

"(G) REVIEW BY SECRETARY.—

"(i) INITIAL REVIEW.—The Secretary shall review the rate schedule of any proposed toll before the initial implementation of tolling on the facility, and shall only approve such rate schedule if, in the Secretary's judgment, the rate schedule—

"(I) provides for only just and reasonable toll rates and toll rate increases;

"(II) allows no private person responsible for financing a project on the facility or otherwise responsible for the facility's maintenance and operations to achieve more than a reasonable rate of return on investment; and

"(III) has no substantial negative impacts on interstate commerce or travel.

"(ii) REVIEW UPON SUBSTANTIAL CHANGE.—The public authority (or any other private or public entity with author-

ity to modify toll rates on the toll facility) shall not make any substantial modification to the initial toll rate schedule (apart from changes in toll rates consistent with the original rate schedule) without first allowing the Secretary to review and approve or not approve the proposed modification.

"(iii) TERMS FOR APPROVAL.—The Secretary shall only approve any such modified rate schedule if, in the Secretary's judgment, the modification would allow for—

"(I) just and reasonable toll increases; and

"(II) any private person responsible for financing a project on the facility or otherwise responsible for the facility's maintenance and operations to achieve no more than a reasonable rate of return on investment.

"(iv) PROVISION OF INFORMATION.—The public authority (or any other private or public entity with authority to modify toll rates on the toll facility) shall provide the Secretary with information regarding

the proposed toll rate schedule sufficient, in the judgment of the Secretary, to allow the Secretary to conduct any reviews and make any approvals or disapprovals under this subparagraph.

"(v) JUDICIAL REVIEW.—An approval or disapproval of a toll rate schedule issued by the Secretary under this subparagraph shall be subject to judicial review under chapter 7 of title 5, if a claim for the review is filed on or before the 90th day following the date on which the approval or disapproval is issued.

"(H) MITIGATION MEASURES.—Before instituting tolls on the facility, the public authority shall—

"(i) consider, to the satisfaction of the Secretary, any substantial negative impacts that the toll would likely impose on interstate commerce or travel;

"(ii) provide operational improvements and transit service sufficient, as determined by the Secretary, to accommodate any substantial amount of travel that is

projected to be diverted from the facility due to the collection of the toll; and

"(iii) provide measures, such as toll discounts or credits, that are sufficient, in the judgment of the Secretary, to mitigate the impact of the toll on low-income travelers.

"(I) AVAILABILITY OF TOLL RATE DATA.—The public authority shall make toll rate data for each tolled facility located on the National Highway System publicly available in an interoperable electronic format that complies with the requirements, standards, and performance specifications established under the rule required by section 1301(e) of the Surface Transportation Authorization Act of 2009.

"(J) PUBLIC NOTICE.—The public authority shall make the toll agreement available to the public in electronically accessible format and means, such as the World Wide Web.".

(b) ADDITIONAL TOLL PROVISIONS.—Section 129 is amended by adding at the end the following:

"(d) HOV LANES.—

"(1) FEDERAL PARTICIPATION.—Notwithstanding section 301, the Secretary may permit Fed-

eral participation under this section in a high occupancy vehicle facility—

"(A) in which the operators of low occupancy vehicles or low emission or energy-efficient vehicles pay a toll in order to use the facility; and

"(B) for which the State agency with responsibility for ownership or operation of such lanes makes an annual certification that the facility complies with the requirements of section 166(d).

"(2) SPECIAL RULE FOR USE OF REVENUES.—Notwithstanding subsection (a)(3)(D), after complying with subsection (a)(3)(C), the State shall use any additional toll revenues generated from a tolled high occupancy vehicle facility for capital, maintenance and operating costs of equipment and facilities for use in public transportation within the same travel corridor as the tolled facility.

"(e) VARIABLE TOLLS IN DESIGNATED AREAS.—Notwithstanding section 301, the Secretary may permit Federal participation in toll facilities that institute variable tolls as part of a metropolitan mobility plan in accordance with section 701(q).

"(f) EXISTING AGREEMENTS.—

"(1) IN GENERAL.—If, before the date of enactment of this subsection, a toll agreement or cooperative agreement has been executed under one of the sections referred to in paragraph (2), the agreement shall remain valid and subject to such terms and conditions as were in effect under the agreement on the day before such date of enactment if—

"(A) a final decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued for the project that is the subject of such agreement; or

"(B) a contract has been executed for the construction, development, or operation of the facility that is the subject of such agreement.

"(2) PREVIOUS TOLL AUTHORITIES.—The sections referred to in paragraph (1) include the following:

"(A) This section.

"(B) Section 119(e), as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

"(C) Section 166.

"(D) Section 1012(b) of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938).

"(E) Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212).

"(F) Sections 1604(b) and 1604(c) of SAFETEA–LU (23 U.S.C. 129 note; 119 Stat. 1250).

"(g) DEFINITIONS.—In this section, the following definitions apply:

"(1) LOW OCCUPANCY VEHICLE.—The term 'low occupancy vehicle' means a vehicle that is authorized to use a high occupancy vehicle facility under section 166(b)(4).

"(2) LOW EMISSION OR ENERGY-EFFICIENT VEHICLE.—The term 'low emission or energy-efficient vehicle' means a vehicle that is authorized to use a high occupancy vehicle facility under section 166(b)(5).

"(3) OFFICE OF [PUBLIC BENEFIT].—The term 'Office of Public Benefit' means the office established by section 332.".

(c) TECHNICAL AMENDMENTS.—Section 129 is further amended—

(1) in subsection (b) by inserting ''APPROACHES TO FERRIES.—'' before ''Notwithstanding'';

(2) in subsection (c) by inserting ''FERRY BOATS AND TERMINAL FACILITIES.—'' before ''Notwithstanding''; and

(3) by striking ''and repair'' and inserting ''repair''.

(d) CONFORMING AMENDMENTS.—

(1) REPEAL OF OTHER TOLLING PROVISIONS.—The following provisions of law are repealed:

(A) Section 1012(b) of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938).

(B) Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212).

(C) Section 1604(b) of SAFETEA–LU (23 U.S.C. 129 note; 119 Stat. 1250)

(D) Section 1604(c) of SAFETEA–LU (23 U.S.C. 129 note; 119 Stat. 1250).

(2) PROCEEDS FROM SALE OR LEASE OF REAL PROPERTY.—Section 156(c) is amended—

(A) by striking ''The Federal'' and inserting the following:

"(1) IN GENERAL.—The Federal"; and

(B) by adding at the end the following:

"(2) SPECIAL RULE FOR TOLLED FACILITIES.—The Federal share of net income from the revenues obtained by a State under subsection (a) with respect to a facility tolled under section 129 shall be used by the State for projects eligible under this title, or for projects eligible chapter 53 of title 49, that are located in the same travel corridor as the tolled facility.".

(3) FREEDOM FROM TOLLS.—Section 301 is amended by striking "with respect to certain toll bridges and tunnels".

(e) INTEROPERABILITY OF TOLL COLLECTION DEVICES.—

(1) ESTABLISHMENT OF STANDARD.—Not later than 18 months after the date of enactment of this Act, the Secretary, by rulemaking, shall establish a national standard for the interoperability of electronic toll collection devices for all toll facilities on the National Highway System.

(2) ADOPTION OF STANDARD.—Not later than two years after the Secretary's establishment of the national standard under paragraph (1), all toll facili-

ties on the National Highway System shall adopt such standard.

SEC. 1302. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) ELIGIBILITY AND PROJECT SELECTION.—Section 602(c) is amended by striking ''section 5333(a) of title 49'' and inserting ''sections 5333(a), 5333(b), and 24405(a) of title 49''.

(b) SECURED LOANS.—Section 603(b)(2) is amended by striking ''33 percent'' and inserting ''49 percent''.

(c) LINES OF CREDIT.—Section 604(b)(2) is amended by striking ''33 percent'' and inserting ''49 percent''.

(d) FUNDING.—Section 608(a) is amended—

(1) in paragraph (1) by striking ''$122,000,000 for each of fiscal years 2005 through 2009'' and inserting ''**[**$**]** for each of fiscal years 2010 through 2015''; and

(2) in paragraph (3) by striking ''$2,200,000 for each of fiscal years 2005 through 2009'' and inserting ''**[**$**]** for each of fiscal years 2010 through 2015''.

SEC. 1303. STATE INFRASTRUCTURE BANKS.

(a) FUNDING.—Section 610(d) is amended—

(1) in paragraph (1)(A) by striking ''104(b)(4), and 144'' and inserting ''and 104(b)(4)''; and

(2) by striking ''fiscal years 2005 through 2009'' each place it appears and inserting ''fiscal years 2010 through 2015''.

(b) PROGRAM ADMINISTRATION.—Section 610(k) is amended by striking ''fiscal years 2005 through 2009'' each place it appears and inserting ''fiscal years 2010 through 2015''.

SEC. 1304. METROPOLITAN INFRASTRUCTURE BANKS.

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

''§ 612. Metropolitan infrastructure banks

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

''(1) CAPITAL PROJECT.—The term 'capital project' has the meaning given that term in section 5302 of title 49.

''(2) CAPITALIZATION.—The term 'capitalization' means the process used for depositing funds as initial capital into a metropolitan infrastructure bank to establish the bank.

''(3) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means written consent between the Secretary and a metropolitan planning organization 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

a period of time and that is provided to a project sponsor for all or part of the costs of the project.

"(9) METROPOLITAN INFRASTRUCTURE BANK.—The term 'metropolitan infrastructure bank' means a Federally-assisted infrastructure bank created, established, capitalized, and administered by a metropolitan planning organization for the purpose of making loans or other forms of credit available to public and private entities for eligible metropolitan mobility projects.

"(10) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization created as a result of the designation process in section 134.

"(11) METROPOLITAN MOBILITY AND ACCESS PROGRAM.—The term 'metropolitan mobility and access program' means the metropolitan mobility and access program established under section 701.

"(12) METROPOLITAN MOBILITY PLAN.—The term 'metropolitan mobility plan' means a plan developed by a metropolitan planning organization under the metropolitan mobility and access program.

"(13) OTHER FORMS OF CREDIT ASSISTANCE.—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

entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(2) REQUIREMENTS.—To be eligible to enter into a cooperative agreement under paragraph (1), the metropolitan planning organization shall—

"(A) have in effect a metropolitan mobility plan approved by the Secretary; and

"(B) be a recipient of a grant under the metropolitan mobility and access program.

"(c) FUNDING.—

"(1) DEPOSITS INTO INFRASTRUCTURE BANKS.—The Secretary may permit an eligible metropolitan planning organization that has established a metropolitan infrastructure bank pursuant to a cooperative agreement entered into under subsection (b) to deposit into the bank not to exceed **[__]** percent of the funds available to the metropolitan planning organization for a fiscal year under the metropolitan mobility and access program.

"(2) CAPITAL GRANTS.—Federal funds deposited into a metropolitan infrastructure bank shall constitute for purposes of this section a capitalization grant for the bank.

"(3) DISCONTINUANCE OF FUNDING.—If the 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-

structure bank under this section, the metropolitan planning organization establishing the bank shall—

"(1) deposit in cash into the bank from non-Federal sources an amount not less than [__] percent of the amount of each capitalization grant;

"(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;

"(3) ensure that investment income derived from funds deposited in the bank are—

"(A) credited to the bank;

"(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the bank; and

"(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the metropolitan planning organiza-

tion, to make the project that is the subject of the loan feasible;

"(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and

"(7) require the bank to make an annual report to the Secretary on its status not later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.

"(g) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—Subject to paragraph (3), the requirements of this title and title 49 that would otherwise apply to funds made available under this title or title 49 and projects assisted with those funds shall apply to—

"(A) funds made available under this title or title 49 and contributed to an infrastructure bank established under this section, including

the non-Federal contribution required under subsection (f); and

"(B) projects assisted by the bank through the use of the funds,

except to the extent that the Secretary determines that any requirement of this title or title 49 (other than section 113 or 114 of this title or section 5333 of title 49) is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

"(h) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into a metropolitan infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(i) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31 shall not apply to funds deposited into a metropolitan infrastructure bank under this section.

"(j) PROGRAM ADMINISTRATION.—For each of fiscal years 2010 through 2015, a metropolitan planning organization may expend not to exceed 2 percent of the Federal funds contributed to a metropolitan infrastructure bank established by the metropolitan planning organization under this section to pay the reasonable costs of administering the bank.".

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

"Sec. 612. Metropolitan infrastructure banks.".

Subtitle D—High Priority Projects

SEC. 1401. HIGH-PRIORITY PROJECTS PROGRAM.

[to be supplied]

SEC. 1402. PROJECT AUTHORIZATIONS.

[to be supplied]

SEC. 1403. TECHNICAL AMENDMENTS TO TRANSPORTATION PROJECTS.

[to be supplied]

SEC. 1404. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

[to be supplied]

Subtitle E—Miscellaneous

SEC. 1501. PROJECT APPROVAL AND OVERSIGHT.

(a) MAJOR PROJECTS.—Section 106(h) is amended—

(1) in paragraph (1)—

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

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

''(B) a project delivery schedule; and

''(C) an annual financial plan.'';

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following:

''(3) PROJECT DELIVERY SCHEDULE.—A project delivery schedule shall—

''(A) be submitted to the Secretary before the completion of the environmental review process for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(B) document the expected start and completion dates for each phase of the project and any other relevant milestones in the project

delivery timeline from the completion of the environmental review process for the project through completion of the project; and

"(C) be revised upon any substantial change in the project delivery timeline."; and

(4) in paragraph (4)(A) (as redesignated by paragraph (2) of this subsection) by inserting ", including any project financing costs" before the semicolon.

(b) OTHER PROJECTS.—Section 106(i) is amended—

(1) by striking "A recipient" and inserting the following:

"(1) IN GENERAL.—A recipient"; and

(2) by adding at the end the following:

"(2) PROJECTS REQUIRING ENVIRONMENTAL IMPACT STATEMENTS.—A recipient of Federal financial assistance for a project under this title that requires an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and that is not covered by subsection (h), shall prepare a project delivery schedule in accordance with subsection (h)(3). Project delivery schedules prepared under this subsection shall be submitted to the Secretary.".

SEC. 1502. STANDARDS.

(a) IN GENERAL.—Section 109(a)(1) is amended by inserting before the semicolon the following: ''and consistent with comprehensive street design policies and principles and practical design standards''.

(b) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—Section 109(c) is amended—

(1) in paragraph (1) by striking ''may take into account'' and inserting ''shall take into account''; and

(2) in paragraph (2) by striking ''may develop'' and inserting ''shall develop''.

(c) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—Section 109(m) is amended by inserting before the period at the end the following: ''to provide a safe and continuous route for all nonmotorized and light motorcycle traffic''.

(d) DEFINITIONS.—Section 109 is amended by adding at the end the following:

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

''(1) COMPREHENSIVE STREET DESIGN POLICY OR PRINCIPLE.—The term 'comprehensive street design policy or principle' has the meaning given that term in section 331.

"(2) PRACTICAL DESIGN STANDARD.—The term 'practical design standard' has the meaning given that term in section 331.".

(e) GUIDANCE ON COMPREHENSIVE STREET DESIGN PRINCIPLES.—Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Office of Livability, shall issue guidance on the Department's implementation of the requirements related to comprehensive street design policies and principles and practical design standards under section 109(a) of title 23, United States Code.

SEC. 1503. REVENUE ALIGNED BUDGET AUTHORITY.

[to be supplied]

SEC. 1504. PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS.

Section 112 is amended by adding at the end the following:

"(h) PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall require, as a condition of the Secretary's approval of any contract awarded under subsection (b), that involves a public-private partnership agreement that—

"(A) the public authority meet each of the requirements of paragraph (2); and

"(B) the contract include provisions sufficient to meet each of the requirements of paragraph (3).

"(2) ACTIONS BEFORE CONTRACT AWARD.—

"(A) VALUE-FOR-MONEY ASSESSMENT.—

"(i) IN GENERAL.—Before awarding a contract under subsection (b) for a project that involves a public-private partnership agreement, the public authority shall analyze the potential project to assess whether the use of a public-private partnership agreement, as proposed for the potential project, would provide value compared with traditional public delivery methods.

"(ii) CONSIDERATIONS.—An assessment under clause (i) shall include consideration, at a minimum, of the following factors:

"(I) The potential life-cycle cost and delivery timeframe of the project under traditional public delivery methods as compared to under the approach proposed by the private partner.

"(II) Benefits or costs associated with any transfer of risk to the private partner pursuant to the public-private partnership agreement.

"(III) Other benefits or costs, whether quantitative or qualitative, associated with public delivery of the project.

"(B) TRANSPARENCY.—

"(i) IN GENERAL.—Before awarding any contract under subsection (b) for a project that involves a public-private partnership agreement, the public authority shall make available to the public key terms of the contract to be awarded, including **[__]**.

"(ii) PROPRIETARY INFORMATION.—The public disclosure requirement under clause (i) shall not extend to any information in a project proposal that is, in the judgment of the public authority, confidential or proprietary.

"(C) OPPORTUNITY FOR PUBLIC COMMENT.—

"(i) IN GENERAL.—Before awarding a contract under subsection (b) for a project that involves a public-private partnership agreement, the public authority shall offer interested parties a reasonable opportunity to comment on the proposed agreement.

"(ii) METHODS.—In carrying out clause (i), the public authority shall, to the maximum extent practicable—

"(I) hold any public meetings at convenient and accessible locations and times; and

"(II) make information pertaining to the proposed agreement available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under clause (i).

"(3) CONTRACT PROVISIONS.—Any contract awarded under subsection (b) for a project that involves a public-private partnership agreement shall include provisions sufficient to meet each of the following requirements:

"(A) ACCESS TO FACILITY.—

"(i) IN GENERAL.—The contract shall include provisions that prohibit the closing of the highway facility or portions thereof to vehicular traffic except in specifically enumerated circumstances, such as for routine and capital maintenance or accident clearance, or as provided in clauses (ii) and (iii).

"(ii) SPECIAL LANES.—The contract may include provisions that allow the private partner to—

"(I) prohibit trucks from using one or more designated lanes on the highway facility, or from using such lanes at designated times;

"(II) prohibit all vehicles other than trucks from using one or more designated lanes on the highway facility; and

"(III) operate one or more lanes on the highway facility as a HOV facility, subject to the requirements of section 166.

"(iii) MOTORCYCLES AND BICYCLES.—The private partner may restrict use of the highway facility by motorcycles or bicycles (or both) if the private partner certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

"(iv) UNPERMITTED CLOSURES.—The contract shall include provisions that allow the public authority to enter and take control of the highway facility and reopen it for operation in cases in which the private partner closes the highway facility in violation of the provisions described in clause (i).

"(v) EMERGENCY ACCESS.—

"(I) IN GENERAL.—The contract shall provide for the highway facility to be opened for evacuations for periods in which the Governor of the State has declared a state of emergency or the President has declared such event to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act (42 U.S.C. 5121 et seq.).

"(II) PROHIBITION OF TOLLS.—The contract shall prohibit the private partner from charging tolls to users of the highway facility during periods of evacuation under subclause (I).

"(B) PROHIBITION ON NONCOMPETE AGREEMENTS.—The contract shall not include any provision under which the State is prevented from improving or expanding the capacity of public roads in the same travel corridor as the highway facility.

"(C) EARLY TERMINATION FOR CONVENIENCE.—The contract shall include provisions to allow the public authority the option of reclaiming ownership of the highway facility before the end of the term of the public-private partnership agreement. In order to exercise this option, the public authority shall be required to provide fair market value compensation to the private partner.

"(D) HANDBACK STANDARDS.—The contract shall set forth standards that the highway facility must meet or must be brought up to by

the private partner at the end of the term of the public-private partnership agreement. Such standards shall provide that the highway facility is in an appropriate state of repair, given its life expectancy, at the time at which it reverts to the control of the public authority.

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

"(A) HIGHWAY FACILITY.—The term 'highway facility' means a highway, whether existing or planned, for which a public authority and a private partner enter into a public-private partnership agreement under this subsection.

"(B) HOV FACILITY.—The term 'HOV facility' has the meaning given that term in section 166.

"(C) PRIVATE PARTNER.—

"(i) IN GENERAL.—The term 'private partner' means a private sector entity that enters into a public-private partnership agreement under this subsection.

"(ii) INCLUSIONS.—A private partner may be a natural person, corporation, partnership, limited liability company, foundation, joint venture, business trust, non-

profit entity, other business entity, or any combination thereof.

"(D) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT.—The term 'public-private partnership agreement' means a contractual agreement formed between a State or other public entity and a private partner in which the private partner agrees to operate and maintain a highway facility in exchange for a financial return. Such a return may or may not include the authority to collect and retain toll revenues paid by users of the highway facility.

"(E) PUBLIC AUTHORITY.—The term 'public authority' means the State or other public entity that owns a facility that is, or is proposed to be, subject to a public-private partnership agreement.

"(F) TRUCK.—The term 'truck' means any self-propelled or towed motor vehicle used on a highway in commerce to transport property, when the vehicle—

"(i) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater; or

"(ii) is used in transporting material found by the Secretary to be hazardous under section 5103 of title 49 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103 of title 49.".

SEC. 1505. PREVAILING RATE OF WAGE.

Section 113 is amended to read as follows:

"§ 113. Prevailing rate of wage

"(a) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors on construction work performed on projects assisted in whole or in part by and through the Federal Government pursuant to this title be paid wages at rates not less than those prevailing on projects of a character similar in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267) and section 3145 of title 40.

"(b) APPRENTICESHIP AND SKILL TRAINING PROGRAMS.—The provisions of this section shall not be applicable to employment pursuant to apprenticeship and skill

training programs that have been certified by the Secretary as promoting equal employment opportunity in connection with Federal-aid highway construction programs.''.

SEC. 1506. EMERGENCY RELIEF.

(a) FEDERAL SHARE PAYABLE.—Section 120(e) is amended by striking the last two sentences.

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

''(d) ELIGIBILITY.—

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

''(2) MAXIMUM OBLIGATIONS FOR SINGLE EVENT.—Obligations for projects under this section, including those on highways, roads, and trails referred to in subsection (e), resulting from a single natural disaster or a single catastrophic failure in a State shall not exceed $100,000,000.

''(3) MAXIMUM TOTAL PROJECT COSTS.—

''(A) IN GENERAL.—The total cost of a project carried out under this section may not

exceed the cost of repair or reconstruction of a comparable facility.

"(B) COMPARABLE FACILITY DEFINED.—In this paragraph with respect to bridges and in section 144, the term 'comparable facility' means a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life.

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

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

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

"(5) TERRITORIES.—The total obligations for projects under this section in a fiscal year in the Virgin Islands, Guam, American Samoa, and the

Commonwealth of the Northern Mariana Islands shall not exceed $20,000,000.

"(6) TEMPORARY SUBSTITUTE HIGHWAY TRAFFIC SERVICE.—Notwithstanding any other provision of this chapter, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund under this section authorized for Federal-aid highways.

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

"(A) the Secretary has received an application for assistance from the State transportation department; and

"(B) an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) concurrence of the Secretary 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;

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

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

(4) provide guidance on performing benefit-cost analysis to justify betterments.

SEC. 1507. HIGHWAY-RAIL CROSSINGS.

(a) PROJECTS TO ELIMINATE HAZARDS.—Section 130(a) is amended—

(1) by inserting ''PROJECTS TO ELIMINATE HAZARDS.—'' before ''Subject to'';

(2) by striking ''in accordance with section 104 of this title'' and inserting ''to carry out the highway safety improvement program under section 148'' each place it appears.

(b) CLASSIFICATION OF PROJECTS.—Section 130(b) is amended by inserting ''CLASSIFICATION OF PROJECTS.—'' before ''The Secretary''.

(c) NET BENEFIT TO RAILROADS.—Section 130(c) is amended by inserting ''NET BENEFIT TO RAILROADS.—'' before ''Any railroad''.

(d) SURVEY AND SCHEDULE OF PROJECTS.—Section 130(d) is amended—

(1) by striking ''Each State'' and inserting the following:

''(1) IN GENERAL.—Each State''; and

(2) by adding at the end the following:

''(2) CONSISTENCY WITH OTHER REQUIREMENTS.—The survey and schedule of a State shall be consistent with—

''(A) the State's strategic highway safety plan developed under section 148;

''(B) for fiscal year 2012 and thereafter, the State's HSIP investment plan developed under section 148; and

''(C) as applicable, the State's highway-rail grade crossing safety action plan developed under section 202 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note; 122 Stat. 4868).''.

(e) FUNDS FOR PROTECTIVE DEVICES.—The first sentence of section 130(e)(1) is amended by—

(1) striking ''for a fiscal year'' and inserting ''for fiscal years 2010 and 2011''; and

(2) striking ''at least $220,000,000'' and inserting ''**[**$**]**''.

(f) APPORTIONMENT.—Section 130(f) is amended by **[**to be supplied**]**.

(g) ANNUAL REPORT; EXPENDITURE OF FUNDS.—Section 130 is amended by striking subsections (g) and (k) and redesignating subsections (h), (i), (j), and (l) as subsections (g), (h), (i), and (j), respectively.

(h) USE OF FUNDS FOR MATCHING.—Section 130(g) (as redesignated by subsection (f) of this section) is amended by striking ''Funds authorized to be appropriated to carry out this section'' and inserting ''Funds apportioned to carry out section 148''.

(i) BICYCLE AND PEDESTRIAN SAFETY.—Section 130(i) (as redesignated by subsection (f) of this section) is amended—

(1) in the subsection heading by inserting ''AND PEDESTRIAN'' after ''BICYCLE''; and

(2) by inserting ''and pedestrian'' after ''bicycle''.

(j) REFERENCES TO HIGHWAY-RAIL CROSSINGS.—Section 130 is amended—

(1) in the section heading by striking ''**Railway-highway**'' and inserting ''**Highway-rail**''; and

(2) by striking ''railway-highway'' each place it appears and inserting ''highway-rail''.

(k) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 130 and inserting the following:

"130. Highway-rail crossings.".

SEC. 1508. METROPOLITAN PLANNING.

(a) POLICY.—Section 134(a) is amended—

(1) in paragraph (1)—

(A) by striking "minimizing" and inserting "reducing";

(B) by inserting ", reliance on foreign oil, impacts on the environment, surface transportation-related greenhouse gas emissions," after "consumption"; and

(C) by striking "and" at the end;

(2) by striking the period at the end of paragraph (2) and inserting "; and" ; and

(3) by adding at the end the following:

"(3) encourage and promote the livability and sustainability of all communities, increase coordination among land use, housing, and transportation plans and projects, and increase surface transportation system connectivity and intermodality through metropolitan and statewide transportation planning processes identified in this chapter.".

(b) RURAL PLANNING ORGANIZATION DEFINED.—Section 134(b) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means an organization designated by a State to enhance the planning, coordination, and implementation of statewide transportation plans and programs in areas with a population of less than 50,000 individuals, with an emphasis on addressing the needs of such areas of the State.".

(c) DESIGNATION OF MPOS.—Section 134(d) is amended—

(1) in paragraph (1)—

(A) by striking "50,000" and inserting "100,000"; and

(B) by striking "named" and inserting "determined";

(2) in paragraph (2) by striking "that serves an area designated as a transportation management area"; and

(3) in paragraph (2)(B) by inserting "public transit systems and other" after "operate".

(d) COORDINATION IN MULTISTATE AREAS.—Section 134(f) is amended—

(1) in paragraph (1)—

(A) by striking ''encourage'' and inserting ''require''; and

(B) by striking ''provide'' and inserting ''coordinate''; and

(2) by striking paragraph (3).

(e) SCOPE OF PLANNING PROCESS.—Section 134(h)(1)(E) is amended—

(1) by inserting ''sustainability, and livability, reduce surface transportation-related greenhouse gas emissions, reliance on foreign oil, adapt to the effects of climate change,'' after ''energy conservation,'';

(2) by inserting ''and public health'' after ''quality of life''; and

(3) by inserting '', including housing and land use patterns'' after ''development patterns''.

(f) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Section 134(i)(2)(E) is amended—

(1) in subparagraph (A) by inserting ''and other relevant data and factors disseminated by the Secretary pursuant to section ____'' after ''subsection (h)'';

(2)(A) by striking ''and'' after ''infrastructure'' and inserting '', to''; and

(B) by inserting before the period the following: '', and to provide for the incorporation of practical design standards as defined in section 331''.

(g) CONSULTATION IN DEVELOPMENT OF TRANSPORTATION PLAN.—Section 134(i)(4)(A) is amended by inserting ''public health, housing, transportation,'' after ''conservation,''.

(h) TRANSPORTATION MANAGEMENT AREAS.—Section 134(k) is amended—

(1) by striking the parenthetical phrase in paragraph (4)(A) and inserting the following: ''(excluding projects carried out under the critical asset investment program under section 150 and freight improvement program under section 119)'';

(2) by repealing paragraph (5); and

(3) by adding at the end the following:

''(6) EMISSIONS REDUCTION PROCESS.—

''(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address transportation-related greenhouse gas emissions by including 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-

ysis of the anticipated effects thereof, available to the public through its Web site.

"(D) ENFORCEMENT.—If the Secretary finds that a metropolitan planning organization has failed to develop, submit, or publish its emission reduction targets and strategies, the Secretary shall not certify that the requirements of this section are met with respect to the metropolitan planning process of such organization.".

(i) CERTIFICATION; MPO DATABASE; PERFORMANCE MANAGEMENT.—Section 134 is further amended by adding at the end the following:

"(q) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) ensure that the metropolitan planning process of a metropolitan planning organization is being carried out in accordance with applicable provisions of Federal law; and

"(B) certify, subject to paragraph (2), not less than once every 4 years, that the requirements of this section are met with respect to such process.

"(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary shall establish certification require-

ments which include performance measures for metropolitan planning organizations that serve an urbanized area with a population of more than 100,000 individuals. The requirements shall ensure, at a minimum, the following:

"(A) The transportation planning process complies with the requirements of this section and other applicable requirements of Federal law.

"(B) There is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

"(C) Voting members of the metropolitan planning organization are represented in proportion to the population of each political subdivision to the total population the metropolitan planning area.

"(D) The metropolitan planning organization has met or is likely to meet the performance targets and requirements established under subsection (s).

"(3) EFFECT OF FAILURE TO CERTIFY.—

"(A) WITHHOLDING OF FUNDS.—If a metropolitan planning process of a metropolitan

planning organization is not certified under this section, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

"(B) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

"(4) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(r) NATIONAL MPO DATABASE.—

"(1) IN GENERAL.—To assist in meeting the need for information of individual metropolitan planning organizations, Federal, State, and local governments, and the public, the Secretary shall establish and maintain a reporting system and national database, using uniform categories to accumulate metropolitan planning organization structural, financial, operating, planning, programming, and performance information and using a uniform system of accounts.

"(2) REQUEST AND RECEIVE INFORMATION.—In establishing and maintaining the reporting system, the Secretary may request and receive appropriate information from any source.

"(3) DEADLINE.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall establish the reporting system and national database described in paragraph (1).

"(s) MPO PERFORMANCE MANAGEMENT.—

"(1) IN GENERAL.—To improve the outcomes of the transportation planning process under this section, metropolitan planning organizations shall implement a system of performance management in accordance with paragraphs (2) and (3).

"(2) ESTABLISHMENT OF PERFORMANCE MEASURES.—

"(A) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Secretary, in consultation with metropolitan planning organizations and States, shall establish qualitative and quantitative performance measures for each of the following metropolitan planning organizations:

"(i) Those that serve an urbanized area with a population of more than

100,000 individuals but less than 1,000,000 individuals.

"(ii) Those that serve an urbanized area with a population of more than 1,000,000 individuals.

"(B) MINIMUM REQUIREMENTS.—The performance measures established under this subsection shall—

"(i) be based, at a minimum, on data collected in the MPO Database under subsection (r);

"(ii) be based, at a minimum, on best practices of current metropolitan planning organization performance management systems and strategies;

"(iii) measure, at a minimum, the degree to which the long-range transportation plan reduces congestion, improves mobility and safety, increases the state of good repair of surface transportation assets, decreases surface transportation-related emissions and energy consumption, is consistent with land use plans, and increases the connectivity of and access to the surface transportation system; and

"(iv) include, at a minimum, any other information the Secretary considers appropriate.

"(C) ADDITIONAL REQUIREMENTS FOR LARGE METROPOLITAN REGIONS.—In addition to the minimum requirements established under subparagraph (B), the performance measures for urbanized areas with a population of more than 1,000,000 shall include a measurement of the degree to which the long-range transportation plan is developed through an assessment, at a minimum, of the following:

"(i) Land use patterns that support improved mobility and reduced dependency on single-occupant motor vehicle trips.

"(ii) An adequate supply of housing for all income levels.

"(iii) Limited impacts on valuable farmland, natural resources, and air quality.

"(iv) A reduction in greenhouse gas emissions.

"(v) An increase in water and energy conservation and efficiency.

"(vi) An improvement in the livability of communities.

"(3) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 18 months after the date of enactment of this subsection, each metropolitan planning organization shall establish a target level of performance—

"(A) in relation to each of the performance measures established under paragraph (2); and

"(B) against which the metropolitan planning organization will measure improvement in meeting such performance measures.

"(4) REPORTING REQUIREMENTS.—Each metropolitan planning organization shall submit to the Secretary, and publish annually, a report documenting the progress that the metropolitan planning organization has made in meeting the performance targets it established under paragraph (3).".

(j) SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.—

(1) CONTINUATION OF APPLICABILITY OF SECTION 134.—Notwithstanding the amendment made by subsection (c)(1) and not later the 180th day after the date of enactment of this Act, a metropolitan planning organization that serves an urbanized

area with a population of more than 50,000 and less than 100,000 and that is subject to the provisions of section 134 of title 23, United States Code, on the day before the date of enactment of this Act shall continue to be subject to such provisions, as in effect on such day until the population exceeds 100,000 if the Governor and units of general purpose local government that together represent at least 75 percent of the affected population including the largest incorporated city (based on population) as determined by the Bureau of the Census) agree to continue to be subject to the provisions.

(2) TREATMENT.—A metropolitan planning organization described in paragraph (1) shall be treated, for purposes of this title, title 23, United States Code, chapter 53 of title 49, United States Code, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, and the Transportation Equity Act for the 21st Century, as a metropolitan planning organization that is subject to the provisions of section 134 of title 23, United States Code, as in effect on the day before the date of enactment of this Act.

SEC. 1509. STATEWIDE PLANNING.

(a) GENERAL REQUIREMENTS.—Section 135(a)(3) is amended by inserting ''include consultation with the State bicycle and pedestrian coordinator established under section 217(c) and with the State safe routes to school coordinator established under section 152(e)(3), shall'' after ''program shall''.

(b) SCOPE OF PLANNING PROCESS.—Section 135(d)(1)(E) is amended—

(1) by inserting ''sustainability and livability, reduce surface transportation-related greenhouse gas emissions and reliance on foreign oil, and adapt to the effects of climate change),'' after '' energy conservation'';

(2) by inserting ''public health'' after ''quality of life''; and

(3) by inserting '', including housing and land use patterns'' after ''development paterns''.

(c) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—

(1) DEVELOPMENT OF LONG-RANGE PLAN.—Section 135(f) is amended—

(A) by striking the subsection heading and inserting the following: ''STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN'';

(B) by striking paragraph (1) and inserting the following:

"(1) DEVELOPMENT OF LONG-RANGE PLAN.—

"(A) IN GENERAL.—Each State shall develop a statewide strategic long-range transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal interconnected transportation system of the State.

"(B) STRATEGIC TRANSPORTATION PLAN REQUIREMENTS.—

"(i) NATIONAL TRANSPORTATION STATISTICS.—In developing a statewide strategic long-range transportation plan, the State shall consider the data and statistics disseminated by the Secretary pursuant to section 703(b) for such State.

"(ii) PROJECTS OF STATEWIDE, REGIONAL, AND NATIONAL SIGNIFICANCE.—The State shall identify transportation projects across all modes of transportation in the State that have statewide, regional, and national significance. In identifying such projects, each State shall consider the

information disseminated by the Secretary pursuant to section 703(b) for such State.

"(iii) STATES WITH CONGESTED AIRPORTS.—If a State has an airport in its jurisdiction that had at least one percent of all delayed aircraft operations in the United States, the statewide strategic transportation plan shall include measures to alleviate congestion at that airport either through expansion or the development of additional facilities.

"(iv) STATES WITH CONGESTED FREIGHT RAIL CORRIDORS.—If data from the Department of Transportation and the freight railroad industry indicate that a State has freight railroad corridors that operate at levels of service that are at or exceed capacity, the statewide strategic transportation plan shall include measures by which the State department of transportation and the freight railroads provide relief for the congested corridors.

"(v) STATES WITH DEEP DRAFT PORTS.—If a State has a deep draft port, the statewide strategic transportation plan

shall take into account any plan for expansion at that port and any projected increase in shipping traffic at that port.

"(vi) STATES WITH NAVIGABLE INLAND WATERWAYS.—Each State that has navigable inland waterways shall include in its statewide strategic transportation plan any plans to use those waterways to facilitate the efficient and reliable transportation of freight and people.

"(vii) PROJECT INTERCONNECTIVITY.—In developing a statewide strategic long-range transportation plan, the State shall provide for interconnectivity for freight and passengers among different facilities and among different modes of transportation

"(viii) COST ESTIMATES FOR PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—In developing the statewide strategic long-range transportation plan, the State shall include estimates of the costs of each of the projects identified in clause (ii).".

(C) in paragraph (2)—

(i) subparagraph (B) by striking the last sentence and inserting the following: ''If a State has designated one or more rural planning organizations, the Statewide transportation plan shall be developed in coordination with each such rural planning organization.''; and

(ii) in subparagraph (D)(i) by inserting ''air quality, public health, housing, and transportation,'' after ''conservation,''; and

(D) in paragraph (7) by inserting ''including the incorporation of practical design standards as defined in section 331'' after ''measures''; and

(E) by inserting at the end the following: ''(9) EMISSIONS REDUCTION PROCESS.—

''(A) IN GENERAL.—Within a State, the transportation planning process under this section shall address transportation-related greenhouse gas emissions by including emission reduction targets and strategies.

''(B) ESTABLISHMENT OF EMISSIONS REDUCTION TARGETS AND STRATEGIES.—

"(i) IN GENERAL.—Not later than one year after the promulgation of the final regulations required under section 841 of the Clean Air Act, each State shall develop surface transportation-related greenhouse gas emission reduction targets, as well as strategies to meet such targets, as part of the transportation planning process under this section.

"(ii) MINIMUM REQUIREMENTS.—Each State that develops targets and strategies required by clause (i) shall demonstrate progress in stabilizing and reducing transportation-related greenhouse gas emissions in such State. The targets and strategies shall, at a minimum—

"(I) be based on the models and methodologies established in the final regulations required under section 841 of the Clean Air Act;

"(II) address sources of surface transportation-related greenhouse gas emissions and contribute to achievement 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) in subparagraph (2)(B) by striking the last sentence and inserting the following: ''If a State has designated one or more rural planning organizations, the Statewide transportation plan shall be developed in coordination with each such rural planning organization.''; and

(2) in the second sentence of paragraph (5) by striking ''on the National'' and all that follows through ''maintenance program under this title'' and inserting the following: ''under the critical asset investment and freight improvement programs''.

(e) PERFORMANCE MANAGEMENT.—Section 135 is further amended by adding at the end the following:

''(k) STATE PERFORMANCE MANAGEMENT.—

''(1) IN GENERAL.—To improve the outcomes of the transportation planning process under this section, States shall implement a system of performance management in accordance with paragraphs (2) and (3).

''(2) ESTABLISHMENT OF PERFORMANCE MEASURES.—

''(A) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Secretary, in consultation with each

State, shall establish qualitative and quantitative performance measures for the State.

"(B) MINIMUM REQUIREMENTS.—The performance measures established under this subsection shall—

"(i) be based, at a minimum, on best practices of current State management systems and strategies;

"(ii) measure, at a minimum, the degree to which the long-range transportation plan reduces congestion, improves mobility and safety, increases the state of good repair of surface transportation assets, decreases surface transportation-related emissions and energy consumption, is consistent with land use plans, and increases the connectivity of and access to the surface transportation system; and

"(iii) include, at a minimum, any other information the Secretary considers appropriate.

"(3) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 18 months after the date of enactment of this subsection, each State shall establish a target level of performance—

"(A) in relation to each of the performance measures established under paragraph (2); and

"(B) against which the State will measure improvement in meeting such performance measures.

"(4) REPORTING REQUIREMENTS.—Each State shall submit to the Secretary, and publish annually, a report documenting the progress that the State has made in meeting the performance targets it established under paragraph (3).

"(5) WITHHOLDING OF FUNDS.—If the Secretary finds that a State has failed to meet the performance requirements established under this section, the Secretary may withhold up to 20 percent of the funds made available for expenditure by the State pursuant to section 505.

"(6) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the State at such time as the Secretary determines the State is meeting its performance targets.".

SEC. 1510. PROJECT DELIVERY.

(a) ADVANCED ACQUISITION OF REAL PROPERTY.—Section 108 is amended—

(1) in subsection (c)(2)(G) by striking "both the Secretary and the Administrator of the Environ-

mental Protection Agency have concurred'' and inserting ''the Secretary has determined''; and

(2) by adding at the end the following:

''(d) CONSIDERATION OF LONG-RANGE TRANSPORTATION NEEDS.—The Secretary is authorized to encourage States and other public authorities, where practicable, to acquire transportation rights-of-way that are sufficient to accommodate long-range transportation needs, where possible through the acquisition of broad rights-of-way that have the capacity for future expansion over a 50- to 100-year period and that have the potential to accommodate one or more transportation modes.''.

(b) DEFINITION OF PLANNING PRODUCT.—Section 139(a) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) PLANNING PRODUCT.—The term 'planning product' means a decision, analysis, study, or other documented result of an evaluation or decision-making process carried out during transportation planning.''.

(c) PROGRAMMATIC COMPLIANCE.—Section 139(b) is amended—

(1) in paragraph (2) by inserting ", and any requirements established under this section may be satisfied," after "exercised"; and

(2) by adding at the end the following:

"(3) PROGRAMMATIC APPROACHES.—The Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits.".

(d) PROJECT INITIATION.—Section 139(e) is amended by adding at the end the following: "The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the project that contains the information required under this subsection.".

(e) COORDINATION PLAN.—Section 139(g)(1)(A) is amended by striking "project or category of projects" and inserting "project, category of projects, or program of projects".

(f) INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.—Section 139 is amended by adding at the end the following:

"(m) INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.—

"(1) INCORPORATION BY REFERENCE OF PLANNING PRODUCTS FOR USE IN THE ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—Subject to the conditions set forth in paragraph (4), the Federal lead agency for a project, at the request of the project sponsors, may incorporate by reference a planning product—

"(i) in any environmental analysis and documentation under the National Environmental Policy Act of 1969; and

"(ii) in any other environmental review of the project.

"(B) PARTIAL INCORPORATION BY REFERENCE OF PLANNING PRODUCTS.—The Federal lead agency may incorporate by reference a planning product under subparagraph (A) in its entirety or may select portions for incorporation by reference.

"(C) TIMING.—A determination under subparagraph (A) concerning incorporation by reference of a planning product typically should be made at the time the lead agencies decide the appropriate scope of environmental review 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

projects, or program of projects carried out under this title or chapter 53 of title 49;

"(iii) does not apply the National Environmental Policy Act of 1969 to the transportation planning process conducted under this title or chapter 53 of title 49 and initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969;

"(iv) does not preclude application of the National Environmental Policy Act of 1969 to the transportation planning process; and

"(v) does not affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or restrict the initiation of the National Environmental Policy Act of 1969 process during planning.

"(3) APPLICABILITY.—

"(A) PLANNING DECISIONS.—Planning decisions that may be incorporated by reference pursuant to this subsection include—

"(i) a purpose and need statement for the project, including whether tolling, private financial assistance, or other special financial measures are necessary to implement the project and will be included in the statement;

"(ii) travel corridor location, including project termini;

"(iii) modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

"(iv) elimination of unreasonable alternatives and selection of the range of reasonable alternatives for detailed study during the National Environmental Policy Act of 1969 process;

"(v) basic description of the environmental setting;

"(vi) methodologies for analysis; and

"(vii) identification of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with local, tribal, State, and Federal resource agencies, determines are most effectively addressed at a regional or national program level, including—

"(I) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and

"(II) potential mitigation activities, locations, and investments.

"(B) PLANNING ANALYSES.—Planning analyses that may be incorporated by reference pursuant to this subsection include studies of past, current, or predicted future—

"(i) travel demands;

"(ii) regional development and growth;

"(iii) local land use, growth management, and development;

"(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-

posed action, and members of the general public.

"(E) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

"(F) The planning product is based on reliable and reasonably current data and, in the case of an analysis, is based on reasonable and scientifically acceptable methodologies.

"(G) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.

"(H) The planning product is appropriate for incorporation by reference and use in the environmental review process for the project.

"(5) EFFECT OF INCORPORATION BY REFERENCE.—Any planning product incorporated by reference by the Federal lead agency in accordance with this subsection shall not be reconsidered or made the subject of additional interagency consultation during environmental review of a project unless the Federal lead agency, in consultation with lead

agencies, cooperating agencies, and project sponsors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the planning product that has been incorporated by reference. Any planning product incorporated by reference by the Federal lead agency in accordance with this subsection may be relied upon and used by other Federal agencies in carrying out their reviews of the project.''.

(g) TIMEFRAME FOR RECORD OF DECISION.—Section 139 is further amended by adding at the end the following:

''(n) TIMEFRAME FOR RECORD OF DECISION.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall issue a record of decision and allow a project to advance to the final design stage not later than 120 days after the final environmental impact statement for the project is completed.

''(2) ALLOWABLE DELAYS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), advancement of a project under the time requirement under paragraph (1) may be delayed only—

"(i) for the time the project sponsor may request; or

"(ii) during the time the Secretary finds, after reasonable notice and an opportunity for comment, that the project sponsor has not complied substantially with the provisions of this chapter applicable to the project and the provisions of the National Environmental Policy Act of 1969.

"(B) EXPLANATORY STATEMENT.—Not later than 10 days after imposing a delay under subparagraph (A)(ii), the Secretary shall give the project sponsor a written statement explaining the reasons for the delay and describing actions the project sponsor must take to end the delay.

"(C) REPORT.—At least once every 6 months, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing each situation in which the Secretary has not met the time requirement under paragraph (1) or delayed a

time requirement under subparagraph (A)(ii). The report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review.''.

(h) SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.—Section 327(b) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PARTICIPATING STATES.—

''(A) IN GENERAL.—All States are eligible to participate in the program.

''(B) SPECIAL RULE.—Any State participating in the program under this section on September 30, 2009, shall be permitted by the Secretary to continue to participate in the program and such State shall not have to submit an application under paragraph (2) in order to participate in the program.''; and

(2) in paragraph (2) by striking ''this section, the Secretary shall promulgate'' and inserting ''the Surface Transportation Authorization Act of 2009, the Secretary shall amend, as appropriate,''.

SEC. 1511. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) PURPOSE.—It is the purpose of the disadvantaged business enterprise program to ensure that minority- and women-owned businesses have a full and fair opportunity to compete in projects and contracts receiving Federal assistance under titles I, III, and V of this Act and section 403 of title 23, United States Code, and to ensure that the Federal Government does not subsidize discrimination in private or locally funded surface transportation-related industries.

(b) FINDINGS.—Congress finds the following:

(1) While significant progress has occurred due to the enactment of the disadvantaged business enterprise program, discrimination continues to be a significant barrier for minority- and women-owned businesses seeking to do business in federally-assisted surface transportation markets. This continuing discrimination merits the continuation of the disadvantaged business enterprise program.

(2) Discrimination poses serious barriers to the full participation of women business owners and minority business owners, including African Americans, Hispanic Americans, Asian Americans, and Native Americans in federally-assisted surface transportation projects and contracts.

(3) Discrimination impacts minority and women business owners in every geographic region of the United States and throughout surface transportation-related industries.

(4) Discrimination has impacted many aspects of surface transportation-related business, including—

(A) the availability of venture capital and credit;

(B) the availability of bonding and insurance;

(C) the ability to obtain licensing and certification;

(D) public and private bidding and quoting procedures;

(E) the pricing of supplies and services;

(F) business training, education, and apprenticeship programs; and

(G) professional support organizations and informal networks through which business opportunities are often established.

(5) Congress has received voluminous evidence of discrimination against minority and women business owners in surface transportation-related industries, including—

(A) statistical analyses demonstrating significant disparities in the utilization of minority- and women-owned businesses in federally and locally funded surface transportation-related contracting;

(B) statistical analyses of private sector disparities in business success by minority- and women-owned businesses in surface transportation-related industries;

(C) research compiling anecdotal reports of discrimination by individual minority and women business owners;

(D) individual reports of discrimination by minority and women business owners and the organizations and individuals who represent minority and women business owners;

(E) analyses demonstrating significant reductions in the participation of minority and women businesses in jurisdictions that have reduced or eliminated their minority- and women-owned business programs;

(F) statistical analyses showing significant disparities in the credit available to minority- and women-owned businesses;

(G) research and statistical analyses demonstrating how discrimination negatively impacts firm formation, growth, and success;

(H) experience of State departments of transportation, public transit agencies, metropolitan planning organizations, and other localities demonstrating that race- and gender-neutral efforts alone are insufficient to remedy discrimination; and

(I) other qualitative and quantitative evidence of discrimination against minority- and women-owned businesses in surface transportation-related industries.

(6) All of this evidence provides a strong basis for the continuation of the disadvantaged business enterprise program.

(7) Congress has received and reviewed recent comprehensive and compelling evidence of discrimination from many different sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits.

(c) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent

of the amounts made available for any program under titles I, III, and V of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

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

(1) survey and compile a list of the small business concerns referred to in subsection (c) and the location of the concerns in the State; and

(2) notify the Secretary, in writing, of the percentage of the concerns that are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(e) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. The minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, 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-

curring in the preceding 12-month period, in the Consumer Price Index of All Urban Consumers (United States city average, all items) published by the Secretary of Labor.

(h) EXCLUSION OF RETIREMENT BENEFITS.—

(1) IN GENERAL.—In calculating a business owner's personal net worth, any funds held in a qualified retirement account owned by the business owner shall be excluded, subject to regulations to be issued by the Secretary.

(2) REGULATIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall issue final regulations to implement paragraph (1), including consideration of appropriate safeguards, such as a limit on the amount of such accounts, to prevent circumvention of personal net worth requirements.

(i) PROHIBITION ON EXCESSIVE OR DISCRIMINATORY BONDING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program to eliminate barriers to small business participation in Federally-assisted surface transportation contracts by prohibiting excessive, unreasonable, or discriminatory bonding requirements for any

project funded under titles I, III, and V of this Act, or section 403 of title 23, United States Code.

(2) REGULATIONS.—Not later than one year after the date of enactment of this subsection, the Secretary shall issue a final rule to establish the program under paragraph (1).

(j) TRAINING PROGRAM FOR CERTIFICATION OF DISADVANTAGED BUSINESS ENTERPRISES.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall establish a mandatory training program for persons described in paragraph (3) on certifying whether a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section.

(2) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

(3) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of a State department of transportation—

(A) who is required to provide a written assurance under this section that the State de-

partment of transportation will meet the percentage goal of subsection (c); or

(B) who is responsible for determining whether or not a small business concern qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under this section.

(4) FUNDING.—Of the funds made available under section 104(a)(1) of title 23, United States Code, the Secretary shall provide not less than **[**$**]** for each of fiscal years 2010 through 2015 to carry out this subsection and to support other programs and activities of the Secretary related to the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals in surface transportation-related contracts.

(5) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a report on the results of the training program conducted under paragraph (1).

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

(1) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern, or group of concerns controlled by the same socially and economically disadvantaged individual or individuals, that has average annual gross receipts over the preceding 3 fiscal years in excess of $22,410,000, as adjusted annually by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' has the meaning given that term in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

SEC. 1512. HIGHWAY BRIDGE INVENTORIES, STANDARDS, AND INSPECTIONS.

(a) IN GENERAL.—Section 144 is amended to read as follows:

"§ 144. Highway bridge inventories, standards, and inspections

''(a) FINDINGS AND DECLARATION.—Congress finds and declares that it is in the vital interest of the United States to—

''(1) inventory and inspect the condition of highway bridges;

''(2) calculate the load rating of those bridges; and

''(3) improve the condition of those bridges through preservation, protection, replacement, and rehabilitation of bridges that the States and the Secretary determine are structurally deficient or functionally obsolete.

''(b) INVENTORIES.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges, shall—

''(1) inventory all those bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

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

''(3) assign a risk-based priority for replacement or rehabilitation of each structurally deficient bridge after consideration of safety, serviceability,

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

"(4) determine the cost of replacing each structurally deficient bridge with a comparable facility or of rehabilitating the bridge.

"(c) NATIONAL BRIDGE INSPECTION STANDARDS.—

"(1) IN GENERAL.—The Secretary shall maintain inspection standards for the proper safety inspection and evaluation of all highway bridges. The standards under this subsection shall be designed to ensure uniformity in the conduct of such inspections and evaluations.

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

"(A) specify, in detail, the method by which such inspections shall be carried out by the States and Federal agencies with jurisdiction over highway bridges;

"(B) establish the maximum time period between inspections in accordance with paragraph (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

"(ii) the calculation or reevaluation of bridge load ratings under subsection (f)(2); and

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

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

"(ii) monitoring activities and corrective actions taken in response to such a finding; and

"(H) provide for testing with a state-of-the-art technology that detects rate of growth activity of fatigue cracks as small as 0.01 inches on steel bridges exhibiting fatigue damage or bridges with fatigue susceptible members and provides for long-term remote structural monitoring capability.

"(3) FREQUENCY OF BRIDGE INSPECTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (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—

"(I) the extension is appropriate based on criteria that include the age, design, traffic characteristics, and any known deficiency of the bridge; and

"(II) granting the extension will increase the overall safety of the bridge inventory of the State or Federal agency by allowing the State or Federal agency to focus its inspection resources on the bridges most in need of attention.

"(ii) ALTERNATIVE APPROACH TO DETERMINING INSPECTION FREQUENCY.—Not later than 2 years after the date of enactment of the Surface Transportation Authorization Act of 2009, the Secretary, in consultation with the States, shall develop and establish an alternative approach for determining bridge inspection frequencies based on factors such as condition, structure type, and age of the structure. In developing the approach, the Secretary shall combine different levels of inspection intensity and scope with clear standards for inspector education, training, and qualifica-

tions to achieve effective inspections, improvement in the quality of inspections, and efficient resource utilization.

"(d) TRAINING PROGRAM FOR BRIDGE INSPECTORS.—

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

"(2) REVISIONS.—The Secretary shall revise the program from time to time to take into account new and improved techniques.

"(3) SCOPE.—The Secretary shall expand the scope of the training program as necessary to ensure that all persons conducting highway bridge inspections receive appropriate training and certification under the program.

"(e) AVAILABILITY OF FUNDS.—The Secretary may use funds made available under section 104(a) to carry out subsections (c) and (d) of this section.

"(f) REQUIREMENTS FOR FEDERAL APPROVALS.—

"(1) IN GENERAL.—The Secretary shall not approve the obligation of funds for a bridge project to be carried out by a State or Federal agency under 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

carry the maximum loads allowable under State routine permitting or State legal load limits.

"(4) PERFORMANCE PLANS.—

"(A) DEVELOPMENT OF PLANS.—Not later than 2 years after the date of enactment of the Surface Transportation Authorization Act of 2009, the State or Federal agency, in consultation with local governments that have jurisdiction over highway bridges, shall develop and implement a plan for—

"(i) the inspection of highway bridges described in subsection (b) that are located in the State or within the Federal agency's jurisdiction; and

"(ii) the rehabilitation and replacement of—

"(I) bridges, other than those located on the National Highway System, that are structurally deficient; and

"(II) bridges that are functionally obsolete.

"(B) HISTORIC BRIDGES.—A plan of a State or Federal agency under this paragraph may provide for more frequent, in-depth inspec-

tion of a historic bridge located in the State or within the Federal agency's jurisdiction in lieu of replacement of the bridge if the Secretary determines that—

"(i) it is appropriate based on criteria that include the age, design, traffic characteristics, and any known deficiency of the bridge; and

"(ii) granting the exception will increase the overall safety of the bridge inventory of the State or Federal agency by allowing the State or Federal agency to focus its inspection resources on the bridges most in need of attention.

"(C) CONSISTENCY WITH CRITICAL ASSET PRESERVATION INVESTMENT PLAN.—A plan developed by a State under this paragraph shall be consistent with the State's critical asset preservation investment plan under section 150.

"(D) UPDATES.—A State or Federal agency shall update a plan developed under this paragraph on a biennial basis.

"(5) BRIDGE MANAGEMENT SYSTEM.—Notwithstanding section 303(c), the State shall develop and implement a bridge management system that meets

the requirements of the regulations issued under section 303.

"(g) APPLICABILITY OF GENERAL BRIDGE ACT OF 1946.—Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters that—

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

"(2) are—

"(A) not tidal; or

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

"(h) INFORMATION AND REPORTS.—

"(1) UPDATES OF INFORMATION.—The Secretary shall annually revise, as necessary, the information required under subsection (b).

"(2) REPORTS TO CONGRESS.—Concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing—

"(A) a summary of the information updated under paragraph (1);

"(B) a description of the priority assigned, on a national basis, for the replacement or rehabilitation of each deficient bridge on a Federal-aid highway;

"(C) a summary of the Department's reviews during that year of State compliance with the national bridge inspection standards established under subsection (c); and

"(D) such recommendations as the Secretary may have for improvements to the activities authorized by this section.

"(i) ELIGIBILITY OF CERTAIN BRIDGES.—Notwithstanding any other provision of law (other than subsection (c) of this section and sections 119, 133, 148, and 150), any bridge that is owned and operated by an agency that 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—

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

"(B) replaces any bridge that was destroyed prior to 1965;

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

"(D) replaces any road bridges rendered obsolete as a result of Corps of Engineers flood control or channelization projects and not rebuilt with funds from the Corps of Engineers.

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

"(k) PROGRAM FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

"(1) CREDIT FOR CERTAIN CONTRIBUTIONS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that meets the requirements of paragraph (2), any amount expended after April 2, 1987, from State and local sources for such project in excess of 20 percent of the cost of construction of the project

may be credited to the non-Federal share of the cost of the projects in the State that are eligible for Federal funds under section 119, 133, 148, or 150. Such crediting shall be in accordance with such procedures as the Secretary may establish.

"(2) ELIGIBILITY.—A project meets the requirements of this paragraph, if the project—

"(A) is wholly funded from State and local sources;

"(B) is eligible for Federal funds under section 133;

"(C) is noncontroversial;

"(D) is certified by the State to have been carried out in accordance with all standards applicable to projects under this section and section 133; and

"(E) is determined by the Secretary upon completion to be no longer a deficient bridge.

"(l) ACTIVITIES RELATED TO HISTORIC BRIDGES.—

"(1) COORDINATION.—The Secretary, in cooperation with the States and Federal agencies, shall implement the activities described in this section in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse, and future study of 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

State, Federal agency, locality, or responsible entity enters into an agreement to—

"(i) maintain the bridge and the features that give it its historic significance; and

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

"(B) ELIGIBILITY OF COSTS.—Costs incurred by the State or Federal agency to preserve the historic bridge, including funds made available to the State, Federal agency, locality, or private entity to enable it to accept the bridge, shall be eligible as reimbursable project costs under section 119 or 133 up to an amount not to exceed the cost of demolition. Any bridge preserved pursuant to this paragraph shall thereafter not be eligible for any other funds authorized pursuant to this title.

"(m) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—To be eligible to receive assistance under section 119, 133, or 148, a bridge project not on a Federal-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-

teristics do not meet current design standards or current demands.

"(2) HISTORIC BRIDGE.—The term 'historic bridge' means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

"(3) PRIVATE BORDER BRIDGE.—The term 'private border bridge' means a privately constructed, owned, or operated highway structure that crosses over waterways, other topographical barriers, highways, or railroads that—

"(A) is open to the public;

"(B) carries vehicular traffic or other moving loads;

"(C) is longer than 20 feet;

"(D) is directly connected to the National Highway System; and

"(E) spans the border between the United States and Canada or Mexico.

"(4) PRESERVATION.—The term 'preservation' has the meaning given that term in section 150

"(5) PROTECTION.—The term 'protection' has the meaning given that term in section 150.

"(6) REHABILITATE.—The term 'rehabilitate', in any of its forms, means major work necessary to

restore the structural integrity of a bridge and work necessary to correct one or more major safety defects.

"(7) REPLACEMENT.—The term 'replacement', as used with respect to a structurally deficient or functionally obsolete bridge, means a new facility constructed in the same general traffic corridor that meets the geometric, construction, and structural standards, in effect at the time of such construction, required for the types and volume of projected traffic of the facility over its design life.

"(8) STRUCTURALLY DEFICIENT.—The term 'structurally deficient' means a classification assigned to a bridge that is experiencing a structural concern or inadequacy based on an assessment of inspection information including condition ratings and structural factors such as load-carrying capacity.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge inventories, standards, and inspections.".

(c) PROCESS FOR ASSIGNING RISK-BASED PRIORITIES.—

(1) DEADLINE FOR ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the

States, shall establish a process for assigning risk-based priorities under section 144(b)(3) of title 23, United States Code, as amended by subsection (a).

(2) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing a description of the process for assigning risk-based priorities established under paragraph (1).

(3) INDEPENDENT REVIEW.—

(A) PARTICIPATION OF NATIONAL ACADEMIES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall enter into appropriate arrangements with the National Academies to permit the Academies to conduct an independent review of the process for assigning risk-based priorities established under paragraph (1).

(B) REPORT TO CONGRESS.—Not later than 30 months after the date of enactment of this Act, the National Academies shall submit a report on the results of the review to the Secretary, the Committee on Transportation and

Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph **[**$**]** for fiscal year 2010. Such sums shall remain available until expended.

(d) NATIONAL BRIDGE INVENTORY.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall take necessary actions to make information contained in the national bridge inventory established under section 144 of title 23, United States Code, more readily available to the public, including actions to make the information easier to understand.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection **[**$**]** for fiscal year 2010.

(3) APPLICABILITY OF CHAPTER 1 OF TITLE 23, UNITED STATES CODE.—Funds made available to carry out this subsection shall be available for obli-

gation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(e) NATIONAL BRIDGE INSPECTION PROGRAM.—

(1) REGULATIONS ON CRITICAL FINDINGS OF BRIDGE DEFICIENCIES.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue regulations establishing procedures to be used by States and Federal agencies in reporting critical findings of bridge deficiencies, and subsequent monitoring activities and corrective actions, to the Secretary in accordance with the standards to be established under section 144(c)(2)(G) of title 23, United States Code, as added by subsection (a).

(B) CONTENTS.—Regulations to be issued under subparagraph (A) shall—

(i) establish a uniform definition of the term ''critical finding'';

(ii) establish deadlines for State and Federal agency reporting of critical finding determinations to the Secretary;

(iii) establish requirements for monitoring and follow-up actions and reporting following a critical finding determination; and

(iv) provide for enhanced training of bridge inspectors relating to critical findings.

(2) QUALIFICATIONS OF PROGRAM MANAGERS AND TEAM LEADERS.—

(A) REVISION OF REGULATIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall revise regulations contained in section 650.309 of title 23, Code of Federal Regulations, relating to the qualifications of highway bridge inspection personnel, to require that, in addition to meeting the qualifications identified in that section (as in effect on the date of enactment of this Act)—

(i) an individual serving as the program manager for a State or Federal agency be a professional engineer;

(ii) an individual serving as a team leader for a State or Federal agency for 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-

ards and modify the training program for bridge inspectors in accordance with the amendments made by this section.

(4) REPORTS ON CRITICAL FINDINGS.—

(A) REPORT TO THE SECRETARY.—Not later than 15 days after the date on which a critical finding determination is made by a State or Federal agency that results in the closure of a bridge on the National Highway System, the State shall submit a report to the Secretary on the impact, including the economic impact, on regional transportation and transit that will result from such bridge closure and recommend solutions to mitigate the impact.

(B) REPORT TO CONGRESS.—Not later than 15 days after the date of receipt of a report described in subparagraph (A), the Secretary shall forward the report to the appropriate Committees of Congress.

(f) REGULATIONS ON BRIDGE MANAGEMENT SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue revised regulations to require the bridge management system required under section 144(f)(4) of title 23, United States Code (as amended by this Act), to support risk-based prioritization

of the replacement and rehabilitation of deficient bridges, based on a consideration of safety, serviceability, and essentiality for public use and public safety, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished.

(g) STUDY OF EFFECTIVENESS OF BRIDGE RATING SYSTEM.—

(1) STUDY.—The Comptroller General shall conduct a study of the effectiveness of the bridge rating system of the Federal Highway Administration, including the use of the terms ''structurally deficient'' and ''functionally obsolete'' to describe the condition of highway bridges in the United States.

(2) EVALUATION OF STATE AND FEDERAL SYSTEMS.—In conducting the study, the Comptroller General shall evaluate bridge rating systems used by State transportation departments and Federal agencies and provide recommendations on how successful aspects of such bridge rating systems may be incorporated into the bridge rating system of the Federal Highway Administration.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Transpor-

tation and Infrastructure of the House of Representatives and the Committee on the Environment and Public Works of the Senate a report on the results of the study.

SEC. 1513. NATIONAL TUNNEL INSPECTION PROGRAM.

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

"§ 151. National tunnel inspection program

''(a) NATIONAL TUNNEL INSPECTION STANDARDS.—Not later than 2 years after the date of enactment of the Surface Transportation Authorization Act of 2009, the Secretary, in consultation with State transportation departments, Federal agencies, and interested and knowledgeable private organizations and individuals, shall establish national tunnel inspection standards for the proper safety inspection and evaluation of all highway tunnels. The standards established under this subsection shall be designed to ensure uniformity among the States in the conduct of such inspections and evaluations.

''(b) MINIMUM REQUIREMENTS FOR INSPECTION STANDARDS.—The standards established under subsection (a) shall, at a minimum—

''(1) specify the method by which highway tunnel inspections shall carried out by the States and Federal agencies;

"(2) establish the maximum time period between the inspections using a risk-management approach, based on factors such as condition, structure type and complexity, and age of the structure, that combines different levels of inspection intensity and scope with clear standards for inspector education, training, and qualification to achieve effective inspections, improvement in the quality of inspections, and efficient resource utilization;

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

"(4) require each State and each Federal agency with jurisdiction over highway tunnels to maintain and make available to the Secretary upon request—

"(A) written reports on the results of the inspections, together with notations of any action taken pursuant to the findings of the inspections; and

"(B) current inventory data for all highway tunnels located in the State or under the jurisdiction of the Federal agency reflecting the findings of the most recent highway tunnel inspections conducted;

"(5) establish procedures for the Secretary to conduct reviews of State and Federal agency compliance with the standards established under this subsection; and

"(6) establish procedures for conducting annual compliance reviews of State inspections and State implementation of quality control and quality assurance procedures.

"(c) TRAINING AND CERTIFICATION PROGRAM FOR TUNNEL INSPECTORS.—

"(1) IN GENERAL.—The Secretary, in cooperation with State transportation departments and Federal agencies, shall establish a program designed to ensure that all individuals carrying out highway tunnel inspections receive appropriate training and certification.

"(2) REVISIONS.—The Secretary shall revise the program from time to time to take into account new and improved techniques.

"(3) SCOPE.—The Secretary shall expand the scope of the training program as necessary to ensure that all persons conducting highway tunnel inspections receive appropriate training and certification under the program.

"(d) REQUIREMENTS FOR FEDERAL APPROVALS.—

"(1) IN GENERAL.—Beginning 2 years after the date of the establishment of standards under subsection (a), the Secretary shall not approve the obligation of funds for a tunnel project to be carried out by a State or Federal agency under section 119, 133, 148, 150, or 204 unless such State or Federal agency is complying with the requirements of the national tunnel inspection standards established under subsection (a).

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority of the Secretary or the Administrator of the Federal Highway Administration under any other provision of law or regulation to take any other action to ensure compliance by a State or Federal agency with the requirements of the national tunnel inspection standards established under subsection (a).

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

"(f) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available under section 104(a).".

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

"151. National tunnel inspection program.".

SEC. 1514. SAFETY PROVISIONS.

(a) USE OF SAFETY BELTS.—

(1) IN GENERAL.—Section 153 is amended to read as follows:

"§ 153. Use of seat belts

"(a) SEAT BELT LAWS.—A State meets the requirements of this subsection if the State has enacted and is enforcing a law that makes unlawful throughout the State the operation of a passenger motor vehicle (as defined in section 157) whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a seat belt (as defined in section 157) properly fastened about the individual's body.

"(b) PENALTY.—

"(1) TRANSFER OF FUNDS.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not meet the requirements of subsection (a), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of sections 104(b)(1), 104(b)(3), and 104(b)(4) to the apportionment of the State under section 402.

"(2) FEDERAL SHARE.—The Federal share of the cost of any project carried out with funds transferred under paragraph (1) shall be 100 percent.

"(3) TRANSFER OF OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—If the Secretary transfers under paragraph (1) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount, determined under subparagraph (B), of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount of funds transferred under paragraph (1), by

"(ii) the ratio that—

"(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(4) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under paragraph (1).".

(2) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 153 and inserting the following:

"153. Use of safety belts.".

(3) CONFORMING AMENDMENT.—Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(b) OPEN CONTAINER REQUIREMENTS.—Section 154(c) is amended—

(1) by striking paragraph (3) and redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively; and

(2) in paragraph (3) (as redesignated by paragraph (1) of this subsection) by striking ", or used under paragraph (3),".

(c) REVOCATION OR SUSPENSION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.—

(1) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—Section 159(a) is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

"(3) BEGINNING IN FISCAL YEAR 2010.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraphs (1) or (2)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of sections 104(b) on the first day of each fiscal year following the date of enactment of the Surface Transportation Authorization Act of 2009 if the State does not meet the requirements of paragraph (4) on the first day of such fiscal year.".

(2) CONFORMING AMENDMENTS.—Section 159 is amended—

(A) in subsections (a)(1) and (a)(2) by striking ''paragraph (3)'' and inserting ''paragraph (4)''; and

(B) in subsection (b) by striking ''subsection (a)(3)'' each place it appears and inserting ''subsection (a)(4)''.

(d) PREVENTION OF OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.—

(1) IN GENERAL.—Section 163 is amended—

(A) by striking the section designation and all that follows through subsection (a) and inserting the following:

''§ 163. Prevention of operation of motor vehicles by intoxicated persons

''(a) STATE DUI LAWS.—A State meets the requirements of the section if the State has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).'';

(B) by striking subsections (b), (c), (d), and (f) and redesignating subsection (e) as subsection (b); and

(C) in subsection (b)(1) (as redesignated by subparagraph (B) of this paragraph) by striking ''has not enacted or is not enforcing a law described in subsection (a)'' and inserting ''does not meet the requirements of subsection (a)''.

(2) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by striking the item relating to section 163 and inserting the following:

''163. Prevention of operation of motor vehicles by intoxicated persons.''.

(e) MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.—Section 164(b) is amended—

(1) by striking paragraph (3) and redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively; and

(2) in paragraph (3) (as redesignated by paragraph (1) of this subsection) by striking '', or used under paragraph (3),''.

SEC. 1515. HOV FACILITIES.

(a) LOW OCCUPANCY VEHICLES.—Section 166(b)(4) is amended by striking the paragraph heading and inserting the following: ''LOW OCCUPANCY VEHICLES.—''.

(b) LOW EMISSION AND ENERGY EFFICIENT VEHICLES.—Section 166(b)(5) is amended—

(1) in subparagraph (A) by striking ''2009'' and inserting ''2015''; and

(2) in subparagraph (B) by striking ''2009'' and inserting ''2015''.

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

''(c) REQUIREMENTS APPLICABLE TO TOLLS.—Tolls may be charged under paragraphs (4) and (5) of subsection (b) notwithstanding section 301 and subject to the requirements of section 129.''.

(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

(1) IN GENERAL.—Section 166(d)(1) is amended to read as follows:

''(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (b) in a fiscal year shall take the following actions:

''(A) The State agency shall submit to the Secretary a report demonstrating that the operation of the facility is not degraded and the presence of such vehicles will not cause the operation of the facility to become degraded.

''(B) The State agency shall certify to the Secretary that the agency will carry out the fol-

lowing responsibilities with respect to the facility in the fiscal year:

"(i) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that such vehicles may have on the operation of the facility and adjacent highways.

"(ii) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

"(iii) Limiting or discontinuing the use of the facility by the vehicles whenever the operation of the facility is degraded.".

(2) QUARTERLY REPORTS; TRANSFERS OF FUNDS.—Section 166(d) is amended by adding at the end the following:

"(3) QUARTERLY REPORTS.—A State agency that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (b) in a fiscal year shall submit to the Secretary during the fiscal year quarterly reports on the impacts that such vehi-

cles are having on the operation of the facility and an assessment of whether the presence of such vehicles is causing the operation of the facility to be degraded.

"(4) TRANSFERS OF FUNDS.—

"(A) IN GENERAL.—If a quarterly report submitted by a State agency under paragraph (3) shows that the operation of a HOV facility is degraded as a result of the presence of vehicles allowed to use the facility under subsection (b)(4) or (b)(5), or if a State agency fails to submit a quarterly report as required under paragraph (3), the Secretary shall for each facility shown to be degraded in the report, or for which the State fails to submit the report, transfer an amount equal to ½ of one percent of the funds to be apportioned to the State under section 104(b)(3) for the following fiscal year to the State's apportionment under section 104(b)(2) for that fiscal year.

"(B) TRANSFER OF OBLIGATION AUTHORITY.—

"(i) IN GENERAL.—If the Secretary transfers under subparagraph (A) for a fiscal year funds to the apportionment of a

State under section 104(b)(2), the Secretary shall set aside an amount of the State's obligation authority for that fiscal year, determined under clause (ii), to be used only for projects eligible for assistance under section 149.

"(ii) AMOUNT.—The amount of obligation authority referred to in clause (i) shall be determined by multiplying—

"(I) the amount of funds transferred under subparagraph (A) to the State's apportionment under section 104(b)(2) for the fiscal year, by

"(II) the ratio that—

"(aa) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

"(bb) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any

obligation limitation) for the fiscal year.

"(C) SPECIAL RULE.—If a State does not have a nonattainment or maintenance area described in section 149, instead of transferring funds under subparagraph (A), the State shall use the funds that would otherwise be subject to the transfer only for projects eligible for assistance under paragraphs (2) through (14) of section 133(b).".

(e) LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—Section 166(f)(3)(B) is amended to read as follows:

"(B)(i) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved [to be supplied]—".

SEC. 1516. ENFORCEMENT OF PRIMARY SEAT BELT LAWS.

(a) IN GENERAL.—Section 157 is amended to read as follows:

"§ 157. Enforcement of primary seat belt laws

"(a) PRIMARY SEAT BELT LAWS.—A State meets the requirements of this subsection if the State has enacted and is enforcing a primary seat belt law.

"(b) PRIMARY SEAT BELT LAW DEFINED.—In this 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).

"(4) THEREAFTER.—On October 1, 2015, and on October 1 of each fiscal year thereafter, the Secretary shall withhold 8 percent of the amount required to be apportioned to a State under each of sections 104(b)(1), 104(b)(3), and 104(b)(4) if the State does not meet the requirements of subsection (a).

"(d) PERIOD OF AVAILABILITY OF WITHHELD FUNDS; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (c) from apportionment to a State shall remain available for apportionment to the State until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (c) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a), the Secretary shall, on the first day on which the State meets the requirements of subsection (a), apportion to the State the funds withheld under subsection (c)

that remain available for apportionment to the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned. Sums not obligated at the end of that period shall lapse.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (c) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a), the funds shall lapse.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' 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.''.

SEC. 1517. USE OF IGNITION INTERLOCK DEVICES TO PREVENT REPEAT INTOXICATED DRIVING.

(a) FINDINGS.—Congress finds the following:

(1) Alcohol-impaired driving fatalities represent approximately one-third of all highway fatalities in a given year.

(2) In 2007, 12,998 alcohol-impaired driving fatalities occurred.

(3) An individual convicted of an alcohol-impaired driving offense who has an ignition interlock device installed on the individual's motor vehicle is 60 percent less likely to recidivate than if the individual did not have the device.

(4) An ignition interlock device allows an individual convicted of an alcohol-impaired driving offense to have access to work, school, and alcohol rehabilitation programs, without endangering the individual or others.

(b) STATE LAWS TO PREVENT REPEAT INTOXICATED DRIVING.—Chapter 1 is amended by adding at the end the following:

"§ 167. Use of ignition interlock devices to prevent repeat intoxicated driving

''(a) LAWS REQUIRING IGNITION INTERLOCK DEVICES.—A State meets the requirements of this subsection 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

so apportioned. Sums not obligated at the end of that period shall lapse.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a), the funds shall lapse.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle in a State while having an alcohol concentration above the permitted limit as established by the State.

"(3) IGNITION INTERLOCK DEVICE.—The term 'ignition interlock device' means an in-vehicle device that requires a driver to provide a breath sample prior to the motor vehicle starting, and that prevents

a motor vehicle from starting if the driver's alcohol concentration is above the legal limit.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.".

(c) CLERICAL AMENDMENT.—The analysis for chapter 1 is amended by adding at the end the following:

"Sec. 167. Use of ignition interlock devices to prevent repeat intoxicated driving.".

SEC. 1518. BUY AMERICA.

Section 313 is amended by adding at the end the following:

"(g) APPLICATION TO BRIDGE PROJECTS.—Whenever this section applies to the construction of any bridge project, the requirements of this section shall apply to all construction contracts carried out within the scope of the applicable decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and carried out on the bridge from abutment to abutment (including the abutments) regardless of the funding source of such contracts if at least one contract for construction with respect to the bridge is funded with amounts made available under this title.".

SEC. 1519. WORKFORCE DEVELOPMENT.

[to be supplied]

SEC. 1520. ROADWAY, BICYCLE AND PEDESTRIAN, WORK ZONE, AND HIGHWAY-RAIL GRADE CROSSING SAFETY.

(a) IN GENERAL.—The Secretary shall make grants for activities to improve roadway, bicycle and pedestrian, work zone, and highway-rail grade crossing safety in accordance with this section.

(b) ROADWAY SAFETY GRANTS.—The Secretary may make grants under this section to a national nonprofit organization engaged in promoting public road safety for the following purposes:

(1) Improving the quality of data pertaining to public road hazards and design features that increase the severity of or otherwise affect motor vehicle crashes.

(2) Developing and implementing a public awareness campaign to educate State and local transportation officials, public safety officials, and motorists regarding the extent to which public road hazards and design features are a factor in motor vehicle crashes.

(3) Conducting or promoting public road safety research and technology transfer activities.

(c) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—The Secretary may make grants under this section to a national nonprofit organization engaged in promoting bicycle and pedestrian safety for the following purposes:

(1) Operating a national bicycle and pedestrian safety information clearinghouse.

(2) Developing information and educational programs relating to bicycle and pedestrian safety.

(3) Disseminating techniques and strategies for improving bicycle and pedestrian safety.

(d) WORK ZONE SAFETY GRANTS.—The Secretary may make grants under this section to a national nonprofit organization for the following purposes:

(1) Training construction craft workers on the prevention of injuries and fatalities in highway and road construction.

(2) Developing guidelines for the prevention of highway work zone injuries and fatalities.

(3) Training State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.

(e) WORK ZONE SAFETY INFORMATION CLEARINGHOUSE GRANTS.—The Secretary may make grants under 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-

cept that the Federal share of the cost of activities carried out using such funds shall be 100 percent.

SEC. 1521. BUDGET JUSTIFICATION.

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Budget justification

''The Secretary of Transportation and the head of each agency in the Department shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Environment and Public Works and on Banking, Housing, and Urban Affairs of the Senate a budget justification concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31.''.

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

''310. Budget justification.''.

(c) CONFORMING AMENDMENTS.—Section 1926 of SAFETEA–LU (49 U.S.C. 301 note; 119 Stat. 1483), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

SEC. 1522. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 106 Stat. 1552) is amended by striking ''2009'' and inserting ''2015''.

SEC. 1523. TECHNICAL AMENDMENTS.

(a) BICYCLE TRANSPORTATION.—Section 217 is amended—

(1) by striking subsection (b) and redesignating subsections (c) through (h) as subsections (b) through (g), respectively;

(2) in subsection (b) (as redesignated by paragraph (1) of this subsection)—

(A) in the subsection heading by striking ''FEDERAL LANDS HIGHWAY'' and inserting ''FEDERAL AND TRIBAL LANDS, PUERTO RICO, AND TERRITORIAL HIGHWAY''; and

(B) by striking ''and public lands highways'' and inserting ''public lands highways, national forest system roads, Bureau of Land Management roads, territorial highways, and Puerto Rico highways'';

(3) in subsection (c) (as redesignated by paragraph (1) of this subsection) by inserting ''full-time'' before ''position'';

(4) by striking subsection (i); and

(5) by redesignating subsection (j) as subsection (h).

(b) FEDERAL HIGHWAY ADMINISTRATION.—Section 104 of title 49 is amended by striking subsection (d).

SEC. 1524. DEFINITIONS.

Section 101(a) is amended by adding at the end the following:

''(40) BUREAU OF LAND MANAGEMENT ROAD.—The term 'Bureau of Land Management road' means a road serving Bureau of Land Management lands, other than a road that has been authorized by a legally documented right-of-way held by a State, county, or other local public road authority.

''(41) NATIONAL FOREST SYSTEM ROAD.—

''(A) IN GENERAL.—The term 'national forest system road' means a forest road serving the National Forest System that the Forest Service determines is necessary for the protection, administration, and utilization of the National Forest System.

"(B) EXCLUSION.—The term 'national forest system road' does not include a road that has been authorized by a legally documented right-of-way held by a State, county, or other local public road authority.

"(42) PUERTO RICO HIGHWAY.—The term 'Puerto Rico highway' means a public road for which the Commonwealth of Puerto Rico is eligible to receive funding under section 204(p).

"(43) TERRITORIAL HIGHWAY.—The term 'territorial highway' means a public road—

"(A) that is an arterial or collector highway (including a necessary inter-island connector);

"(B) that is located in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the United States Virgin Islands; and

"(C) for which one of the territories of the United States described in subparagraph (B) is eligible to receive funding under section 204(o).".

TITLE II—HIGHWAY SAFETY

SEC. 2001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

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

SEC. 2002. AUTHORIZATION OF APPROPRIATIONS.

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—

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

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

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

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

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

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

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

(3) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

(4) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

(5) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2004 of this title—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

(6) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this title (including amendments made by this title)—

(A) [$] for fiscal year 2010;

(B) [$] for fiscal year 2011;

(C) [$] for fiscal year 2012;

(D) [$] for fiscal year 2013;

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

(F) [$] for fiscal year 2015.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title (including the amendments made by this title), the amounts made available from the Highway

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.

"(4) DRIVER AND PEDESTRIAN PERFORMANCE; BICYCLE SAFETY.—The uniform guidelines shall be promulgated by the Secretary so as—

"(A) to improve driver performance, including driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental), and driver licensing; and

"(B) to improve pedestrian performance and bicycle safety.

"(5) RECORD SYSTEM.—The uniform guidelines shall include provisions for an effective record system of—

"(A) crashes, including injuries and deaths resulting therefrom;

"(B) crash investigations to determine the probable causes of accidents, injuries, and deaths;

"(C) vehicle registration, operation, and inspection; and

"(D) emergency services.

"(6) APPLICABILITY OF GUIDELINES.—The uniform guidelines as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to feder-

ally administered areas where a Federal department or agency controls the highways or supervises traffic operations.''.

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1)(E)(i) is amended to read as follows:

''(i) any national traffic safety law enforcement mobilizations coordinated by the Secretary;''.

(c) APPORTIONMENT OF FUNDS.—Section 402(c) is amended to read as follows:

''(c) APPORTIONMENT OF FUNDS.—

''(1) USE OF APPORTIONED FUNDS.—Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of—

''(A) law enforcement manpower training programs; and

''(B) demonstration programs that the Secretary determines will contribute directly to the reduction of crashes and deaths and injuries resulting therefrom.

''(2) APPORTIONMENT FORMULA.—[to be supplied]

"(3) IMPLEMENTATION OF APPROVED HIGHWAY SAFETY PROGRAMS.—

"(A) REQUIREMENT FOR RECEIVING APPORTIONMENTS.—The Secretary shall reduce under subparagraph (D) the apportionment of a State that is not implementing a highway safety program approved by the Secretary in accordance with this section.

"(B) LIMITATIONS ON REQUIREMENTS RELATING TO MOTORCYCLE SAFETY HELMETS.—A highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator 18 years of age or older or passenger 18 years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.

"(C) COMPLIANCE WITH IMPLEMENTATION REQUIREMENTS.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or

with every element of every uniform guideline, in every State.

"(D) REDUCTIONS IN APPORTIONMENTS.—

"(i) IN GENERAL.—Funds apportioned under this section to a State that does not have a highway safety program approved by the Secretary or that is not implementing an approved program shall be reduced by amounts equal to not less than 20 percent of the amounts that would otherwise be apportioned to the State under this section.

"(ii) WITHHOLDING.—The amount of any reduction shall be withheld from the State until such time as the Secretary approves the program or determines that the State is implementing an approved program, as appropriate.

"(iii) AMOUNT OF REDUCTION.—The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of any reduction.

"(E) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—The Secretary shall promptly apportion to the State the funds withheld from its apportionment if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, before the last day of the fiscal year for which the funds were withheld.

"(F) REAPPORTIONMENT OF WITHHELD FUNDS.—If the Secretary determines that the State did not correct its failure before the last day of the fiscal year for which the funds were withheld, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than the last day of the fiscal year.".

(d) FUNDING ALLOCATIONS.—Section 402 is amended by inserting after subsection (g) the following:

"(h) FUNDING ALLOCATIONS.—

"(1) IMPAIRED DRIVING PROGRAMS.—

"(A) ALLOCATION OF FUNDS.—Subject to paragraph (4), **[__]** percent of the funds apportioned to a State for a fiscal year under this

section shall be available to the State only for the development and implementation of programs to reduce traffic safety problems resulting from individuals driving while impaired by alcohol.

"(B) REQUIRED USES OF FUNDS.—A State shall use funds subject to the allocation under this paragraph—

"(i) to participate, in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, in sustained high visibility enforcement and statewide law enforcement campaigns designed to reduce impaired driving;

"(ii) to provide baseline impaired driving performance data as part of the State's highway safety plan under subsection (n);

"(iii) to establish and provide performance data under subsection (m); and

"(iv) to fund a full-time position to function as coordinator of State's activities to address enforcement and adjudication of laws to address driving while impaired by alcohol.

"(C) ELIGIBLE PROGRAMS.—Programs that may be carried out using funds subject to the allocation under this paragraph include programs—

"(i) to develop and implement law enforcement measures and tools designed to reduce impaired driving, including training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

"(ii) to improve impaired driving prosecution and adjudication, including the establishment of courts that specialize in driving while impaired cases;

"(iii) to carry out safety campaigns relating to impaired driving using paid media;

"(iv) for inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment; and

"(v) to establish and improve information systems containing data on impaired driving.

"(2) OCCUPANT PROTECTION PROGRAMS.—

"(A) ALLOCATION OF FUNDS.—Subject to paragraph (4), [__] percent of the funds apportioned to a State for a fiscal year under this section shall be available to the State only for the development and implementation of programs—

"(i) to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles; and

"(ii) to encourage the use of seat belts and enforcement of laws requiring the use of safety belts in motor vehicles.

"(B) REQUIRED USES OF FUNDS.—A State shall use funds subject to the allocation under this paragraph—

"(i) to participate, in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, in sustained high visibility enforcement and statewide law enforcement campaigns designed to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly 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

others to provide community child passenger safety services; and

"(v) to purchase child safety restraints for low-income families, except that expenditures for such purchases may not exceed in a fiscal year 5 percent of a State's funds subject to the allocation under this paragraph.

"(3) MOTORCYCLE SAFETY PROGRAMS.—

"(A) ALLOCATION OF FUNDS.—Subject to paragraph (4), **[__]** percent of the funds apportioned to a State for a fiscal year under this section shall be available to the State only for the development and implementation of programs to reduce highway deaths and injuries resulting from traffic crashes involving motorcycles.

"(B) ELIGIBLE PROGRAMS.—Programs that may be carried out using funds subject to the allocation under this paragraph include programs—

"(i) to improve the content and delivery of motorcyclist safety training curricula and to support licensing, training, and

safety education for motorcyclists, including new entrants;

"(ii) to enhance motorcycle safety through public service announcements, such as safety messages on road sharing, outreach, and public awareness activities; and

"(iii) to provide for the safety of motorcyclists through the promotion of appropriate protective equipment.

"(4) TRANSFERS.—If the Secretary determines that a State has achieved, in each of the preceding 3 fiscal years, the performance targets established for the State under subsection (m) relating to an allocation category under this subsection, the Secretary shall permit the State to transfer funds that would otherwise be subject to the requirements of the allocation category to any other program that is eligible for assistance under this section.".

(e) RECORDKEEPING SYSTEMS.—Section 402 is amended—

(1) by striking subsection (k); and

(2) by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(f) HIGHWAY SAFETY PERFORMANCE MANAGEMENT.—Section 402 (as amended by subsection (e) of this section) is further amended by adding at the end the following:

"(m) PERFORMANCE TARGETS.—

"(1) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Surface Transportation Authorization Act of 2009, the Secretary, in coordination with each State, shall establish for the State quantifiable performance targets to be incorporated into the State's annual highway safety plan under subsection (n).

"(2) CONSIDERATIONS IN ESTABLISHING PERFORMANCE TARGETS.—In establishing performance targets for a State under this subsection, the Secretary shall consider, at a minimum—

"(A) the number of fatalities in the State resulting from traffic crashes during the preceding 3 years;

"(B) the number of serious injuries in the State resulting from traffic crashes during the preceding 3 years; and

"(C) the extent to which projections for vehicle miles traveled within the State may impact

the number of fatalities and serious injuries in the State resulting from traffic crashes.

"(3) SAFETY CATEGORIES.—The Secretary shall establish performance targets for a State in, at a minimum, each of the following safety categories:

"(A) HIGHWAY FATALITIES AND SERIOUS INJURIES.—

"(i) The annual number of fatalities in the State resulting from traffic crashes.

"(ii) The annual number of serious injuries in the State resulting from traffic crashes.

"(B) IMPAIRED DRIVING-RELATED MEASURES.—

"(i) The annual number of traffic fatalities in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above.

"(ii) The annual number of traffic crashes in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above.

"(C) OCCUPANT PROTECTION.—The annual 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.—

"(i) The annual number of bicyclist fatalities in the State resulting from traffic crashes.

"(ii) The annual number of serious injuries sustained by bicyclists in the State resulting from traffic crashes.

"(4) EFFECTIVE DATE.—Performance targets established for a State shall first become effective in fiscal year 2011.

"(5) DATA.—

"(A) REPORTING PERIOD.—Compliance with performance targets established for a State shall be determined using data for the most recent 3-year period for which data is available.

"(B) FATALITIES DATA.—Compliance with performance targets for a State relating to fatalities shall be determined using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

"(C) CRASH DATA.—Compliance with performance targets for a State relating to serious injuries sustained in traffic crashes shall be determined 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

use, in addition to funds apportioned to the State under this section, to carry out the State's strategy referred to in subparagraph (B); and

"(E) a certification that the State will maintain its aggregate expenditures from all the other sources for highway safety activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this subsection.

"(3) REVIEW OF HIGHWAY SAFETY PLANS.—

"(A) IN GENERAL.—Not later than 2 months after the date of receipt of a State's highway safety plan, the Secretary shall review and approve or disapprove the plan.

"(B) APPROVALS AND DISAPPROVALS.—The Secretary shall approve or disapprove a State's highway safety plan based on a review of the State's annual report under subsection (o) and an evaluation of whether, in the Secretary's judgment, the plan is evidence based, supported by data and analysis, and, if implemented, will allow the State to meet its performance targets. The Secretary shall disapprove 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-

tion as is necessary to bring the State's plan into compliance with the performance targets.

"(F) PUBLIC NOTICE.—A State shall make the State's highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.

"(o) ANNUAL REPORT.—

"(1) SUBMISSION.—Not later than February 15, 2012, and annually thereafter, a State receiving an apportionment under this section shall submit to the Secretary a report that documents the State's efforts in relation to the performance targets established for the State under subsection (m).

"(2) CONTENTS.—A report of a State submitted under paragraph (1) shall include, at a minimum, the following:

"(A) A listing of projects and activities for which the State during the current fiscal year has obligated funding apportioned to the State under this section.

"(B) A listing of the State's performance in the preceding fiscal year in each safety category 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.

"(III) The proportion of impaired driving arrests leading to a conviction or plea to an offense that is placed on the driver's record and is considered an impaired driving prior offense.

"(IV) The proportion of impaired driving convictions leading to the installation of an ignition interlock device.

"(p) ANNUAL REPORT TO CONGRESS.—Not later than October 1, 2012, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

"(1) an evaluation of each State's performance in relation to the State's highway safety plan under subsection (n) and performance targets under subsection (m); and

"(2) such recommendations as the Secretary may have for improvements to the program authorized by this section.

"(q) DEFINITIONS.—In this section, the following definitions apply:

"(1) CHILD RESTRAINT.—The term 'child restraint' means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

"(2) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(3) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' have the meaning given those terms in section 164.

"(4) IGNITION INTERLOCK DEVICE.—The term 'ignition interlock device' has the meaning given that term in section 167.

"(5) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or

a motorcycle advisory council appointed by the Governor of the State.

"(6) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given that term in section 157.

"(7) SEAT BELT.—The term 'seat belt' has the meaning given that term in section 157.".

SEC. 2004. HIGH VISIBILITY ENFORCEMENT PROGRAM.

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which not more than 5 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in subsection (b) in each of years 2010 through 2015.

(b) PURPOSE.—The purpose of each law enforcement campaign under this section shall be to achieve either or both of the following objectives:

(1) Reduce alcohol-impaired operation of motor vehicles.

(2) Increase use of seat belts by occupants of motor vehicles.

(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast, print, and on-line media advertising in carrying 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

and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the most recent annual evaluation.

(g) STATE DEFINED.—In this section, the term ''State'' has the meaning such term has under section 401 of title 23, United States Code.

(h) REPEALS.—Sections 405, 406, 407, 410, and 411, and the items relating to such sections in the analysis for chapter 4, are repealed.

SEC. 2005. NATIONAL DRIVER REGISTER.

(a) ACCURACY OF INFORMATION.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, to ensure greater accuracy of information contained in the National Driver Register established under section 30302 of title 49, United States Code, the Secretary, in cooperation with the States, shall—

(A) establish procedures to—

(i) ensure that participating States enter information required under section 30304(a) of such title with respect to a conviction within 31 days of receipt of the conviction in compliance with section 30304(c)(2) of such title;

(ii) verify and improve the accuracy of records submitted for inclusion in the Register section 30304 of such title;

(iii) determine unique identifiers, information, and contents of reports required to be submitted required under section 30304(b)(1) of such title; and

(B) establish and implement a process for the removal or modification of driver records from or in the Register and the verification of the request for removal or modification of invalid and duplicative driver records from the Register.

(2) REPORT TO CONGRESS.—Not later than February 1, 2011, and every February 1 thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing—

(A) the timeliness and completeness of State submissions under section 30304 of title 49, United States Code;

(B) the Department of Transportation's efforts to monitor and ensure compliance with the reporting requirements of such section; and

(C) additional recommendations for the improvement of the operations of the Register and the Problem Driver Pointer System of the American Association of Motor Vehicle Administrators, and the accuracy of information contained in the Register.

(b) MODERNIZATION OF THE NATIONAL DRIVER REGISTER.—

(1) IN GENERAL.—The Secretary shall carry out an effort to modernize and increase the capacity of the National Driver Register in accordance with this section.

(2) MODERNIZATION PLAN.—Not later than 120 days after the date of enactment of this Act, the Secretary shall develop and publish a comprehensive national plan to modernize the Register under this section that—

(A) complies with applicable Federal information technology security standards;

(B) provides for the electronic exchange of all information, including the posting of convictions;

(C) contains self auditing features to ensure that data is being posted correctly and consistently by the States; and

(D) provides a schedule for modernization of the system.

(3) CONSULTATION.—The Secretary shall develop a process to work with participating States under chapter 303 of title 49, United States Code, to determine functional improvements necessary to upgrade the performance of the Register, improve the accuracy of the information contained in the database of the Register, and the functioning and the effectiveness of the Problem Driver Pointer System.

(4) DEADLINE FOR STATE PARTICIPATION.—As part of the modernization plan required under paragraph (2), the Secretary shall establish a date by which all participating States must be operating information systems that are compatible with the modernized Register under this section.

(5) FUNDING.—Of the amounts made available under section 2002(a)(4) of this Act, **[**$**]** shall be available in each of fiscal years 2010 and 2011 to 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

(E) technology improvements necessary to facilitate timely and accurate operation of the Register and the Problem Driver Pointer System.

(3) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report—

(A) summarizing the findings of the report submitted by the National Driver Register Advisory Committee under paragraph (1);

(B) detailing actions taken by the Secretary to implement the recommendations in the report; and

(C) making further recommendations for improving the operations of and the accuracy of information contained in the Register.

(4) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available under section 2002(a)(4) of this Act, **[**$**]** shall be available for each of fiscal years 2010 and 2011 to carry out this subsection.

(d) AUTHORITY TO COLLECT FEES.—Section 30305 of title 49, United States Code, is amended by adding at the end the following:

"(d) FEES.—

"(1) IN GENERAL.—The Secretary may establish a fee system for requests for information under this section. Under the fee system, the Secretary may establish the amount of such fees and may impose and collect such fees. The aggregate of fees collected under this subsection in a fiscal year shall equal as nearly as possible the operating costs of carrying out requests for information under this section.

"(2) DEPOSIT.—The Secretary shall deposit fees collected under this subsection in the Highway Trust Fund (other than the Mass Transit Account).

"(3) LIMITATION.—Under the fee system, the Secretary shall not impose and collect fees on requests for information under this section from—

"(A) the chief driver licensing officials of a participating State under this chapter in carrying out duties related to driver licensing, driver improvement, or transportation; or

"(B) requests from the Chairman of the National Transportation Safety Board for in-

formation regarding an individual who is the subject of an accident investigation conducted by the Board under section 1131(a).''.

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.— This title may be cited as the ''Public Transportation Act of 2009''.

(b) AMENDMENTS TO TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3002. POLICIES AND PURPOSES.

(a) POLICIES AND PURPOSES.—Section 5301 is amended—

(1) in the section heading by striking ''**, findings,**'';

(2) by striking subsections (b) and (c) and inserting the following:

''(b) INCREASING TRANSIT RIDERSHIP.—It is the policy of the Government to significantly increase the

number of individuals using public transportation systems and services.

"(c) INCREASING MOBILITY.—It is the policy of the Government that the ability of all citizens to move quickly and at a reasonable cost shall be increased, especially in light of the growth in highway traffic congestion and the importance of economic activities in our Nation's urban areas.";

(3) by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following:

"(f) REDUCING ENERGY CONSUMPTION AND RELIANCE ON FOREIGN OIL.—It is the policy of the Government that special effort shall be made to reduce transportation-related fuel and energy consumption and reliance on foreign oil.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 of such title is amended by striking the item relating to section 5301 and inserting the following:

"5301. Policies and purposes.".

SEC. 3003. DEFINITIONS.

Section 5302 is amended—

(1) by redesignating paragraphs (3) through (17) as paragraphs (4) through (18);

(2) by inserting after paragraph (2) the following:

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

than 50,000 people that has not been designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.''.

SEC. 3004. METROPOLITAN PLANNING.

(a) POLICY.—Section 5303(a) is amended—

(1) in paragraph (1)—

(A) by striking ''minimizing'' and inserting ''reducing'';

(B) by inserting '', reliance on foreign oil, impacts on the environment, surface transportation-related greenhouse gas emissions,'' after ''consumption''; and

(C) by striking ''and'' at the end;

(2) by striking the period at the end of paragraph (2) and inserting ''; and'' ; and

(3) by adding at the end the following:

''(3) encourage and promote the livability and sustainability of all communities, increase coordination among land use, housing, and transportation plans and projects, and increase surface transportation system connectivity and intermodality through metropolitan and statewide transportation planning processes identified in this chapter.''.

(b) RURAL PLANNING ORGANIZATION DEFINED.—Section 5303(b) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means an organization designated by a State to enhance the planning, coordination, and implementation of statewide transportation plans and programs in areas with a population of less than 50,000 individuals, with an emphasis on addressing the needs of such areas of the State.".

(c) DESIGNATION OF MPOS.—Section 5303(d) is amended—

(1) in paragraph (1)—

(A) by striking "50,000" and inserting "100,000"; and

(B) by striking "named" and inserting "determined";

(2) in paragraph (2) by striking "that serves an area designated as a transportation management area"; and

(3) in paragraph (2)(B) by inserting "public transit systems and other" after "operate".

(d) METROPOLITAN PLANNING BOARD.—Paragraphs (4) and (5) of section 5303(e) are amended by striking ''Federal Public Transportation Act of 2005'' and inserting ''Public Transportation Act of 2009''.

(e) COORDINATION IN MULTISTATE AREAS.—Section 5303(f) is amended—

(1) in paragraph (1)—

(A) by striking ''encourage'' and inserting ''require''; and

(B) by striking ''provide'' and inserting ''coordinate''; and

(2) by striking paragraph (3).

(f) SCOPE OF PLANNING PROCESS.—Section 5303(h)(1)(E) is amended—

(1) by inserting ''sustainability, and livability, reduce surface transportation-related greenhouse gas emissions, reliance on foreign oil, adapt to the effects of climate change,'' after ''energy conservation,'';

(2) by inserting ''and public health'' after ''quality of life''; and

(3) by inserting '', including housing and land use patterns'' after ''development patterns''.

(g) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Section 5303(i)(2)(E) is amended—

(1) in subparagraph (A) by inserting ''and other relevant data and factors disseminated by the Secretary pursuant to section ____'' after ''subsection (h)'';

(2)(A) by striking ''and'' after ''infrastructure'' and inserting '', to''; and

(B) by inserting before the period the following: '', and to provide for the incorporation of practical design standards as defined in section 331 of title 23''.

(h) CONSULTATION IN DEVELOPMENT OF TRANSPORTATION PLAN.—Section 5303(i)(4)(A) is amended by inserting ''public health, housing, transportation,'' after ''conservation,''.

(i) METROPOLITAN TIP.—Section 5303(j) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraph (D) as subparagraph (C).

(j) TRANSPORTATION MANAGEMENT AREAS.—Section 5303(k) is amended—

(1) by striking the parenthetical phrase in paragraph (4)(A) and inserting the following: ''(excluding projects carried out under the critical asset investment 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 DUCTION 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-

ing a transportation management area, each such metropolitan planning organization shall work cooperatively with other such organization to develop the surface transportation-related greenhouse gas emission reduction targets required under this subparagraph.

"(ii) MINIMUM REQUIREMENTS.—Each metropolitan planning organization that develops targets and strategies required under clause (i) shall demonstrate progress in stabilizing and reducing transportation-related greenhouse gas emissions in each metropolitan planning area serving a surface transportation management area. The targets and strategies shall, at a minimum,

"(I) be based on the models and methodologies established in the final regulations required under section 841 of the Clean Air Act;

"(II) address sources of surface transportation-related greenhouse gas emissions and contribute to achievement of the national transportation-

related greenhouse gas emissions reduction goals;

"(III) include efforts to increase public transportation ridership; and

"(IV) include efforts to increase walking, bicycling, and other forms of nonmotorized transportation.

"(C) PUBLIC NOTICE.—Each metropolitan planning organization shall make its emission reduction targets and strategies, and an analysis of the anticipated effects thereof, available to the public through its Web site.

"(D) ENFORCEMENT.—If the Secretary finds that a metropolitan planning organization has failed to develop, submit, or publish its emission reduction targets and strategies, the Secretary shall not certify that the requirements of this section are met with respect to the metropolitan planning process of such organization.".

(k) CERTIFICATION; MPO DATABASE; PERFORMANCE MANAGEMENT.—Section 5303 is further amended by adding at the end the following:

"(q) CERTIFICATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) ensure that the metropolitan planning process of a metropolitan planning organization is being carried out in accordance with applicable provisions of Federal law; and

"(B) certify, subject to paragraph (2), not less than once every 4 years, that the requirements of this section are met with respect to such process.

"(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary shall establish certification requirements which include performance measures for metropolitan planning organizations that serve an urbanized area with a population of more than 100,000 individuals. The requirements shall ensure, at a minimum, the following:

"(A) The transportation planning process complies with the requirements of this section and other applicable requirements of Federal law.

"(B) There is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

"(C) Voting members of the metropolitan 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

organization performance management systems and strategies;

"(iii) measure, at a minimum, the degree to which the long-range transportation plan reduces congestion, improves mobility and safety, increases the state of good repair of surface transportation assets, decreases surface transportation-related emissions and energy consumption, is consistent with land use plans, and increases the connectivity of and access to the surface transportation system; and

"(iv) include, at a minimum, any other information the Secretary considers appropriate.

"(C) ADDITIONAL REQUIREMENTS FOR LARGE METROPOLITAN REGIONS.—In addition to the minimum requirements established under subparagraph (B), the performance measures for urbanized areas with a population of more than 1,000,000 shall include a measurement of the degree to which the long-range transportation plan is developed through an assessment, at a minimum, of the following:

"(i) Land use patterns that support improved mobility and reduced dependency on single-occupant motor vehicle trips.

"(ii) An adequate supply of housing for all income levels.

"(iii) Limited impacts on valuable farmland, natural resources, and air quality.

"(iv) A reduction in greenhouse gas emissions.

"(v) An increase in water and energy conservation and efficiency.

"(vi) An improvement in the livability of communities.

"(3) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 18 months after the date of enactment of this subsection, each metropolitan planning organization shall establish a target level of performance—

"(A) in relation to each of the performance measures established under paragraph (2); and

"(B) against which the metropolitan planning organization will measure improvement in meeting such performance measures.

"(4) REPORTING REQUIREMENTS.—Each metropolitan planning organization shall submit to the Secretary, and publish annually, a report documenting the progress that the metropolitan planning organization has made in meeting the performance targets it established under paragraph (3).".

(l) SPECIAL RULES FOR SMALL METROPOLITAN PLANNING ORGANIZATIONS.—

(1) CONTINUATION OF APPLICABILITY OF SECTION 5303.—Notwithstanding the amendment made by subsection (c)(1) and not later the 180th day after the date of enactment of this Act, a metropolitan planning organization that serves an urbanized area with a population of more than 50,000 and less than 100,000 and that is subject to the provisions of section 5303 of title 49, United States Code, on the day before the date of enactment of this Act shall continue to be subject to such provisions, as in effect on such day until the population exceeds 100,000 if the Governor and units of general purpose local government that together represent at least 75 percent of the affected population including the largest incorporated city (based on population) as determined by the Bureau of the Census) agree to continue to be subject to the provisions.

(2) TREATMENT.—A metropolitan planning organization described in paragraph (1) shall be treated, for purposes of this chapter, title 23, United States Code, chapter 53 of title 49, United States Code, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, and the Transportation Equity Act for the 21st Century, as a metropolitan planning organization that is subject to the provisions of section 5303 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

SEC. 3005. STATEWIDE PLANNING.

(a) GENERAL REQUIREMENTS.—Section 5304(a)(3) is amended by inserting ''include consultation with the State bicycle and pedestrian coordinator established under section 217(c) of title 23 and with the State safe routes to school coordinator established under section 152(e)(3) of such title, shall'' after ''program shall''.

(b) SCOPE OF PLANNING PROCESS.—Section 5304(d)(1)(E) is amended—

(1) by inserting ''sustainability and livability, reduce surface transportation-related greenhouse gas emissions and reliance on foreign oil, and adapt to the effects of climate change),'' after '' energy conservation'';

(2) by inserting ''public health'' after ''quality of life''; and

(3) by inserting '', including housing and land use patterns'' after ''development patterns''.

(c) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.—

(1) DEVELOPMENT OF LONG-RANGE PLAN.—Section 5304(f) is amended—

(A) by striking the subsection heading and inserting the following: ''STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN'';

(B) by striking paragraph (1) and inserting the following:

''(1) DEVELOPMENT OF LONG-RANGE PLAN.—

''(A) IN GENERAL.—Each State shall develop a statewide strategic long-range transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal interconnected transportation system of the State.

''(B) STRATEGIC TRANSPORTATION PLAN REQUIREMENTS.—

''(i) NATIONAL TRANSPORTATION STATISTICS.—In developing a statewide stra-

tegic long-range transportation plan, the State shall consider the data and statistics disseminated by the Secretary pursuant to section 703(b) of title 23 for such State.

"(ii) PROJECTS OF STATEWIDE, REGIONAL, AND NATIONAL SIGNIFICANCE.—The State shall identify transportation projects across all modes of transportation in the State that have statewide, regional, and national significance. In identifying such projects, each State shall consider the information disseminated by the Secretary pursuant to section 703(b) of title 23 for such State.

"(iii) STATES WITH CONGESTED AIRPORTS.—If a State has an airport in its jurisdiction that had at least one percent of all delayed aircraft operations in the United States, the statewide strategic transportation plan shall include measures to alleviate congestion at that airport either through expansion or the development of additional facilities.

"(iv) STATES WITH CONGESTED FREIGHT RAIL CORRIDORS.—If data from

the Department of Transportation and the freight railroad industry indicate that a State has freight railroad corridors that operate at levels of service that are at or exceed capacity, the statewide strategic transportation plan shall include measures by which the State department of transportation and the freight railroads provide relief for the congested corridors.

"(v) STATES WITH DEEP DRAFT PORTS.—If a State has a deep draft port, the statewide strategic transportation plan shall take into account any plan for expansion at that port and any projected increase in shipping traffic at that port.

"(vi) STATES WITH NAVIGABLE INLAND WATERWAYS.—Each State that has navigable inland waterways shall include in its statewide strategic transportation plan any plans to use those waterways to facilitate the efficient and reliable transportation of freight and people.

"(vii) PROJECT INTERCONNECTIVITY.—In developing a statewide strategic long-range transpor-

tation plan, the State shall provide for interconnectivity for freight and passengers among different facilities and among different modes of transportation

"(viii) COST ESTIMATES FOR PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—In developing the statewide strategic long-range transportation plan, the State shall include estimates of the costs of each of the projects identified in clause (ii).".

(C) in paragraph (2)—

(i) subparagraph (B) by striking the last sentence and inserting the following: "If a State has designated one or more rural planning organizations, the Statewide transportation plan shall be developed in coordination with each such rural planning organization."; and

(ii) in subparagraph (D)(i) by inserting "air quality, public health, housing, and transportation," after "conservation,"; and

(D) in paragraph (7) by inserting "including 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

emissions in such State. The targets and strategies shall, at a minimum—

"(I) be based on the models and methodologies established in the final regulations required under section 841 of the Clean Air Act;

"(II) address sources of surface transportation-related greenhouse gas emissions and contribute to achievement of the national transportation-related greenhouse gas emissions reduction goals;

"(III) include efforts to increase public transportation ridership; and

"(IV) include efforts to increase walking, bicycling, and other forms of nonmotorized transportation.

"(C) PUBLIC NOTICE.—Each State shall make its emission reduction targets and strategies, and an analysis of the anticipated effects thereof, available to the public through its Web site.

"(D) ENFORCEMENT.—If the Secretary finds that a State has failed to develop, submit, or publish its emission reduction targets and

strategies, the Secretary shall not certify that the requirements of this section are met with respect to such State.''.

(2) PLAN UPDATE.—Not later than September 30, 2011, each State shall update its long-range transportation plan to comply with the requirements of section 703 of title 23.

(d) STATEWIDE TRANSPORTATION IMPROVEMENT PLAN.—Section 5304(g) is amended—

(1) in subparagraph (2)(B) by striking the last sentence and inserting the following: ''If a State has designated one or more rural planning organizations, the Statewide transportation plan shall be developed in coordination with each such rural planning organization.''; and

(2) in the second sentence of paragraph (5) by striking ''on the National'' and all that follows through ''maintenance program under this title'' and inserting the following: ''under the critical asset investment and freight improvement programs''.

(e) PERFORMANCE MANAGEMENT.—Section 5304 is further amended by adding at the end the following:

''(k) STATE PERFORMANCE MANAGEMENT.—

''(1) IN GENERAL.—To improve the outcomes 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-

creases the connectivity of and access to the surface transportation system; and

"(iii) include, at a minimum, any other information the Secretary considers appropriate.

"(3) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 18 months after the date of enactment of this subsection, each State shall establish a target level of performance—

"(A) in relation to each of the performance measures established under paragraph (2); and

"(B) against which the State will measure improvement in meeting such performance measures.

"(4) REPORTING REQUIREMENTS.—Each State shall submit to the Secretary, and publish annually, a report documenting the progress that the State has made in meeting the performance targets it established under paragraph (3).

"(5) WITHHOLDING OF FUNDS.—If the Secretary finds that a State has failed to meet the performance requirements established under this section, the Secretary may withhold up to 20 percent of the funds made available for expenditure by the State pursuant to section 505 of title 23.

"(6) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the State at such time as the Secretary determines the State at such time as the Secretary determines the State is meeting its performance targets.".

SEC. 3006. URBANIZED AREA FORMULA GRANTS.

(a) DEFINITIONS.—Section 5307(a) is amended by adding at the end the following:

"(3) STATE OF GOOD REPAIR INVESTMENT PLAN.—The term 'state of good repair investment plan' means a state of good repair investment plan established by a designated recipient under subsection (n).

"(4) PERFORMANCE TARGET.—The term 'performance target' means a performance target established under subsection (m).".

(b) GENERAL AUTHORITY.—

(1) _____.—Section 5307(b)(1) is amended [to be supplied]:

(__) Operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of at least 200,000, but not more than 500,000. Amounts made available to any urbanized area under this subparagraph shall not be more than 20 per-

cent of the amount apportioned under this chapter in each fiscal year to the urbanized area.

(__) Operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of at least 500,000, but not more than 1,000,000. Amounts made available to any urbanized area under this subparagraph shall not be more than 10 percent of the amount apportioned under this chapter in each fiscal year to the urbanized area.

(__) Operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of 1,000,000 or more. Amounts made available to any urbanized area under this subparagraph shall not be more than 5 percent of the amount apportioned under this chapter in each fiscal year to the urbanized area.''.

(2) SPECIAL RULE.—Section 5307(b) is amended by striking paragraph (2) and inserting the following:

''(2) _____.—The Secretary may make grants under subparagraphs (__), (__), and (__) of

paragraph (1) only if the recipient of the grant certifies to the Secretary, in the time and manner the Secretary prescribes, that—

"(A) a State, city, county, or local governmental authority as defined in section 5302 in which the recipient provides public transportation services has established a dedicated source of revenue for operating costs of equipment and facilities for use in public transportation; or

"(B) the percentage of current revenue for operating costs of equipment and facilities for use in public transportation from non-Federal sources, excluding system-generated revenue, is greater than such revenue during the previous fiscal year.".

(3) _____.—Section 5307(b)(3) is amended—

(A) by inserting "TRANSPORTATION MANAGEMENT AREAS.—" before "In a"; and

(B) by moving the text 2 ems to the right.

(c) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended——

(1) in subparagraph (D) by striking ''handicapped individuals'' and inserting ''individuals with disabilities'';

(2) in subparagraph (H) by striking ''(a), section 5301(d),'';

(3) by striking subparagraph (J); and

(4) by redesignating subparagraph (K) as subparagraph (J).

(d) PERFORMANCE AND REPORTING.—Section 5307 is amended by adding at the end the following:

''(m) PERFORMANCE MANAGEMENT.—

''(1) PROGRAM GOALS.—The goals of the program established by this section are to—

''(A) acquire, construct, rehabilitate, maintain, and preserve public transportation vehicles, systems, and services;

''(B) reduce the maintenance backlog and increase the state of good repair of the Nation's public transportation vehicles and systems;

''(C) increase the energy efficiency and environmental benefits of public transportation vehicles, systems, and services; and

''(D) increase the overall ridership on public transportation systems.

"(2) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 6 months after the date on which the Secretary receives asset condition information from a majority of the entities subject to the reporting requirements of section 5335, and before the last day of each 6-fiscal year period thereafter, the Secretary shall establish quantifiable performance targets for designated recipients of Federal assistance under this section.

"(3) PERFORMANCE TARGET DATES.—Performance targets established by the Secretary for a designated recipient shall apply for a period of 6 fiscal years.

"(4) MINIMUM REQUIREMENTS.—Performance targets established for a designated recipient shall provide that the investment strategy (described in subsection (n)(3)(B)) implemented by the designated recipient with funds apportioned under this section, at a minimum, will result upon completion in the following:

"(A) A reduction in the percentage of its transit rolling stock in revenue service that is subject to replacement under the Federal Transit Administration's standard for replacement, as determined by the Secretary.

"(B) A reduction in the percentage of its fixed guideway trackwork rated as being in poor condition, as determined by the Secretary, based on a broadly-accepted measure of the condition or remaining service life of the track.

"(C) A reduction in the percentage of its fixed guideway structures rated as being in poor condition, as determined by the Secretary, based on a broadly-accepted measure of the condition or remaining service life of the fixed guideway structures.

"(D) A reduction in the percentage of its stations rated as being in poor condition, as determined by the Secretary, based on a broadly-accepted measure of the condition or remaining service life of the stations.

"(E) An increase in the energy efficiency of its rolling stock fleet, systems, facilities, and services, as determined by the Secretary.

"(n) STATE OF GOOD REPAIR INVESTMENT PLANS.—

"(1) SUBMISSION OF PLANS.—Not later than 6 months after the date on which the Secretary establishes quantifiable performance targets for a designated recipient under subsection (m)(2), the des-

ignated recipient shall develop and submit to the Secretary for approval a state of good repair investment plan.

"(2) UPDATES.—Not later than July 31 of the second fiscal year beginning after the date of submission of a designated recipient's state of good repair investment plan under paragraph (1), and annually thereafter, the designated recipient shall develop and submit to the Secretary for approval an update of the plan.

"(3) PLAN REQUIREMENTS.—An initial state of good repair investment plan and any update of the plan shall—

"(A) include documentation of the existing condition of the designated recipient's public transportation assets, as reported under section 5335;

"(B) include a multi-year investment strategy that—

"(i) beginning on the first day of the first fiscal year that begins after submission of the initial plan, applies to all projects to be funded under this section;

"(ii) describes the manner in which the designated recipient will prioritize investments among, at a minimum—

"(I) assets in good condition, fair condition, and poor condition;

"(II) projects for preservation, rehabilitation, replacement, and expansion; and

"(III) other eligible costs, as described in subsection (b); and

"(iii) provides for investment in projects that, once completed, will allow the designated recipient to meet the performance targets established for the designated recipient; and

"(C) be consistent with the requirements of this section.

"(4) REVIEWS.—

"(A) IN GENERAL.—Not later than 6 months after the date of receipt of a designated recipient's initial state of good repair investment plan or an update of the plan, the Secretary shall review and approve or disapprove 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

to resubmit the plan or update to the Secretary with such modifications as the Secretary may require.

"(E) EFFECT OF DISAPPROVAL OF PLANS.—If the Secretary disapproves a designated recipient's initial state of good repair investment plan or an update of the plan, the Secretary shall not approve the obligation of funding to the designated recipient for additional projects under this section until the Secretary approves the designated recipient's initial state of good repair investment plan or the update of the plan, except that the Secretary shall not withhold approval of the obligation of funding to the designated recipient for additional projects under this section until 60 days after the date of disapproval under subparagraph (D).

"(F) AUTHORITY TO REDUCE PERFORMANCE TARGETS.—If, in conducting a review of a designated recipient's initial state of good repair investment plan or an update of the plan, the Secretary determines that the designated recipient's ability to meet its performance targets 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) an evaluation of designated recipient performance in relation to state of good repair investment strategies and performance targets; and

"(2) such recommendations as the Secretary may have for improvements to the performance management requirements of this section.

"(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—The fact that individual projects carried out under the investment strategy described in a designated recipient's state of good repair investment plan are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), a decision by the Secretary concerning a state of good repair investment plan or an update of the plan in connection with this section shall not be considered to be a Federal action subject to review under such Act.".

SEC. 3007. INTERMODAL AND ENERGY EFFICIENT TRANSIT FACILITIES GRANTS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§ 5308. Intermodal and energy efficient transit facilities grants

"(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist States and local governmental authorities in financing—

"(1) capital projects to construct, replace, and rehabilitate an intermodal passenger facility for use in public transportation that directly connects transit users to at least one additional mode or type of transportation service; and

"(2) capital projects to construct, replace, and rehabilitate a facility for use in public transportation that will assist in reducing the energy consumption or greenhouse gas emissions of public transportation systems and facilities of such States and authorities.

"(b) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307 for a project in an urbanized area, or section 5311 for a project in a rural area.

"(2) SELECTION CRITERIA.—In making a grant under subsection (a)(2), the Secretary shall give priority to a project based on the total energy savings or emissions reductions that are projected to result from the investment, and projected energy savings and emissions reductions as a percentage of the total energy usage and emissions of the public transit agency.

"(3) EQUITABLE DISTRIBUTION.—Not less than 5.5 percent of the total amount made by this section

shall be available in each fiscal year for projects that are in rural areas.

"(c) GOVERNMENT'S SHARE OF COSTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

"(d) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under section [5338(b)(2)(E)] to carry out this section—

"(1) shall remain available for a project for 3 years after the fiscal year for which the amount is made available or appropriated; and

"(2) that remains unobligated at the end of the period described in paragraph (1), shall be added to the amount made available in the following fiscal year.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5308 and inserting the following:

"5308. Intermodal and energy efficient transit facilities program.".

SEC. 3008. CAPITAL INVESTMENT GRANTS.

(a) CAPITAL INVESTMENT GRANTS.—Section 5309 is amended to read as follows:

"§ 5309 Capital investment grants

"(a) DEFINITIONS.—In this section, the following 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-

sections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may determine would result in increased public transportation usage in the corridor.

''(c) GRANT REQUIREMENTS.—The Secretary may not approve a grant under this section unless the Secretary determines that—

''(1) _____.——

''(A) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

''(B) the applicant has, or will have—

''(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

''(ii) satisfactory continuing control over the use of the equipment or facilities; and (iii) the capability and willingness to maintain the equipment or facilities.

''(2) CERTIFICATION.—An applicant that has submitted the certifications required under subpara-

graphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

"(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(d) NEW START GRANTS OF $100,000,000 OR MORE.—

"(1) FULL FUNDING GRANT AGREEMENT.—

"(A) IN GENERAL.—A new start project shall be carried out through a full funding grant agreement.

"(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a new start project that—

"(i) is authorized for project development; and

"(ii) has been rated as high, medium-high, or medium, in accordance with paragraph (5).

"(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a new start project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project—

"(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5303;

"(B) is based on the results of an evaluation of the benefits of the project as set forth in paragraph (3); and

"(C) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a permanent reduction in existing

public transportation services or level of service to operate the proposed project.

"(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making the determination under paragraph (2)(B) for a new start grant, the Secretary shall analyze, evaluate, and consider—

"(A) the benefits that the proposed project will bring to the community, including mobility and accessibility benefits, congestion relief, energy and environmental benefits, economic development benefits, and benefits resulting from public transportation supportive land use policies and future patterns as compared to a no-action alternative; and

"(B) the amount of Federal assistance provided or to be provided under this section for the project.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—In evaluating a project under paragraph (2)(C), the Secretary shall—

"(A) require that the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(B) require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(C) consider the elements of the project advanced with 100 percent non-Federal funds.

"(5) RATINGS.—In making a determination under paragraphs (3) and (4), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the proposed project will bring to the community in calculating the overall project rating.

"(e) SMALL START GRANTS OF LESS THAN $100,000,000.—

"(1) IN GENERAL.—

"(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a small start project shall be subject to the requirements of this subsection if the Federal assistance provided or to be provided under this section for the project is less than $100,000,000.

"(B) PROJECTS RECEIVING LESS THAN $25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section with respect to a small start project is less than $25,000,000, the requirements of this subsection shall not apply to the project and the Secretary shall utilize special warrants to advance the project and provide Federal assistance as appropriate.

"(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project—

"(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5303;

"(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (3); and

"(C) is supported by an acceptable degree of local financial commitment.

"(3) EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.—In making the determination under paragraph (2)(B) for a small start grant, the Secretary shall analyze, evaluate, and consider—

"(A) the benefits that the proposed project will bring to the community, including mobility and accessibility benefits, energy and environmental benefits, economic development benefits, and benefits resulting from public transportation supportive land use policies and future patterns as compared to a no-action alternative; and

"(B) the amount of Federal assistance provided or to be provided under this section for the project.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—For purposes of paragraph (2)(C), the Secretary shall—

"(A) require that each proposed local source of capital and operating financing is sta-

ble, reliable, and available within the proposed project timetable; and

"(B) consider elements of the project advanced with 100 percent non-Federal funds.

"(5) RATINGS.—In making a determination under paragraphs (3) and (4), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the proposed project will bring to the community in calculating the overall project rating.

"(6) GRANTS.—The Secretary shall, to the maximum extent practicable, provide Federal assistance under this subsection in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute an expedited grant agreement in order to include a commitment on the part of the

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

that the contingent commitment is not an obligation of the Government.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new start or small start project shall be sufficient to complete at least one operable segment.

"(C) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—A full funding grant agreement under this paragraph

shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new fixed guideway capital project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking an agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project and the accuracy of the forecasts prepared during the development of the project. Preparation of 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

"(dd) analysis of the consistency of predicted project characteristics with the after data.

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, applicants shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(3) EARLY SYSTEMS WORK AGREEMENTS.—

"(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe a full funding grant agreement for the project will be made.

"(B) CONTENTS.—

"(i) IN GENERAL.—A work agreement under this paragraph obligates an amount 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

shown reasonable diligence in seeking the most favorable financing terms.

"(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4) LIMITATION ON AMOUNTS.—

"(A) NEW START GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for new start projects may be not more than the greater of the amount authorized under sections 5338(c) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections [(m)(1)(A) and (m)(2)(A)(ii)] for such projects, less an amount the Secretary reasonably estimates is necessary

for grants under this section for the projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

"(B) SMALL START GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all expedited grant agreements and early systems work agreements under this subsection for small start projects described in subsection (e) may be not more than the greater of the amount allocated under subsection 【(m)(2)(A)(i)】 for such projects or an amount equivalent to the last fiscal year of funding allocated under such subsection for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in expedited grant agreements and early systems work

agreements for such projects may be not more than a limitation specified in law.

"(C) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

"(5) NOTIFICATION OF CONGRESS.—At least 10 days before issuing a letter of intent, or early systems work agreement, or a small start grant and at least 21 days before entering into a full funding grant agreement under this section, the Secretary shall notify, in writing, the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

"(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—

"(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the

Secretary shall estimate the net project cost. A grant under this section for the project shall be for 80 percent of the net capital project cost. The recipient may provide additional local matching amounts.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to request or require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

"(5) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to

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.

"(2) FINANCING COSTS.—

"(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

"(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

"(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(j) AVAILABILITY OF AMOUNTS.—

"(1) IN GENERAL.—An amount made available or appropriated under section 5338 for new start or small start projects shall remain available for 3 fiscal years after the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the

fourth fiscal year may be used by the Secretary for any purpose under this section.

"(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may only be used for a purpose under this section.

"(k) REPORTS ON NEW START PROJECTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report that includes—

"(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

"(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Public Transportation Act of 2009; and

"(C) recommendations of such projects for funding based on the evaluations and ratings

and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

"(2) BIENNIAL GAO REVIEW.—Beginning 2 years after the date of enactment of the Public Transportation Act of 2009 the Comptroller General shall—

"(A) conduct a biennial review of—

"(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) on a biennial basis, report to Congress on the results of such review by May 31.

"(l) BEFORE AND AFTER STUDY REPORT.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

"(m) LIMITATIONS.—

"(1) LIMITATION ON GRANTS.—The Secretary may make a grant or enter into a grant agreement

for a new start or small start project under this section only if the project has been rated as high, medium-high, or medium or the Secretary has issued a warrant described in subsection (n) in lieu of such ratings.

"(2) FISCAL YEARS 2010 THROUGH 2015.—Of the amounts made available or appropriated under section 5338(c)—

"(A) [$] for each fiscal year shall be allocated for small start projects in accordance with subsection (e); and

"(B) the remainder shall be allocated for new start projects in accordance with subsection (d).

"(3) LIMITATION ON EXPENDITURES.—None of the amounts made available or appropriated under section 5338(c) may be expended on a project that has not been adopted as the locally preferred alternative as part of a long-range transportation plan.

"(4) LIMITATION ON EVALUATION METHODS.—In evaluating and rating proposed new start and small start projects under this section, the Secretary shall not use any form of a cost-effectiveness index and shall not use a transportation system user ben-

efit calculation to evaluate any benefit other than mobility.

"(n) EXPEDITED PROJECT ADVANCEMENT.—

"(1) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and utilize special warrants to advance projects and provide Federal assistance under this subsection, including warrants—

"(A) based on current transit ridership, corridor characteristics, and service on existing alignments;

"(B) designed to assess distinct categories of projects such as proposed new service enhancements on existing alignments, new line haul service, and new urban circulator service; and

"(C) based on the benefits for proposed projects as set forth in subsections (d)(3) and (e)(3) for the Federal assistance provided or to be provided under this subsection.

"(2) ENTRANCE INTO PROJECT DEVELOPMENT.—The Secretary shall approve a proposed project under this section for entrance into project development as soon as the Secretary is notified by the project sponsor that the project has been adopt-

ed as the locally preferred alternative as part of the long-range transportation plan required under section 5303, and that the project sponsor intends to seek Federal assistance under subsection (d) or (e).

"(3) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—The Secretary shall, to the maximum extent practicable, issue letters of intent and make early systems work agreements upon issuance of a record of decision.

"(4) FUNDING AGREEMENTS.—The Secretary shall enter into a full funding grant agreement, expedited grant agreement, or grant, as appropriate, between the Government and the project sponsor as soon as the Secretary determines that the project meets the requirements of subsection (d) or (e).

"(5) RECORDS RETENTION.—The Secretary shall adhere to a uniform records retention policy regarding all documentation related to new start and small start projects.

"(6) OFFICE OF EXPEDITED PROJECT DELIVERY.—The Secretary shall further expedite the advancement of new start and small start projects under this section in conjunction with the Office of Expedited Project Delivery established under section 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

Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

"(3) JOB ACCESS AND REVERSE COMMUTE PROJECT.—The term 'job access and reverse commute project' means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

"(A) transportation projects to finance planning, capital, and operating costs of providing new or expanded public transportation access to employment locations;

"(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

"(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals;

"(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986;

"(E) transportation projects designed to transport welfare recipients and low-income residents of urbanized areas and rural areas to suburban employment locations; and

"(F) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

"(4) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) and a State that directly receives a grant under this section.

"(5) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

"(6) WELFARE RECIPIENT.—The term 'welfare recipient' means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

"(b) GOALS.—The goals of the program established under this section are to—

1 "(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

with transportation, including transportation to and from jobs and employment support services.

"(2) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(d) APPORTIONMENTS.—

"(1) FORMULA.—The Secretary, using the most recent decennial census data, shall apportion amounts made available for a fiscal year to carry out this section as follows:

"(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

"(i) the number of elderly individuals, 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

"(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in all States.

"(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

"(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

"(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

"(C) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

"(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—

"(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of

this section are being met in the specified area; or

"(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

"(e) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (d)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

"(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (d)(1)(B) or (d)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

"(3) SPECIAL RULE.—A recipient of a grant under this section may allocate the amounts provided under the grant to—

"(A) a nonprofit organization, if the public transportation service provided under subsection (c)(1) is unavailable, insufficient, or inappropriate; or

"(B) in the case of a grant to provide the services described in subsection (c)(1)(A) a governmental authority that—

"(i) is approved by the recipient to coordinate services for elderly individuals and individuals with disabilities; or

"(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described in subsection (c)(1)(A).

"(4) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (d) shall submit to the recipient an application in such form and in accordance with such requirements as the recipient shall establish.

"(5) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

"(6) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair, equitable, and competitive basis.

"(f) PERFORMANCE MANAGEMENT.—

"(1) IN GENERAL.—To improve public transportation systems and services for elderly individuals, individuals with disabilities and eligible low-income individuals, recipients of grants under this section shall implement a system of performance management.

"(2) ESTABLISHMENT OF PERFORMANCE MEASURES.—

"(A) IN GENERAL.—Not later than 12 months after the date of enactment of the Public Transportation Act of 2009, the Secretary, in consultation with recipients, shall establish performance measures for the coordinated access and mobility program formula grants under this section.

"(B) MINIMUM REQUIREMENTS.—The performance measures established under this subsection shall include, at a minimum, a performance measure designed to ensure that transit systems and operations are fully compliant with the regulations established under title 37 of the Code of Federal Regulations for Americans with disabilities.

"(3) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 18 months after the date of

enactment of the Public Transportation Act of 2009, each recipient shall establish a target level of performance—

"(A) in relation to each of the performance measures established by the Secretary under paragraph (2); and

"(B) against which the recipient shall measure improvement in meeting such performance measures.

"(4) PERFORMANCE PLANS.—

"(A) IN GENERAL.—A recipient shall develop a performance plan in accordance with the requirements of this subsection.

"(B) ELIGIBILITY FOR FUNDING.—A recipient may use grant funds made available under this section for a project only if the project is included in a performance plan that has been developed by the recipient and approved by the Secretary.

"(C) PLAN REQUIREMENTS.—A performance plan developed by a recipient under this subsection shall—

"(i) be designed to meet the program goals contained in subsection (b);

"(ii) include specific performance targets developed under paragraph (3); and

"(iii) be based on an estimate of the recipient's cumulative annual apportionment under this section in the following 4 fiscal years.

"(D) ANNUAL APPROVAL.—For each fiscal year, a recipient shall submit a performance plan developed under this subsection to the Secretary for approval.

"(E) REPORTING REQUIREMENTS.—Each recipient shall submit to the Secretary, and publish annually, a report documenting the degree of progress that the recipient has made in reference to the performance targets established under paragraph (3).

"(F) ASSESSMENT.—Beginning in fiscal year 2012, and each fiscal year thereafter, the Secretary shall determine, before the last day of the previous fiscal year, whether or not a recipient has met for that fiscal year the performance targets contained in the performance plan developed by the recipient under this subsection.

"(5) EFFECT OF DISAPPROVAL OF PLANS.—If the Secretary disapproves a recipient's initial per-

formance plan or an update of the plan, the Secretary shall not approve the obligation of funding to the recipient for additional projects under this section until the Secretary approves the recipients initial plan or the update of the plan, except that the Secretary shall not withhold approval of the obligation of funding to the recipient for additional projects under this section until 60 days after the date of disapproval under this paragraph.

''(g) GRANT REQUIREMENTS.—

''(1) APPLICABILITY OF REQUIREMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), a grant under this section shall be subject to the requirements of section 5307 for a project in an urbanized area or section 5311 for a project in a rural area.

''(B) WAIVERS.—With respect to a grant made to provide services described in subsection (c)(1)(A), the Secretary may waive application of the requirements of section 5307 or 5311 to the extent the Secretary considers appropriate.

''(2) MINIMUM EXPENDITURES.—For fiscal year 2010, a recipient shall certify to the Secretary that—

"(A) not less than 30 percent of the total amount of funds apportioned to the recipient under this section will be expended for eligible activities described in subsection (c)(1)(A);

"(B) not less than 40 percent of the total amount of funds apportioned to the recipient under this section will be expended for eligible activities described in subsection (c)(1)(B); and

"(C) not less than 15 percent of the total amount of funds apportioned to the recipient under this section will be expended for eligible activities described in subsection (c)(1)(C).

"(3) RECIPIENTS NOT MEETING PERFORMANCE MEASURES.—A recipient shall be required to make a certification under paragraph (2) for fiscal year 2011, and any fiscal year thereafter, if the Secretary determines under subsection (g)(6) that the recipient in the preceding fiscal year did not meet the performance measures contained in the performance plan developed by the recipient under this subsection.

"(h) COORDINATION.—

"(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activi-

ties under programs of other Federal departments and agencies.

"(2) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

"(A) the projects selected to receive funding under this section were derived from a locally developed, coordinated public transportation-human services transportation plan;

"(B) the plan was developed through a process that included participation by representatives of public, private, and nonprofit transportation and human services providers and participation by the public; and

"(C) the planning process provided for consideration of projects and strategies to create or improve regional transportation services that connect multiple jurisdictions.

"(i) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined

by the Secretary. The recipient may provide additional local matching amounts.

"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under such section.

"(2) OPERATING ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs to 62.5 percent of the Government share provided for under paragraph (1)(B).

"(3) REMAINDER.—The remainder of the net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

"(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (4)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(j) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities 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(c) 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

assistance, demonstration programs, research, public education, and other activities related to complying with such Act;

"(2) to help public transportation providers comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through a competitively selected contract with a national nonprofit organization that has a demonstrated capacity to carry out technical assistance, training, and support services related to complying with such requirements;

"(3) to help public transportation providers meet the transportation needs of elderly individuals through a competitively selected contract with a national nonprofit organization serving elderly individuals that has a demonstrated capacity to carry out such activities; and

"(4) to provide additional technical assistance, training, and research that the Secretary determines will assist public transportation providers meet the goals of this section.

"(n) PROGRAM EVALUATION.—

"(1) COMPTROLLER GENERAL.—Beginning one year after the date of enactment of the Public Transportation Act of 2009, and every 2 years thereafter, the Comptroller General shall—

"(A) conduct a study to evaluate the grant program authorized by this section; and

"(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

"(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of the Public Transportation Act of 2009, the Secretary shall—

"(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and

"(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).".

(b) REPEALS.—Sections 5316 and 5317, and the items relating to such sections in the analysis for chapter 53, are repealed.

(c) CONFORMING AMENDMENTS.—Chapter 53 is amended—

(1) in section 5304(g)(5) by striking ''sections 5310, 5311, 5316, and 5317'' and inserting ''sections 5310 and 5311'' each place it appears;

(2) in section 5333(a) by striking ''5316,'' each place it appears;

(3) in section 5338(b)—

(A) in paragraph (1) by striking ''5316, 5317,''; and

(B) in paragraph (2) by striking subparagraphs (H) and (I).

(4) in the analysis for such chapter—

(A) by striking the item relating to section 5310 and inserting the following:

''Sec. 5310. Coordinated access and mobility program formula grants.''; and

(B) by striking the items relating to section 5316 and 5317.

SEC. 3010. RURAL AREA FORMULA GRANTS.

(a) SECTION HEADING.—Section 5311 is amended by striking the section heading and inserting the following:

"§ 5311. Rural area formula grants".

(b) GENERAL AUTHORITY.—Section 5311(b)(2) of title 49, United States Code, is amended—

(1) in subparagraph (C)—

(A) by striking ''and'' at the end of clause (i);

(B) by striking the period and inserting ''; and'' at the end of clause (ii); and

(C) by adding at the end the following:

''(iii) the program provides for the achievement of program goals described in paragraph (5) and the performance targets in subsection (j)(3).''.

(2) by adding at the end the following:

''(D) REPORT.—Not later than 2 fiscal years after the date of enactment of the Public Transportation Act of 2009 and every 2 years thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a report evaluating the effectiveness of the grant program authorized by this section and the effectiveness of States in achieving the performance goals established by 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].—".

(g) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended by striking ''15'' and inserting ''10''.

(h) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) subparagraph (B), by striking ''shelters'' and inserting ''facilities''; and

(B) subparagraph (C), by striking ''stops and depots'' and inserting ''facilities''; and

(2) by adding at the end the following:

''(3) IN-KIND MATCHING SHARE FOR INTERCITY BUS.—

''(A) IN GENERAL.—The Secretary may include a State's unsubsidized capital costs of private sector intercity-bus service as in-kind matching share—

''(i) for the operating costs of connecting rural intercity bus feeder service funded under this subsection; and

''(ii) if funds available under this subsection are used to subsidize an unprofitable rural intercity bus route that might otherwise be discontinued by the private 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.".

(i) RURAL TRANSIT PERFORMANCE MANAGEMENT.—Section 5311 is amended by adding at the end the following:

"(j) RURAL TRANSIT PERFORMANCE MANAGEMENT.—

"(1) IN GENERAL.—To improve public transportation systems and services in rural areas, States shall implement a system of rural transit performance management.

"(2) ESTABLISHMENT OF PERFORMANCE MEASURES.—

"(A) IN GENERAL.—Not later than 12 months after the date of enactment of this subsection, the Secretary, in consultation with the States, shall establish performance measures for public transportation in rural areas.

"(B) MINIMUM REQUIREMENTS.—The performance measures established under this subsection shall—

"(i) be based, at a minimum, on data collected in the National Transit Database under section 5335;

"(ii) include, at a minimum, performance measures aligned with the program goals described in subsection (b)(5); and

"(iii) include any other information the Secretary considers appropriate.

"(3) ESTABLISHMENT OF PERFORMANCE TARGETS.—Not later than 18 months after the date of enactment of this subsection, each State shall establish a target level of performance—

"(A) in relation to each performance measure established by the Secretary under paragraph (2); and

"(B) against which the State shall measure improvement in meeting each such performance measure.

"(4) REPORTING REQUIREMENTS.—Beginning in 2012, each State shall submit to the Secretary, and publish annually, a report documenting the progress that the State has made regarding the performance targets established under paragraph (3).".

(j) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:

"5311. Rural area formula grant.".

SEC. 3011. TRANSIT RESEARCH GRANTS.

(a) SECTION HEADING.—Section 5312 is amended by striking the section heading and inserting the following:

"§ 5312. Transit research grants".

(b) RESEARCH PROJECTS.—Section 5312 is amended by striking subsection (a) and inserting the following:

"(a) RESEARCH, PLANNING, DEVELOPMENT, DEMONSTRATION, DEPLOYMENT, AND TRAINING PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, planning, development, demonstration, deployment, and training projects, and evaluation of technology of national significance to public transportation, that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(3) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(4) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.

"(5) FUNDING.—

"(A) The amounts made available under section 5338(d) are available to the Secretary of Transportation for grants, contracts, cooper-

ative agreements, or other agreements for the purposes of this section and sections 5305, 5315, and 5322, as the Secretary considers appropriate.

"(B) Not more than 25 percent of the amounts available under this subsection is available to the Secretary for special demonstration initiatives, subject to terms the Secretary considers consistent with this chapter, except that section 5323(a)(1)(D) applies to an operational grant financed in carrying out subsection (a). For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures on complying with the requirements of this chapter.".

(c) NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.—Section 5312 is amended by adding at the end the following:

"(d) NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the 'program') to facilitate the development of a globally 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-

nologies, pure electric drive systems, and hybrid technologies that include all types of clean fuels that may be viable for public transportation systems; and

"(D) other criteria that the Secretary determines are necessary to carry out the program.

"(4) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Through a competitive grant process, the Secretary shall also give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 5 years.

"(5) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

"(6) GRANT REQUIREMENTS.—A grant under this subsection shall be subject to—

"(A) all terms and conditions applicable to 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-

able to the Secretary of Transportation for grants, contracts, cooperative agreements, or other agreements for the purposes of this subsection and sections 5305, 5313, 5315, and 5322, as the Secretary considers appropriate.''.

(d) CONFORMING AMENDMENTS.—

(1) NATIONAL RESEARCH PROGRAMS.—Section 5314 is repealed.

(2) SAFETEA–LU.—Sections 3045 and 3046 of SAFETEA–LU are repealed.

(e) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended—

(1) by striking the item relating to section 5312 and inserting the following:

''5312. Transit research grants''; and

(2) by striking the item relating to section 5314.

SEC. 3012. BUS TESTING FACILITY.

Section 5318 is amended by adding at the end the following:

''(f) RETESTING REQUIREMENT FOR MODIFICATION.—If a new bus model is modified after completion of testing under subsection (a) and the Secretary determines that such modification may have materially affected the results of any such testing, the modified bus shall be retested for any test in which such modification may have affected a test result.''.

SEC. 3013. TRANSIT IN THE PARKS GRANTS.

(a) SECTION HEADING.—Section 5320 is amended by striking the section heading and inserting:

"§ 5320. Transit in the parks grants".

(b) AUTHORIZATION AND USE OF FUNDS.—

(1) AUTHORIZATION.—Section 5320(a)(1) is amended—

(A) by striking "(1) AUTHORIZATION.—" and all that follows through "(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior," and inserting the following:

"(1) AUTHORIZATION.—The Secretary";

(B) by striking subparagraph (B);

(C) by moving the remainder of the text, including clauses (i) through (iii), 2 ems to the left; and

(D) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively.

(2) USE OF FUNDS.—Section 5320(b)(2) is amended by striking "intra—agency" and inserting "intraagency".

(c) EXPEDITED PROJECT DELIVERY.—Section 5320(d) is amended to read as follows:

"(d) EXPEDITED PROJECT DELIVERY.—The Secretary shall develop policies and procedures for the program that provide for—

"(1) expedited technical assistance in alternative transportation;

"(2) multidisciplinary teams to develop alternative transportation policies, procedures, and criteria; and

"(3) expedited analysis of criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.".

(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—Section 5320(e)(1) is amended by striking ", in consultation with the Secretary of the Interior,".

(e) PLANNING PROCESS.—Section 5320(f)(1)(A) is amended—

(1) by striking ", in cooperation with the Secretary of the Interior,"; and

(2) in clause (iii) by striking "(d)".

(f) COST SHARING.—Section 5320(g)(1) is amended by striking ", in cooperation with the Secretary of the Interior,".

(g) SELECTION OF QUALIFIED PROJECTS.—Section 5320(h) is amended—

(1) in paragraph (1) by striking ", of the Interior after consultation with and in cooperation with the Secretary,"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A) by striking "of the Interior";

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

"(D) visitation levels;"; and

(C) in subparagraph (G)—

(i) in the matter preceding clause (i) by striking "of the Interior"; and

(ii) by striking clause (i) and inserting the following:

"(i) the historical and cultural significance of a qualified project;".

(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—Section 5320(i) is amended in the matter preceding subparagraph (A) by striking ", in consultation with the Secretary of the Interior,".

(i) ASSET MANAGEMENT.—Section 5320(k) is amended by striking ", in consultation with the Secretary of the Interior,".

(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—Section 5320 is amended by striking subsection (l) and redesignating subsections (m) and (n) as subsections (l) and (m), respectively.

(k) REPORTS.—Section 5320(m)(1) (as so redesignated) is amended—

(1) in the matter preceding subparagraph (A) by striking ", in consultation with the Secretary of the Interior,";

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

(3) in subparagraph (B) by striking "; and" and inserting a period; and

(4) by striking subparagraph (C).

SEC. 3014. WORKFORCE DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—Section 5322 is amended to read as follows:

"§ 5322. Workforce development programs

"(a) NATIONAL JOINT WORKFORCE DEVELOPMENT COUNCIL.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Public Transportation Act of 2009, the Administrator of the Federal Transit Administration shall establish a

National Joint Workforce Development Council (referred to in this section as the 'National Council').

"(2) COMPOSITION.—

"(A) VOTING MEMBERS.—Two representatives, one representing labor and one representing management, from each Regional Workforce Development Board described in subsection (c), shall be elected by majority vote of labor and management representatives respectively, on each Regional Board, to serve on the National Council.

"(B) EX OFFICIO MEMBERS.—The Administrator shall appoint as non-voting ex officio members to the National Council—

"(i) up to 10 members, such as representatives of transit trade associations, non-profit organizations, research organizations, community colleges and universities, private industry, and any other group or individual the Administrator believes would contribute to the National Council;

"(ii) a representative of the International Transportation Learning Center 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

to train maintenance employees and fixed route and paratransit operators on a regional basis;

''(B) develop programs to address the recruitment and retention of managerial and nonmanagerial employees;

''(C) initiate relationships with nontransportation sector industries, associations, and groups in the public and private sector to develop best practices in training and skills development and determine appropriate ways to collaborate on behalf of disconnected youth;

''(D) conduct research on transit workforce development issues and develop best practices for recruitment, training, and retention of employees;

''(E) conduct research on the extent of labor market disconnection among disconnected youth and assess the provision of employment services for such youth;

''(F) make recommendations to the Secretary and to public transit agencies regarding how to expand current employment training programs, outreach programs to increase minority 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

from among representatives of nonprofit organizations, research organizations, and any other groups or individuals the Administrator believes would contribute to the board.

"(B) APPOINTMENTS FOR INTERNATIONAL TRANSPORTATION LEARNING CENTER AND FEDERAL TRANSIT ADMINISTRATORS.—The Administrator shall appoint as a non-voting ex officio member to the regional governing board of the respective region—

"(i) one or more representatives of the International Transportation Learning Center which administers the transit career ladder training program authorized by section 3046 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59);

"(ii) the Federal Transit Administrators of each of the 10 regions; and

"(iii) an individual who has expertise in youth development programs.

"(d) GRANT PROGRAMS.—

"(1) IN GENERAL.—The Secretary, acting through the Administrator and taking into account the recommendations of the National Council under subsection (a) and the Regional Governing Boards under subsection (c), shall establish grant programs as follows:

"(A) TRANSIT YOUTH OPPORTUNITY.—

"(i) BASIC SKILLS EDUCATION AND PRE-APPRENTICESHIP SKILLS.—

"(I) APPLICATIONS.—The Administrator shall accept applications for grants from nonprofit organizations and public or privately funded educational institutions providing academic or technical instruction to encourage and introduce youth disconnected to a variety of careers in the transit industry by providing such youth with basic skills education, if necessary, and pre-apprenticeship skills.

"(II) PRIORITY.—The Administrator shall give priority for such grants to organizations with a proven 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-

advantaged backgrounds, including racial and ethnic minorities under-represented among transit management, by providing student scholarships or stipends, pre-entry preparation, and retention activities.

"(2) GRANT REQUIREMENTS.—A grant under this section shall be subject to all requirements of a grant under section 5307.

"(e) CERTIFICATION.—The Administrator shall develop a category on 'Workforce Development' on its annual Certifications and Assurances for Federal Transit Administration Assistance Programs in accordance with section 5323(n), and include such category as one of the areas of certification beginning in fiscal year 2010. Such category shall require transit agencies to develop short-range and long-range planning with regard to workforce development matters, with a particular focus on the recruitment, retention, and training of managerial and non-managerial employees.

"(f) DEFINITION.—For purposes of this section, the term 'disconnected youth' means individuals ages 16 through 24 who are out of school and not employed and composed primarily of youth of color from poor communities and at risk of becoming permanently disengaged 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-

nues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

"(C) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term 'provider of public transportation by vanpool' means an entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

"(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term 'commuter highway vehicle' or 'vanpool vehicle' means any vehicle—

"(I) the seating capacity of which is at least 6 adults (not including the driver); and

"(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.".

(c) BUY AMERICA.—Section 5323(j) is amended—

(1) in paragraph (2)(C) by inserting other than a rolling stock prototype after "stock".

(2) by striking paragraph (3) and inserting the following:

"(3) WRITTEN JUSTIFICATION OF WAIVER.—When issuing a waiver based on a determination under paragraph (2), the Secretary shall issue a detailed written justification as to why the waiver meets the requirements of such paragraph. The Secretary shall publish such justification in the Federal Register and provide the public with a reasonable period of time for notice and comment.".

(3) in paragraph (6) by striking "2005" and inserting "2009".

SEC. 3016. CONTRACT REQUIREMENTS.

Section 5325(h) is amended by striking ''Federal Public Transportation Act of 2005'' and inserting ''Public Transportation Act of 2009''.

SEC. 3017. OFFICE OF EXPEDITED PROJECT DELIVERY.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5325 the following:

''§ 5326. Office of Expedited Project Delivery

''(a) ESTABLISHMENT.—The Secretary shall establish an Office of Expedited Project Delivery in the Federal Transit Administration to enhance the speed of project delivery for public transportation capital projects.

''(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary.

''(c) DUTIES OF DIRECTOR.—The Director shall provide national leadership to enhance the speed of delivery of public transportation capital projects, with particular focus on new starts projects and substantially delayed projects.

''(d) ACTIONS TO SPEED DELIVERY OF NEW STARTS PROJECTS.—

''(1) IN GENERAL.—For a new starts project, the Director shall—

''(A) monitor the project throughout the project delivery process;

"(B) monitor whether headquarters offices, regional offices, other Federal agencies, and other relevant parties are fully implementing and complying with section 6002 of SAFETEA–LU (Public Law 109–59) (relating to efficient environmental reviews for project decision making) and assist such parties in reaching full compliance if necessary;

"(C) participate in the development of any schedule for completion of the environmental review process for the project established as part of a coordination plan under section 6002 of SAFETEA–LU (Public Law 109–59);

"(D) monitor the advancement of new starts projects and review delays;

"(E) participate in the development of a management plan for the project;

"(F) promote and assist in the use of practices and techniques (including best practices from other project sponsors) that enhance the speed of project delivery when suitable and allowable under Federal, State, and local law, including—

"(i) using design-build procurement methods;

"(ii) using other procurement methods that enhance the speed of project delivery (such as cost-plus-time bidding and best-value procurement);

"(iii) using accelerated construction techniques;

"(iv) including early completion incentives and late completion penalties in design and construction contracts;

"(v) maintaining up-to-date State inventories of historic, cultural, and natural resources;

"(vi) linking planning and the environmental review process under NEPA by focusing on the NEPA process in the early phases of project planning and then carrying through the work done in the planning stage to the NEPA process;

"(vii) encouraging practices that result in good communication, coordination, and collaboration between relevant parties (including local communities, metropolitan planning offices, State departments of transportation, other State agencies, regional offices, headquarters offices, the Of-

fice of the Secretary of Transportation, other Federal agencies, and other transit stakeholders);

''(viii) using conflict resolution techniques and professionals, as appropriate; and

''(ix) establishing programmatic agreements, including memoranda of agreement, between State departments of transportation and the Federal Transit Administration or environmental resource agencies (such as the United States Fish and Wildlife Service) regarding the NEPA process in general and categorical exclusions in particular;

''(G) using letter of intent and early system work agreements for new starts projects

''(H) coordinating the activities of relevant parties (including the parties described in subparagraph (F)(vii)) and encouraging the parties to collaborate throughout the phases of the project delivery process; and

''(I) working with the designated points of contact to expedite the project's delivery and to monitor the project's progress.

"(2) SUBSTANTIALLY DELAYED NEW STARTS PROJECTS.—For a new starts project that is experiencing substantial delays, as determined by the Director based on the monitoring of the project and any additional information obtained from designated points of contact and other relevant parties, the Director shall—

"(A) inform the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the project in a quarterly report, to be submitted not later than the last day of each quarter of a fiscal year, that contains for each such project a description of—

"(i) the project;

"(ii) the location of the project;

"(iii) the estimated cost of the project;

"(iv) when the delays began;

"(v) the nature of the delays;

"(vi) the steps that the Director took or will take to resolve the delays;

"(vii) the effectiveness of any steps taken; and

"(viii) the current status of the project;

"(B) identify and resolve the obstacles in project delivery that are causing the delays, including by working with the designated points of contact;

"(C) coordinate relevant parties (including the parties described in paragraph (1)(F)(vii)) to help resolve the delays;

"(D) utilize conflict resolution techniques and professionals, as appropriate, to help resolve the delays; and

"(E) intensify the monitoring of the project under paragraph (1)(A) after the delays have been resolved in order to prevent, or identify and resolve, any further delays.

"(e) ACTIONS TO RESOLVE OBSTACLES TO DELIVERY OF OTHER SUBSTANTIALLY DELAYED PROJECTS.—

"(1) IN GENERAL.—For public transportation capital projects not covered under subsection (d), the Director shall identify and resolve substantially delayed projects according to this subsection.

"(2) DATA MONITORING AND REPORTS.—The Director shall obtain information on delays of public transportation capital projects as follows:

"(A) The Director shall track and analyze data on the progress of individual projects and the time spent in different phases of project delivery.

"(B) A regional office shall submit to the Director a report on any project that the office considers to be experiencing significant delays.

"(C) A headquarters office, in which there is a designated point of contact, shall submit to the Director a report on any project that the office considers to be experiencing significant delays.

"(3) CONTENTS OF REPORTS.—A report on a project submitted under paragraph (1) shall include, at a minimum, a description of—

"(A) the project;

"(B) the location of the project;

"(C) the estimated cost of the project;

"(D) when the delays began;

"(E) the nature of the delays; and

"(F) any steps that the reporting office believes that could be taken to resolve the delays.

"(4) IDENTIFICATION OF SUBSTANTIALLY DELAYED PROJECTS.—Based on information obtained on a project under paragraph (1), and after acquir-

ing any additional information needed on the project from designated points of contact and other relevant parties, the Director shall determine whether to identify a project as a substantially delayed project for the purposes of this subsection.

"(5) FUNCTIONS RELATING TO SUBSTANTIALLY DELAYED PROJECTS.—For a project that the Director identifies as a substantially delayed project, the Director shall—

"(A) identify and resolve the obstacles in project delivery that are causing the delays, including by working with the designated points of contact;

"(B) coordinate relevant parties (including the parties described in subsection (d)(1)(F)(vii)) to help resolve the delays;

"(C) utilize conflict resolution techniques and professionals, as appropriate, to help resolve the delays; and

"(D) monitor the progress of the project after the delays have been resolved through the completion of the project in order to prevent, or identify and resolve, any further delays.

"(f) LEADERSHIP ACTIVITIES TO ENHANCE SPEED 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;

"(D) a description of the efforts of the Office to coordinate with the Office of Expedited Project Delivery in the Federal Highway Administration;

"(E) an identification of remaining obstacles to faster project delivery;

"(F) a description of future steps that the Office will take to enhance the speed of project delivery and future goals for enhancing the speed of project delivery;

"(G) an assessment of whether headquarters offices, regional offices, other Federal agencies, and any other relevant parties are fully implementing and complying with section 6002 of SAFETEA–LU (Public Law 109–59) (relating to efficient environmental reviews for project decision making) and a description of the steps that the Office has taken or intends to take to ensure full implementation and compliance with such section; and

"(H) such recommendations as the Secretary may have for improvements to the functions and roles of the Office and other measures 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

"(2) affecting the responsibility of any Federal officer to comply with or enforce any such a law or requirement.

"(o) DEFINITIONS.—In this section, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Transit Administration.

"(2) DESIGNATED POINT OF CONTACT.—The term 'designated point of contact' means a point of contact designated by the Secretary under subsection (h).

"(3) DIRECTOR.—The term 'Director' means the Director of the Office of Expedited Project Delivery appointed under subsection (b).

"(4) HEADQUARTERS OFFICE.—The term 'headquarters office' means a headquarters office of the Federal Transit Administration.

"(5) MANAGEMENT PLAN.—The term 'management plan' means a project management plan under section 5327(a).

"(6) NEPA.—The term 'NEPA' means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(7) NEW STARTS PROJECT.—The term 'new starts project' has the meaning given that term in section 5309(a).

"(8) OFFICE.—The term 'Office' means the Office of Expedited Project Delivery established under subsection (a).

"(9) PROJECT DELIVERY.—The term 'project delivery' means planning, environmental review, permitting, design, right-of-way acquisition, and construction for a public transportation capital project.

"(10) PUBLIC TRANSPORTATION CAPITAL PROJECT.—The term 'public transportation capital project' means a public transportation capital project carried out with assistance made available under this chapter.

"(11) REGIONAL OFFICE.—The term 'regional office' means a regional office of the Federal Transit Administration.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 5325 the following:

"Sec. 5326. Office of Expedited Project Delivery.".

SEC. 3018. PROGRAM.

Section 5328(c) is repealed.

SEC. 3019. NATIONAL TRANSIT DATABASE.

Section 5335(a) of title 49, United States Code, is amended—

(1) by striking ''and'' after ''transportation financial'';

(2) by inserting '','' after ''financial''; and

(3) by inserting '', and asset condition'' after ''operating''.

SEC. 3020. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

[to be supplied]

SEC. 3021. FIXED GUIDEWAY MODERNIZATION FORMULA GRANTS.

(a) GRANT PROGRAM.—Section 5337 of title 49 is amended to read as follows:

''§ 5337. Fixed guideway modernization program

''(a) PROGRAM GOALS.—The goals of the fixed guideway modernization program are to—

''(1) rehabilitate, maintain, and preserve the Nation's fixed guideway public transportation systems;

''(2) reduce the maintenance backlog and increase the state of good repair of the Nation's fixed guideway public transportation systems; and

''(3) increase the overall ridership on fixed guideway public transportation systems.

"(b) GENERAL AUTHORITY.—The Secretary may make grants to eligible recipients under this section to assist State and local government authorities in financing capital projects to modernize eligible fixed guideway systems.

"(c) [to be supplied]

"(d) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section—

"(1) remains available for 3 years after the fiscal year in which the amount is apportioned; and

"(2) that is unobligated at the end of the fourth year shall be reapportioned for the next fiscal year among eligible recipients in accordance with subsection (c).

"(e) GRANT REQUIREMENTS.—A grant under this section shall be subject at all the requirements of section [5307,] including the performance management requirements of such section.

"(f) [to be supplied]

"(g) [to be supplied]".

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5337 and inserting the following:

"5337. Fixed guideway modernization program.".

SEC. 3022. AUTHORIZATIONS.

[to be supplied]

SEC. 3023. REPEALS.

Sections 5339 and 5340, and the items relating to such sections in the analysis for chapter 53, are repealed.

SEC. 3024. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

Section 3038(g) of the Transportation Equity Act for the 21st century (49 U.S.C. 5310 note; 112 Stat. 392) is amended in paragraphs (1) and (2) by striking ''each fiscal year'' and inserting ''fiscal years 2010 through 2012''.

SEC. 3025. OBLIGATION LIMITS.

[to be supplied]

SEC. 3026. TRANSPORTATION FRINGE BENEFITS.

(a) REQUIREMENT THAT AGENCIES OFFER TRANSIT PASS TRANSPORTATION FRINGE BENEFITS TO THEIR EMPLOYEES NATIONWIDE.—

(1) IN GENERAL.—Section 3049(a)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (5 U.S.C. 7905 note; 119 Stat. 1711) is amended—

(A) by striking ''Effective'' and all that follows through ''each covered agency'' and inserting ''Each agency''; and

(B) by inserting ''at a location in an urbanized area of the United States that is served by fixed route public transportation'' before ''shall be offered''.

(2) CONFORMING AMENDMENTS.—Section 3049(a) of such Act (5 U.S.C. 7905 note; 119 Stat. 1711) is amended—

(A) in paragraph (3)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively; and

(B) in paragraph (4) by striking ''a covered agency'' and inserting ''an agency''.

(b) BENEFITS DESCRIBED.—Section 3049(a)(2) of such Act (5 U.S.C. 7905 note; 119 Stat. 1711) is amended by striking the period at the end and inserting the following: '', except that the maximum level of such benefits shall be the maximum amount which may be excluded from gross income for qualified parking as in effect for a month under section 132(f)(2)(B) of the Internal Revenue Code of 1986.''.

(c) GUIDANCE.—Section 3049(a) of SAFETEA–LU (5 U.S.C. 7905 note; 119 Stat. 1711) is amended by adding at the end the following:

''(5) GUIDANCE.—

''(A) ISSUANCE.—Not later than 60 days after the date of enactment of this paragraph, 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

that, with respect to an employee of an agency—

"(i) the eligibility of the employee for benefits under the program is verified by an official of the agency;

"(ii) employee commuting costs are verified by an official of the agency; and

"(iii) records of the agency are checked to ensure that the employee is not receiving parking benefits from the agency.

"(D) PROGRAM IMPLEMENTATION REQUIREMENTS.—The guidance to be issued under subparagraph (A) shall contain program implementation requirements applicable to each agency to ensure that—

"(i) benefits provided by the agency under the program are adjusted in cases of employee travel, leave, or change of address;

"(ii) removal from the program is included in the procedures of the agency relating to an employee separating from employment with the agency; and

"(iii) benefits provided by the agency under the program are made available

using an electronic format (rather than using paper fare media) where such a format is available for use.

"(E) ENFORCEMENT AND PENALTIES.—The guidance to be issued under subparagraph (A) shall contain a uniform administrative policy on enforcement and penalties. Such policy shall be implemented by each agency to ensure compliance with program requirements, to prevent fraud and abuse, and, as appropriate, to penalize employees who have abused or misused the benefits provided under the program.

"(F) PERIODIC REVIEWS.—The guidance to be issued under subparagraph (A) shall require each agency, not later than September 1 of the first fiscal year beginning after the date of enactment of this paragraph, and every 3 years thereafter, to develop and submit to the Secretary a review of the agency's implementation of the program. Each such review shall contain, at a minimum, the following:

"(i) An assessment of the agency's implementation of the guidance, including 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.

"(6) REPORTING REQUIREMENTS.—Not later than September 30 of the first fiscal year beginning after the date of enactment of this paragraph, and every 3 years thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on nationwide implementation of the transit pass transportation fringe benefits program under this subsection, including a summary of the information submitted by agencies pursuant to paragraph (5)(F).".

(d) EFFECTIVE DATE.—Except as otherwise specifically provided, the amendments made by this section shall become effective on the first day of the first fiscal year beginning after the date of enactment of this Act.

SEC. 3027. STREETCAR CATEGORICAL EXCLUSION.

Not later than one year after the date of enactment of this Act, the Secretary shall complete a rulemaking process regarding light rail streetcars that are—

(1) located within an existing right-of-way within the classes of action identified in regulation by the Secretary; and

(2) that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

SEC. 3028. SAFETEA-LU REPEALS.

The following provisions of SAFETEA-LU are repealed:

(1) Section 3009(i).

(2) Section 3011(c).

(3) Section 3012(b).

(4) Section 3045.

(5) Section 3046.

TITLE IV—COMMERCIAL MOTOR VEHICLE SAFETY

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Motor Carrier Safety Enhancement Act of 2009''.

SEC. 4002. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to

a section or other provision of title 49, United States Code.

Subtitle A—Authorization of Appropriations

SEC. 4011. MOTOR CARRIER SAFETY GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 31104(a) is amended by striking paragraphs (1) through (5) and inserting the following:

"(1) **[**$**]** for fiscal year 2010;

"(2) **[**$**]** for fiscal year 2011;

"(3) **[**$**]** for fiscal year 2012;

"(4) **[**$**]** for fiscal year 2013;

"(5) **[**$**]** for fiscal year 2014; and

"(6) **[**$**]** for fiscal year 2015.".

(b) ADMINISTRATIVE TAKEDOWN.—

(1) IN GENERAL.—Section 31104(e) is amended to read as follows:

"(e) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under subsection (a) for that fiscal year, not more 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

conducts border commercial motor vehicle safety programs and related activities.''.

(d) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1) is amended by striking subparagraphs (A) through (E) and inserting the following:

''(A) [$] for fiscal year 2010;

''(B) [$] for fiscal year 2011;

''(C) [$] for fiscal year 2012;

''(D) [$] for fiscal year 2013;

''(E) [$] for fiscal year 2014; and

''(F) [$] for fiscal year 2015.''.

(e) INCENTIVE PROGRAM.—Section 31104(k) is amended to read as follows:

''(k) INCENTIVE PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish an incentive program to provide additional funding to States in a fiscal year that the Secretary determines, under regulations issued by the Secretary, showed significant improvement in reducing fatalities and crashes involving commercial motor vehicles.

''(2) ELIGIBILITY.—A State shall be eligible for an incentive grant in a fiscal year if—

''(A)(i) the State reduces the number of fatalities and crashes involving commercial motor vehicles in the previous fiscal year com-

pared to the State's average number of such fatalities and crashes in the 3 preceding fiscal years; or

"(ii) the State reduces the commercial motor vehicle fatal accident rate in the previous fiscal year compared to the State's average rate in the three preceding fiscal years; and

"(B) the State ranked among the top States in commercial motor vehicle fatality reduction or fatality rate reduction in the previous fiscal year.

"(3) SET ASIDE.—For each of fiscal years 2011 through 2015, the Secretary shall set aside not to exceed 10 percent of the amounts appropriated under subsection (a) for providing additional funding to States under the program established under paragraph (1).

"(4) USE OF FUNDS.—A State receiving additional funding under the program established under paragraph (1) shall use the funding for activities eligible for grants under section 31102.".

(f) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—Section 31104 is amended by adding at the end the following:

1 "(l) 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.

(2) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying out the commercial vehicle information systems and networks deployment program under section 4126 of SAFETEA-LU(119 Stat. 1738)—

(A) [$] for each of fiscal years 2010 through 2013; and

(B) [$] for each of fiscal years 2014 and 2015.

(3) COMMERCIAL MOTOR VEHICLE OPERATOR SAFETY GRANTS.—For training grants under section 4030 of this Act [$] for each of fiscal years [2010] through 2015.

(b) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

(c) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under this section imposes upon the United States a contractual obli-

gation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

Subtitle B—General Authority and State Grants

SEC. 4021. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 31102 is amended to read as follows:

"§ 31102. Motor carrier safety assistance program

''(a) GENERAL AUTHORITY.—The Secretary of Transportation shall administer a motor carrier safety assistance program to assist States with—

''(1) the development and implementation of programs for improving motor carrier safety; and

''(2) the enforcement of Federal regulations, standards, and orders on commercial motor vehicle safety and hazardous materials transportation safety or compatible State regulations, standards, and orders.

''(b) PROGRAM GOAL.—The goal of the motor carrier safety assistance program is to ensure that the Secretary, States, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient transportation system by—

"(1) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

"(2) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

"(3) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

"(4) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.

"(c) STATE PLANS.—

"(1) PROCEDURES.—The Secretary shall prescribe procedures for a State to participate in the program, including procedures under which the State shall submit a plan, in writing, to the Secretary in which the State agrees—

"(A) to assume responsibility for improving motor carrier safety in the State; and

"(B) to adopt and enforce Federal regulations, standards, and orders 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;

"(G) provides that all reports required under this section be submitted to the agency and that the agency will make the reports available to the Secretary on request;

"(H) provides that the agency will adopt the reporting requirements and use the forms for record keeping, inspections, and investigations the Secretary prescribes;

"(I) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

"(J) will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

"(K) ensures that activities described in subsection (g)(3)(B), if financed with grants under this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(L) will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

"(M) ensures participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section;

"(N) is willing and able to exchange information with other States in a timely manner;

"(O) will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

"(P) will promote activities in support of national priorities, including—

"(i) activities aimed at removing impaired commercial motor vehicle drivers from the highways of the United States through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) activities aimed at providing an appropriate level of training to State motor

carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances; and

"(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities;

"(Q) has established a program to ensure that—

"(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and

"(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;

"(R) will cooperate in the enforcement of financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;

"(S) will impose consistent, effective, and reasonable sanctions;

"(T) ensures that roadside inspections will 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,

or other location where a motor carrier may make a planned stop, except in the case of an imminent or obvious safety hazard.

"(3) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—A plan submitted by a State under this subsection shall provide that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under this subsection will be maintained at a level at least equal to the average level of that expenditure for the 3 most recent fiscal years ending before the date of enactment of the Motor Carrier Safety Enhancement Act of 2009.

"(B) CALCULATING STATE EXPENDITURES.—In calculating the average level of State expenditure, the Secretary—

"(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

"(ii) shall require the State to exclude Government amounts.

"(d) PERFORMANCE MEASURES.—

"(1) NATIONAL GOAL.—The Secretary shall establish a national goal for reductions in fatalities and crashes involving commercial motor vehicles. The goal shall provide for at least [____] percent reduction in such fatalities by January 1, 2016.

"(2) GUIDANCE AND STANDARDS.—Not later than one year after the date of enactment of the Motor Carrier Safety Enhancement Act of 2009, the Secretary shall—

"(A) issue guidance on the effectiveness of specific enforcement and related activities in generating reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes; and

"(B) publish standards for data timeliness, accuracy, and completeness that will allow States to meet program goals and are consistent with the standards issued under section 31106(a)(4).

"(3) OPTIMIZATION OF ALLOCATIONS.—The Secretary shall develop a tool for States to optimize 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

generate maximum crash and fatality reduction; and

"(iii) meet the standards for data published by the Secretary under paragraph (2)(B).

"(B) ADEQUACY OF TARGETS.—The Secretary shall ensure that targets established by a State in the second fiscal year following the date of enactment of the Motor Carrier Safety Enhancement Act of 2009 and in each fiscal year are sufficient and will allow the State to contribute to the national goal in fatality reduction. If the Secretary determines that the targets are not sufficient or will not allow the State to contribute appropriately toward achieving such national goal, the Secretary shall disapprove the plan under section (f).

"(e) ANNUAL UPDATES OF STATE PLANS.—

"(1) ESTABLISHMENT OF TARGETS.—A State shall—

"(A) update its plan under subsection (c) annually to establish targets for the following fiscal year; and

"(B) submit the updated plan to the Secretary.

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—

"(A) review each State plan submitted to the Secretary under subsection (c), as updated by the State under subsection (e); and

"(B)(i) approve the plan if the Secretary determines that the plan meets the requirements and promotes the objectives of this section; or

"(ii) disapprove the plan.

"(2) RESUBMITTAL.—If the Secretary disapproves a plan under this subsection, the Secretary shall give the State a written explanation and allow the State to modify and resubmit the plan for approval.

"(3) CONTINUOUS EVALUATION OF PLANS.—

"(A) IN GENERAL.—On the basis of reports submitted by the motor vehicle safety agency of a State with a plan approved under this subsection and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan.

"(B) WITHDRAWAL OF APPROVAL.—If the Secretary finds, after notice and opportunity for comment, the State plan previously approved is not being followed or has become inadequate to

ensure enforcement of the regulations, standards, or orders or meet the goals of the program, the Secretary shall withdraw approval of the plan and notify the State. The plan stops being effective when the notice is received. A State adversely affected by the withdrawal may seek judicial review under chapter 7 of title 5.

"(C) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—Notwithstanding the withdrawal, the State may retain jurisdiction in administrative or judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

"(g) GRANTS TO STATES.—

"(1) IN GENERAL.—Subject to this section and the availability of amounts, the Secretary may make grants to States for the development and implementation of programs for the purposes described in subsection (a).

"(2) ELIGIBILITY.—A State shall be eligible for a grant under this subsection only if the State has in effect a State plan under subsection (c) that has been approved by the Secretary under subsection (f).

"(3) USE OF GRANT FUNDS.—

"(A) IN GENERAL.—A State receiving a grant under this subsection shall use the grant funds for activities to further the State's plan under subsection (c) in a manner that best meets the goals of the program and contributes to the national fatality reduction goal established under subsection (d).

"(B) USE OF GRANTS TO ENFORCE OTHER LAWS.—Subject to subparagraph (C), a State may use grant funds received under this subsection for the following activities if carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Federal or State commercial motor vehicle safety regulations:

"(i) Enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.

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

motor vehicle safety programs described in subsection (a).

"(ii) ENFORCEMENT ACTIVITIES RELATING TO NONCOMMERCIAL MOTOR VEHICLES.—A State may not use more than 5 percent of the total amount of grants received by the State under this subsection in a fiscal year for enforcement activities relating to noncommercial motor vehicles described in subparagraph (B)(iii) unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.

"(h) ANNUAL REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report that—

"(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section;

"(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety; and

"(3) documents the number and rate of crashes and fatalities involving commercial motor vehicles by State.".

(b) REPEAL.—Section 31107 is repealed.

(c) CLERICAL AMENDMENTS.—The analysis for chapter 311 is amended—

(1) by striking the item relating to section 31102 and inserting the following:

"31102. Motor carrier safety assistance program."; and

(2) by striking the item relating to section 31107.

SEC. 4022. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4)(A) by striking the period at the end and inserting "and must use the systems to receive and submit conviction and disqualification data."; and

(2) in subsection (f) by inserting ", subject to section 31313(a)," after "may use".

(b) REQUIREMENTS FOR STATE PARTICIPATION.—

(1) IN GENERAL.—Section 31311(a) is amended—

(A) in paragraph (5) by striking "At least" and all that follows through "regulation)," and inserting the following: "Within the time period the Secretary prescribes by regulation,"; and

(B) by adding at the end the following:

''(22) Before issuing a commercial driver's license to an individual, the State shall request information pertaining to the individual from the drug and alcohol clearinghouse maintained under section 31306a.

''(23) The State shall ensure that the State's commercial driver's license information system complies with applicable Federal information technology standards.''.

(2) CRITICAL REQUIREMENTS.—Section 31311 is amended by adding at the end the following:

''(d) CRITICAL REQUIREMENTS.—

''(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—The Secretary shall review the requirements of subsection (a), including the regulations issued under subsection (a) and section 31309(e)(4), and identify the requirements that are critical to an effective State commercial driver's license program.

''(2) GUIDANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that 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.

"(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under this subsection, the Secretary shall give the State a written explanation of the disapproval and allow the State to modify and resubmit the plan for approval.

"(6) PLAN UPDATES.—The Secretary may require States to review and update plans, as appropriate.".

(4) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—Section 31311 is further amended by adding at the end the following:

"(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—On an annual basis, the Secretary shall—

"(1) conduct a comparison of the relative levels of compliance by States with the requirements of subsection (a); and

"(2) make available to the public the results of the comparison, using a mechanism that the Secretary determines appropriate.".

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

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

been approved by the Secretary under section 31311(e).

"(3) USES OF FUNDS.—

"(A) CRITICAL REQUIREMENTS.—Subject to subparagraphs (B) and (C), a State may use grant funds under this subsection only to ensure that the State's commercial driver's license program complies with the critical requirements identified under section 31311(d)(1).

"(B) OTHER STATE PRIORITIES.—If the Secretary determines that a State's commercial driver's license program is in compliance with the critical requirements identified under section 31311(d)(1), the State shall use, subject to subparagraph (C), grant funds under this subsection to implement the State's commercial driver's license program plan in accordance with the priorities set forth in the plan.

"(C) OTHER PURPOSES AUTHORIZED BY THIS CHAPTER.—If the Secretary determines that a State's commercial driver's license program is meeting the priorities of the State set forth in the State's commercial driver's license program plan and the State is in compliance with the requirements of section 31311, the

State may use grant funds under this subsection to improve implementation of the State's commercial driver's license program (including expenditures for technology upgrades or modernization and training), to implement an innovative approach to enhance commercial motor vehicle operator safety, or for any other purpose authorized by this chapter.

"(D) PERSONNEL.—Notwithstanding subparagraphs (A), (B), and (C), a State may use grant funds under this subsection for expenditures for personnel, including a full-time position to function as a coordinator of a State's activities to meet the requirements of this section and section 31311.

"(4) APPLICATION.—

"(A) FORM AND CONTENT.—To be eligible to receive a grant under this subsection, a State shall submit to the Secretary an application that is in such form, and contains such information, as the Secretary may require.

"(B) REVIEW OF STATE PLAN AND IMPLEMENTATION.—The Secretary shall review a State's commercial driver's license program 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.

"(B) IN-KIND CONTRIBUTIONS.—In determining such costs under subparagraph (A), the Secretary shall include in-kind contributions made by the State.".

(2) ADDITIONAL GRANTS.—Effective October 1, 2010, section 31313(c) is amended to read as follows:

"(c) EMPLOYER NOTIFICATION INCENTIVE PROGRAM.—

"(1) IN GENERAL.—The Secretary may provide additional funding to a State through a grant in a fiscal year to implement a system to notify an employer of an operator of a commercial motor vehicle of a suspension or revocation of such operator's commercial driver's license.

"(2) ELIGIBILITY.—Any State with a commercial driver's license program that the Secretary determines is in compliance with the critical requirements identified under section 31311(d)(1) and such other requirements as the Secretary may establish regarding eligibility is eligible for an additional grant under paragraph (1).

"(3) FUNDING.—The Secretary may deduct up to 10 percent of the amounts made available to

carry out this section for a fiscal year to make grants under this subsection.''.

(3) APPORTIONMENT.—Section 31313(d) is amended to read as follows:

''(d) APPORTIONMENT.—Except as otherwise provided in subsections (b) and (c), all amounts made available to carry out this section for a fiscal year shall be apportioned to States according to a criteria prescribed by the Secretary. These criteria shall ensure that the Secretary makes available to each eligible State not less than [____] of the total funds available to carry out this section for such fiscal year if the Secretary has approved a commercial driver's license program plan for the State under section 31311.''.

(4) (A) ADMINISTRATIVE TAKEDOWN.—Section 31313 is amended by adding at the end the following:

''(e) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available to carry out this section for that fiscal year, not more than [____] of those amounts for administrative expenses incurred in carrying out section 31311 in that fiscal year.''.

(B) REPORT TO CONGRESS.—Not later than September 30 of each year, the Secretary shall submit to Congress a report detailing the use of funds deducted for administrative expenses under section 31313(e) of title 49, United States Code.

(5) CONFORMING AMENDMENT.—The section heading for section 31313 is amended by striking "**improvements**" and inserting "**implementation**".

(6) CLERICAL AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

"31313. Grants for commercial driver's license program implementation.".

SEC. 4023. NATIONAL CLEARINGHOUSE FOR RECORDS RELATING TO ALCOHOL AND CONTROLLED SUBSTANCES TESTING OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended by inserting after section 31306 the following:

"§ 31306a. National clearinghouse for records relating to alcohol and controlled substances testing

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall establish and maintain an information

system that will serve as a national clearinghouse for records relating to the alcohol and controlled substances testing program applicable to operators of commercial motor vehicles under section 31306.

"(2) PURPOSES.—The purposes of the clearinghouse shall be—

"(A) to improve compliance with the requirements of the testing program; and

"(B) to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles.

"(3) CONTENTS.—The clearinghouse shall be a repository of records relating to violations of the testing program by individuals submitted to the Secretary in accordance with this section.

"(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure the ability for records to be submitted to the clearinghouse, and requested from the clearinghouse, on an electronic basis.

"(5) DEADLINE.—The Secretary shall establish the clearinghouse not later than one year after the date of enactment of this section.

"(b) EMPLOYMENT PROHIBITIONS.—

"(1) IN GENERAL.—An employer may permit an individual to operate a commercial motor vehicle or perform any other safety-sensitive function if the employer determines, as often as required by the Secretary, through a request for information from the clearinghouse that the individual—

"(A) has not violated the requirements of the testing program in the preceding 3-year period; or

"(B) if the individual has violated the requirements of the testing program during that period, is eligible to return to safety-sensitive duties pursuant to the return-to-duty process established under the testing program.

"(2) VIOLATIONS.—For purposes of paragraph (1), an individual shall be considered to have violated the requirements of the testing program if the individual—

"(A) has a verified or confirmed, as applicable, positive controlled substances or alcohol test result under the testing program;

"(B) has failed or refused to submit to a controlled substances or alcohol test under the testing program; or

"(C) has otherwise failed to comply with the requirements of the testing program.

"(3) APPLICABILITY.—Paragraph (1) shall apply to an individual who performs a safety-sensitive function for an employer as a full time regularly employed driver, casual, intermittent or occasional driver, leased driver, or independent owner-operator contractor or, as determined by the Secretary, pursuant to another arrangement.

"(4) EFFECTIVE DATE.—The Secretary shall issue a written notice when the Secretary determines that the clearinghouse is operational and employers can use the clearinghouse to meet the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section. Paragraph (1) shall take effect not later than 30 days after the date of issuance of the written notice, on a date specified by the Secretary in the written notice.

"(5) CONTINUED APPLICATION OF EXISTING REQUIREMENTS.—Following the date on which paragraph (1) takes effect, an employer shall continue to meet the requirements of section 382.413 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section, for a period of 3 years

or for such longer period as the Secretary determines appropriate.

"(6) NOTICE.—The Secretary shall provide notice of the requirements applicable to employers under this section through published notices in the Federal Register.

"(c) REPORTING OF RECORDS.—

"(1) IN GENERAL.—The Secretary shall require employers and appropriate service agents, including medical review officers, to submit to the Secretary for inclusion in the clearinghouse records of violations of the testing program by individuals, as described in subsection (b)(2).

"(2) SPECIFIC REPORTING REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall require, at a minimum—

"(A) a medical review officer to report promptly, as determined by the Secretary, to the clearinghouse—

"(i) a verified positive controlled substances test result of an individual under the testing program; and

"(ii) a failure or refusal of an individual to submit to a controlled substances

test in accordance with the requirements of the testing program; and

"(B) an employer (or, in the case of an operator of a commercial motor vehicle who is self employed, the service agent administering the operator's testing program) to report promptly, as determined by the Secretary, to the clearinghouse—

"(i) a confirmed positive alcohol test result of an individual under the testing program; and

"(ii) a failure or refusal of an individual to present him or herself to a medical review officer for a controlled substances test in accordance with the requirements of the testing program.

"(3) UPDATING OF RECORDS.—The Secretary shall ensure that a record in the clearinghouse is updated to include a return to duty test result of an individual under the testing program.

"(4) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include all records of violations received pursuant to this subsection in the clearinghouse.

"(5) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record.

"(6) NOTIFICATION OF INDIVIDUALS.—The Secretary shall establish a process to provide notification to an individual of—

"(A) a submission of a record to the clearinghouse relating to the individual; and

"(B) any modification or deletion of a record in the clearinghouse pertaining to the individual, including the reason for the modification or deletion.

"(7) TIMELY AND ACCURATE REPORTING.—The Secretary may establish additional requirements, as appropriate, to ensure timely and accurate reporting of records to the clearinghouse.

"(8) RETENTION OF RECORDS.—The Secretary shall retain a record of a violation submitted to the clearinghouse for a period of 3 years beginning on the date of submission of the record.

"(d) ACCESS TO CLEARINGHOUSE BY EMPLOYERS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an employer to request and receive

records in the clearinghouse pertaining to an individual in accordance with subsection (b)(1).

"(2) WRITTEN CONSENT OF INDIVIDUALS.—An employer shall obtain the written consent of an individual before requesting any records in the clearinghouse pertaining to the individual.

"(3) ACCESS TO RECORDS.—Upon receipt of a request for records from an employer under paragraph (1), the Secretary shall provide the employer with access to the records as expeditiously as practicable.

"(4) RECORDS OF REQUESTS.—The Secretary shall require an employer to maintain for a 3-year period—

"(A) a record of each request made by the employer for records from the clearinghouse; and

"(B) any information received pursuant to the request.

"(5) USE OF RECORDS.—

"(A) IN GENERAL.—An employer may use a record received from the clearinghouse pertaining to an individual only for the purpose of determining whether an employment prohibition

applies with respect to the individual under subsection (b)(1).

"(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives a record from the clearinghouse pertaining to an individual shall protect the privacy of the individual and the confidentiality of the record, including taking reasonable precautions to ensure that information contained in the record is not divulged to any person who is not directly involved in determining whether an employment prohibition applies with respect to the individual under subsection (b)(1).

"(e) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

"(A) to learn whether a record pertaining to the individual is contained in the clearinghouse;

"(B) to verify the accuracy of the record;

"(C) to verify updates to the individual's record, including completion of a return-to-duty process under the testing program; and

"(D) to learn of requests for information from the clearinghouse regarding the individual.

"(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in a record pertaining to the individual in the clearinghouse, except that the appeal process shall not be used to dispute or remedy the validity of a controlled substance or alcohol test result.

"(f) ACCESS TO CLEARINGHOUSE BY CHIEF COMMERCIAL DRIVER LICENSING OFFICIALS.—

"(1) IN GENERAL.—The Secretary shall establish a process for the chief commercial driver licensing official of a State to request and receive records pertaining to an individual from the clearinghouse.

"(2) USE OF INFORMATION.—The chief commercial driver licensing official of a State may not obtain a record pertaining to an individual from the clearinghouse for any other purpose other than to take an action related to a commercial driver's license for the individual under applicable State law or to comply with section 31311(a)(22).

"(g) USE OF CLEARINGHOUSE INFORMATION FOR ENFORCEMENT PURPOSES.—The Secretary may use the

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 inghouse, 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-

ceipt, modification, and deletion of records for the purposes of auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse.

"(3) SECURITY STANDARDS.—The clearinghouse shall be designed and administered in compliance with applicable Department of Transportation information technology security standards.

"(4) INTEROPERABILITY WITH OTHER SYSTEMS.—In establishing the clearinghouse and developing requirements for data to be included in the clearinghouse, the Secretary, to the maximum extent practicable, shall take into consideration—

"(A) existing information systems containing regulatory and safety data for motor vehicle operators;

"(B) the efficacy of using or combining clearinghouse data with one or more of such systems; and

"(C) the potential interoperability of the clearinghouse with existing and future systems.

"(i) PRIVACY.—The Secretary shall—

"(1) establish a process to make information 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 controlled 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

under the Secretary's regulations in part 40 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, who violates the requirements prescribed by the Secretary for conducting controlled substances or alcohol testing under such part or any related regulation of the Department shall be liable to the United States Government for a civil penalty of not more than $10,000 for each violation. Each day that a violation continues shall constitute a separate violation.

(d) ENHANCED OVERSIGHT OF COLLECTION SITES.—

(1) IN GENERAL.—The Secretary shall establish appropriate standards and procedures for periodic review of collection sites to determine compliance with the Secretary's regulations under part 40 of title 49, Code of Federal Regulations.

(2) INSPECTIONS.—[to be supplied]

(3) INFORMATION SYSTEM.—The Secretary shall develop an information system—

(A) to collect data, including violations, obtained during inspections and other procedures developed by the Secretary to review collection sites; and

(B) to provide a means to evaluate the level of compliance with the regulations referred to in paragraph (1) of a collection site.

(4) REPORT TO CONGRESS.—No later than November 30 of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing the findings of oversight of collection sites conducted in the preceding fiscal year.

(5) DEFINITION.—The term ''collection site'' means a place selected by an employer where employees present themselves for the purpose of providing a urine specimen for a drug test subject to the requirements of subpart D of part 40 of title 49, Code of Federal Regulations.

SEC. 4024. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

''§ 31109. Performance and registration information systems management program

''(a) IN GENERAL.—The Secretary shall carry out a performance and registration information systems man-

agement program to link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems as part of the motor carrier information system established under section 31106.

"(b) DESIGN.—The program shall enable a State to—

"(1) determine the safety fitness of a motor carrier or registrant when licensing or registering the motor carrier or registrant or while the license or registration is in effect; and

"(2) deny, suspend, or revoke the commercial motor vehicle registration of a motor carrier or registrant to whom the Secretary has issued an operations out-of-service order.

"(c) PROGRAM PARTICIPATION.—Not later than September 30, 2013, the Secretary shall require States to participate in the program by—

"(1) complying with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(a)(4);

"(2) having in effect a law providing the State with the authority to impose the sanctions described in paragraph (3)(A) on the basis of an out-of-service order issued by the Secretary; and

"(3) establishing and implementing a process, approved by the Secretary, to—

"(A) deny, suspend, or revoke the vehicle registration or seize the registration plates of a commercial motor vehicle registered to a motor carrier to whom the Secretary has issued an out-of-service order; and

"(B) reinstate the vehicle registration or return the registration plates of the commercial motor vehicle subject to sanctions under subparagraph (A), if the Secretary permits such carrier to resume operations after the date of issuance of such order.

"(d) FUNDING.—

"(1) INITIAL.—A State may use grant funds made available to the State under section 4126 of SAFETEA-LU (119 Stat. 1738) for each of fiscal years 2010 through 2013 to meet the requirements of this section for participation in the program under subsection (c).

"(2) AFTER MEETING REQUIREMENTS.—After the earlier of the date on which the Secretary determines that a State has met the requirements of this section for participation in the program under subsection (c) or September 30, 2013, the Secretary

shall allow a State to use funds allocated to the State under section 31104(f) or made available to the State under section 4126 of SAFETEA-LU to implement the program under subsection (c).''.

(b) CONFORMING AMENDMENTS.—Section 31106(b) is amended—

(1) by striking paragraphs (2) through (4);

(2) by striking ''(b) PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—'' and all that follows through ''(1) INFORMATION CLEARINGHOUSE.—The Secretary'' and inserting the following:

''(b) INFORMATION CLEARINGHOUSE.—The Secretary''; and

(3) by aligning the remaining text accordingly.

(c) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

''31109. Performance and registration information systems management program.''.

SEC. 4025. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT GRANTS.

(a) IN GENERAL.—Section 4126(a) of SAFETEA–LU (119 Stat. 1738) is amended by—

(1) in paragraph (1) by striking ''and'' at the end;

(2) in paragraph (2) by striking ''and Federal'' and all that follows though the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(3) facilitate compliance with Federal and State commercial vehicle regulatory requirements; and

''(4) provide assistance for State participation in the performance and registration information systems management program under section 31109.''.

(b) AMOUNT OF GRANTS.—

(1) CORE DEPLOYMENT GRANTS.—Section 4126(c) of such Act (119 Stat. 1738) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) EXPANDED DEPLOYMENT GRANTS.—Section 4126(d) of such Act (119 Stat. 1739) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(c) ELIGIBILITY.—Section 4126(e) of such Act (119 Stat. 1739) is amended—

(1) in paragraph (2)(B)—

(A) by inserting ''in interstate commerce'' after ''efficiency''; and

(B) by striking ''and'' at the end;

(2) in paragraph (3) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) shall be participating not later than September 30, 2013, in the performance and registration information systems management program under section 31109 of title 49, United States Code; and

''(5) for the deployment of electronic screening shall—

''(A) employ a uniform methodology, approved by the Secretary, for selecting a motor carrier for an inspection;

''(B) utilize weigh-in-motion or equivalent systems as part of the screening process;

''(C) meet interoperability standards for transponders on commercial motor vehicles and data at electronic screening sites; and

''(D) allow inspection and screening data to be utilized for regulatory enforcement purposes.''.

(d) FEDERAL SHARE.—Section 4126(f) of such Act (119 Stat. 1739) is amended by adding at the end the following: ''Notwithstanding any other provision of this subsection, the Federal share of the cost of a project relating to participation in the performance and registration information systems management program under section 31109 of title 49, United States Code, shall be 100 percent for fiscal years 2010 through 2013.''.

SEC. 4026. AMENDMENTS TO COMPLIANCE REVIEW PROCESS.

Not later than one year after the date of enactment of this Act, the Secretary shall revise the safety fitness determination methodology of the Department of Transportation established pursuant to section 31144 of title 49, United States Code, to reflect Safety Recommendation H–99–6 of the National Transportation Safety Board, issued February 26, 1999.

SEC. 4027. NEW ENTRANT CARRIERS.

(a) SAFETY REVIEW.—Section 31144(g)(1) is amended to read as follows:

''(1) SAFETY REVIEW.—

''(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and operator granted new operating authority, after the date on which section 31148(b) is first implemented,

to undergo a safety review within the first 18 months after the owner or operator, as the case may be, begins operations under such authority.

"(B) OPERATORS WITH AUTHORITY TO TRANSPORT PASSENGERS OR HAZARDOUS MATERIALS.—Safety reviews of owners and operators with authority to transport passengers and hazardous materials shall be conducted on an accelerated schedule.".

(b) FUNDING.—Section 31144(g)(5) is amended to read as follows:

"(5) FUNDING.—

"(A) IN GENERAL.—A State shall carry out the requirements of this section with funds allocated to the State under section 31104(f).

"(B) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier audits, the Secretary may conduct audits for the State or local government.".

(c) FEDERAL SHARE.—Section 31103(b) is amended by inserting before the period at the end "and new entrant safety reviews authorized by section 31144(g)".

SEC. 4028. MOTOR CARRIER REGISTRATION.

Section 13902(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier if the Secretary finds that the person—

"(A) is willing and able to comply with—

"(i) this part and the applicable regulations of the Secretary and the Board;

"(ii) any safety regulations imposed by the Secretary;

"(iii) the duties of employers and employees established by the Secretary under section 31135;

"(iv) the safety fitness requirements established by the Secretary under section 31144;

"(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or a successor regulation) for transportation provided by an over-the-road bus; and

"(vi) the minimum financial responsibility requirements established by the Sec-

retary pursuant to sections 13906 and 31138;

"(B) has demonstrated, through successful completion of a proficiency examination to be developed by the Secretary, knowledge of the requirements and regulations described in subparagraph (A);

"(C) has disclosed any relationship involving common ownership, common management, or common familial relationship between that person and any other motor carrier, if the relationship occurred in the 3-year period preceding the date of the filing of the application for registration; and

"(D) has been issued a Department of Transportation number under section 31134.".

SEC. 4029. REINCARNATED CARRIERS.

(a) EFFECTIVE PERIODS OF REGISTRATION.—

(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

"(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

"(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

"(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

"(i) this part;

"(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or a successor regulation) for transportation provided by an over-the-road bus; or

"(iii) a condition of its registration;

"(B) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or 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-

ing "paragraph (1)(B)" and inserting "paragraph (2)(B)".

(2) PROCEDURE.—Section 13905(e) is amended by inserting "or if the Secretary determines that the registrant has failed to disclose a material fact in its application for registration in accordance with subsection (d)(2)(C)," after "registrant,".

(b) DUTIES OF EMPLOYERS AND EMPLOYEES.—Section 31135 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) AVOIDING COMPLIANCE.—Two or more employers shall not use common ownership, common management, common control, or common familial relationship to enable any or all such employers to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with commercial motor vehicle safety regulations issued under this subchapter or an order of the Secretary issued under this subchapter or such regulations. If the Secretary determines that actions described in the preceding sentence have occurred, the Secretary shall deny, suspend, amend, or revoke all or part of any such employer's registration under section 13905 or

31134, and shall take into account such noncompliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).''.

(c) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F) by striking ''and'' at the end;

(2) in subparagraph (G) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) determine whether a motor carrier is or has been related, through common ownership, common management, or common familial relationship to any other motor carrier.''.

SEC. 4030. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Not later than two years after the date of enactment of this Act, the Secretary shall issue final regulations establishing minimum training requirements for commercial motor vehicle operators.

(b) REQUIREMENTS.—The regulations shall—

(1) address the knowledge and skills necessary for commercial motor vehicle operators, before obtaining a commercial driver's license for the first 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—

"(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

"(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 4030 of the Motor Carrier Safety Enhancement Act of 2009;".

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall establish a grant program for driving schools or other training program providers to provide training to operators of commercial motor vehicles in accordance with the minimum requirements established by the Secretary under subsection (b).

(2) ELIGIBILITY.—To be eligible to receive a grant under this section, a driving school or other training program provider must demonstrate to the satisfaction of the Secretary that the training provided meets the requirements established by the Secretary under subsection (b).

(3) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be **[**_____**]**.

SEC. 4031. IMPROVED OVERSIGHT OF MOTOR CARRIERS OF PASSENGERS.

(a) Section 31144 is amended by adding at the end the following:

"(h) SAFETY REVIEWS OF OWNERS AND OPERATORS OF COMMERCIAL MOTOR VEHICLES DESIGNED OR USED TO TRANSPORT PASSENGERS.—

"(1) IN GENERAL.—Not later than September 30, 2015, the Secretary shall determine the safety fitness of each owner, and each operator, of a commercial motor vehicle designed or used to transport passengers who the Secretary registers, on or before September 30, 2014, under section 13902 or 31134.

"(2) SAFETY FITNESS RATING.—As part of the safety fitness determination required by paragraph (1), the Secretary shall assign a safety fitness rating to each owner and each operator described in paragraph (1).

"(3) PERIODIC MONITORING.—

"(A) PROCESS.—The Secretary shall establish a process, by regulation, for monitoring on a regular basis the safety performance of an owner or operator of a commercial motor vehicle designed or used to transport passengers, following the assignment of a safety rating to such owner or operator.

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

not fit and prohibited from operating as provided in subsection (c)(2).''.

(b) ENFORCEMENT STRIKE FORCES.—The Secretary may carry out targeted enforcement of commercial motor vehicle safety regulations issued by the Secretary for owners or operators of commercial motor vehicles designed or used to transport passengers, as the Secretary determines appropriate.

SEC. 4032. COMMERCIAL DRIVER'S LICENSE PASSENGER ENDORSEMENT REQUIREMENTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall review and assess the current knowledge and skill testing requirements for a commercial driver's license passenger endorsement to determine any necessary improvements to the knowledge test or examination of driving skills in order ensure the safe operation of commercial motor vehicles designed or used to transport passengers.

(b) REPORT.—Not later than 120 days after completion of the review and assessment under subsection (a), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a report on the review and assessment conducted under subsection (a);

(2) a plan to implement any changes to the knowledge and skills tests; and

(3) a timeframe by which the Secretary will implement the changes.

SEC. 4033. COMMERCIAL MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.

(a) IN GENERAL.—Section 31142(b) is amended to read as follows:

"(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—

"(1) REGULATIONS ON GOVERNMENT STANDARDS.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of an inspection.

"(2) CONTENTS OF STANDARDS.—The standards shall provide for—

"(A) annual or more frequent inspections of a commercial motor vehicle designed or used to transport property unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system; and

"(B) annual or more frequent inspections of a commercial motor vehicle designed or used to transport passengers.

"(3) TREATMENT OF REGULATIONS.—Regulations prescribed under this subsection are deemed to be regulations prescribed under section 31136.

"(4) SPECIAL RULES FOR INSPECTION PROGRAM.—Any inspection required under paragraph (2)(B) shall be conducted by, or under a program established by, the State in which the vehicle is registered. A roadside inspection conducted by a State or other jurisdiction shall not be considered an inspection for the purposes of meeting the requirements of paragraph (2)(B).".

(b) PERIODIC REVIEW OF STATE SAFETY INSPECTION PROGRAMS.—The Secretary shall periodically review State safety inspection programs of commercial motor vehicles designed or used to transport passengers.

SEC. 4034. DRIVER MEDICAL QUALIFICATIONS.

(a) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

"(D) develop requirements applicable to a medical examiner 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-

tation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the feasibility of requiring medical examiners to submit the results of a medical examination directly to the appropriate State licensing agency.

(2) REQUIRED ASSESSMENTS.—As part of the report, the Secretary shall include the Secretary's assessment of—

(A) the risks associated with the submission and use of invalid or falsified medical certificates;

(B) the effectiveness of the implementation of the Secretary's rule published on December 1, 2008, linking medical certification requirements to the commercial drivers license (73 FR 73096) in identifying drivers with invalid or expired medical certificates;

(C) the ability to verify the validity of a driver's medical certificate through the commercial driver licensing information system; and

(D) any privacy implications of requiring medical examiners to submit the results of a medical examination to a State licensing agency.

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;

(B) limit distribution of blank forms to medical examiners; and

(C) ensure that medical examiners take appropriate measures to safeguard blank forms.

(3) PROCESS.—The Secretary shall establish a process to ensure that State licensing officials require the new certification form as evidence that an operator has met the physical fitness requirements established by the Secretary.

SEC. 4035. REQUIREMENT FOR REGISTRATION AND USDOT NUMBER.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

"§ 31134. Requirement for registration and Department of Transportation number

''(a) IN GENERAL.—An employer subject to safety regulation under this subchapter may operate a commercial motor vehicle in interstate commerce only if the Secretary registers the employer under this section and issues the employer a Department of Transportation number.

''(b) REGISTRATION.—Upon application for registration and a Department of Transportation number under this section, the Secretary shall register the employer if the Secretary determines that—

"(1) the employer is willing and able to comply with the requirements of this subchapter and chapter 51 if applicable; and

"(2) (A) during the 3-year period before the date of the filing of the application, the employer was not related through common ownership, common management, or common familial relationship to any other person subject to safety regulations under this subchapter who, during such 3-year period, was unwilling or unable to comply with the requirements of this subchapter or chapter 51 if applicable; or

"(B) has disclosed any relationship involving common ownership, common management, or common familial relationship between that person and any other motor carrier if the relationship occurred during such 3-year period.

"(c) REVOCATION OR SUSPENSION.—The Secretary shall revoke or suspend the registration of an employer issued under subsection (b) if the Secretary determines that—

"(1) the authority of the employer to operate pursuant to chapter 139 is revoked or suspended under section 13905(d)(1) or section 13905(f); or

"(2) the employer has willfully failed to comply with the requirements for registration set forth in subsection (b).

"(d) COMMERCIAL REGISTRATION.—An employer registered under this section may not provide transportation subject to jurisdiction under subchapter I of chapter 135 unless the employer is also registered under section 13902 to provide such transportation.

"(e) STATE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of a State to issue a Department of Transportation number under State law to a person operating in intrastate commerce.

"(f) FEE.—The Secretary may establish a fee for issuance of a registration under this section. The fee shall cover the costs of processing the registration and conducting the safety review required under section 31144(g) with respect to the registration but may not exceed **[**$**]**. The amount of any fee collected under this subsection shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed and shall be available for such activities and services until expended.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31133 the following:

"31134. Requirement for registration and Department of Transportation number.".

SEC. 4036. ELECTRONIC ON-BOARD RECORDERS.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary shall issue regulations to require commercial motor vehicles owned or operated by motor carriers subject to the Secretary's hours-of-service regulations under part 395, Code of Federal Regulations, to be equipped with electronic on-board recorders.

(b) PERFORMANCE STANDARDS.—The regulations issued pursuant to subsection (a) shall include performance standards for electronic on-board recorders to be used to monitor compliance with the Secretary's requirements for hours of service of drivers under part 395, Code of Federal Regulations. Such performance standards shall ensure, at a minimum, that an electronic on-board recorder installed in a commercial motor vehicle—

(1) is synchronized to the vehicle engine or other vehicle equipment;

(2) is able to identify each individual who operates the vehicle and track the periods during which such individual operates the vehicle;

(3) enables law enforcement personnel to access information contained in the recorder quickly and easily during a roadside inspection; and

(4) is tamper-proof.

(c) APPLICABILITY.—The regulations prescribed under subsection (a) shall be phased in and shall apply to all commercial motor vehicles used by motor carriers in interstate commerce not later than 4 years after the date of the enactment of this Act.

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

(1) COMMERCIAL MOTOR VEHICLE.—The term ''commercial motor vehicle'' has the meaning that term has under section 31132 of title 49, United States Code.

(2) ELECTRONIC ON-BOARD RECORDER.—The term ''electronic on-board recorder'' means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

SEC. 4037. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note; 119 Stat. 1748)is amended by inserting ''nonprofit employee labor organizations rep-

resenting commercial motor vehicle drivers,'' after ''industry,''.

TITLE V—RESEARCH

SEC. 5001. AMENDMENTS TO TITLE 23, UNITED STATES CODE.

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

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

[to be supplied]

TITLE VI—RAIL TRANSPORTATION

SEC. 6001. HIGH-SPEED RAIL ASSISTANCE.

Chapter 261 of title 49, United States Code, is amended to read as follows:

''CHAPTER 261—HIGH-SPEED RAIL 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.

"§ 26101. High-speed rail corridor planning

''(a) CORRIDOR PLANNING.—(1) The Secretary may provide under this section financial assistance to an applicant for high-speed rail corridor planning for up to 80 percent of the publicly financed costs associated with eligible activities.

''(2) No less than 20 percent of the publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources may not include funds from any Federal program.

''(b) ELIGIBLE ACTIVITIES.—A corridor planning activity is eligible for financial assistance under subsection (a) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

''(1) environmental assessments;

''(2) feasibility studies, including studies on commercial technology improvements or applications;

''(3) economic analyses, including ridership, 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) the relationship of the corridor to the national rail plan, as developed under section 103(j)(2) of this title;

"(2) the integration of the corridor into metropolitan area and statewide transportation planning, including the State rail plan developed under chapter 227 of this title; and

"(3) the potential interconnection of the corridor with other parts of the Nation's transportation system.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

"(1) [$00,000,000,000] for fiscal year 2010;

"(2) [$00,000,000,000] for fiscal year 2011;

"(3) [$00,000,000,000] for fiscal year 2012;

"(4) [$00,000,000,000] for fiscal year 2013;

"(5) [$00,000,000,000] for fiscal year 2014; and

"(6) [$00,000,000,000] for fiscal year 2015.

"§ 26102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary may conduct research, development, and demonstration of high-speed rail technologies and undertake analyses supporting development 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;

"(5) the term 'high-speed rail' means intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour;

"(6) the term 'intercity passenger rail service' has the meaning given the term 'intercity rail passenger transportation' in section 24102 of this title;

"(7) the term 'Secretary' means the Secretary of Transportation;

"(8) the term 'State' means any of the 50 States or the District of Columbia; and

"(9) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.

"§ 26105. High-speed rail corridor development

"(a) IN GENERAL.—The Secretary of Transportation shall establish and implement a high-speed rail corridor development program.

"(b) GENERAL AUTHORITY.—(1) The Secretary may make grants under this section to an applicant to finance capital projects that improve, or lead to development of, high-speed rail service in corridors.

"(2) Consistent with the requirements of this section, the Secretary shall require that a grant under this section 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

of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);

"(B) that the applicant or recipient has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities;

"(C) that the project be based on the results of preliminary engineering studies or other planning, including corridor planning activities funded under section 26101 of this title;

"(D) that the applicant provides sufficient information upon which the Secretary can make the findings required by this subsection;

"(E) that if an applicant has selected the proposed operator of its service, the applicant provide written justification to the Secretary showing why the proposed operator is the best, taking into account costs and other factors;

"(F) that each recipient of a grant under this chapter comply with the grant requirements 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

"(v) the purchase and use of environmentally sensitive and fuel-efficient passenger rail equipment; and

"(E) support interconnected livable communities.

"(3) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Surface Transportation Authorization Act of 2009 that substantially meet the requirements of chapter 227 of this title, as determined by the Secretary pursuant to section 22706 of this title, shall be deemed by the Secretary to have met the requirements of paragraph (1)(A) of this subsection.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project financed under this section shall not exceed 80 percent of the project net capital cost.

"(g) LETTERS OF INTENT.—

"(1) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

"(2) At least 30 days before issuing a letter under paragraph (1) of this subsection, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement, the criteria used in subsection (e) for selecting the project for a grant award, and a description of how the project meets such criteria.

"(3) An obligation or administrative commitment may be made only when amounts are appropriated. The letter of intent shall state that the contingent commitment is not an obligation of the Federal Government, and is subject to the availability of appropriations under Federal law and to Federal laws in force or enacted after the date of the contingent commitment.

"(h) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—An applicant may enter into an agreement with any public, private, or non-

profit entity to cooperatively implement any project funded with a grant under this chapter.

"(2) FORMS OF PARTICIPATION.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, locomotive, rail car, vehicle, or other physical asset associated with the project;

"(B) cost-sharing of any project expense;

"(C) carrying out administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) SUBALLOCATION.—A State may allocate funds under this section to any entity described in paragraph (1).

"(i) SECRETARIAL OVERSIGHT.—

"(1) The Secretary may use no more than 1 percent of amounts made available in a fiscal year, not to exceed a maximum of **[**_____**]**, for capital projects under this chapter to enter into contracts to award and oversee the construction of such projects.

"(2) The Secretary may use amounts available under paragraph (1) of this subsection to make con-

tracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1).

''(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.

''(j) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (i) of this section with access to the construction sites and records of the recipient when reasonably necessary.

''(g) FUNDING.—[to be supplied].

''§ 26106. Statutory construction

''The Secretary of Transportation shall retain the authority to select rail corridors under section 104(d)(2)(B) of title 23 (as in effect on the day before the date of enactment of the Surface Transportation Authorization Act of 2009), notwithstanding any amendment made to that section after that day.''.

SEC. 6002. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

Section 20154 of title 49, United States Code, is amended—

(1) in subsection (f) by striking ''(not including political subdivisions of States)'';

(2) in subsection (h)(3) by inserting ''government sponsored authorities and corporations,'' after ''subdivision of a State,''; and

(3) in subsection (i) by striking ''2006 through 2009'' and inserting ''2010 through 2015''.

SEC. 6003. TECHNICAL CORRECTIONS TO PUBLIC LAW 110–432.

(a) LONG TITLE.—The title of Public Law 110–432 is amended by striking ''Federal Railroad Safety Administration'' and inserting ''Federal Railroad Administration''.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 is amended—

(1) in the item relating to section 201 by striking ''Pedestrian crossing safety'' and inserting ''Pedestrian safety at or near railroad passenger stations''; and

(2) in the item relating to section 403 by striking ''Track inspection time study'' and inserting ''Study and rulemaking on track inspection time; rulemaking on concrete crossties''.

(c) PERFORMANCE GOALS.—Section 103(k)(2) of title 49, United States Code, is amended by striking ''The

strategy and annual plans'' and inserting ''The Administration's performance goals and schedule developed under paragraph (1)''.

(d) NOTIFICATION OF GRADE CROSSING PROBLEMS.—Section 20152(b) of title 49, United States Code, is amended by striking ''Class II and Class III rail carriers'' and inserting ''Class II and III railroad carriers''.

(e) RAILROAD SAFETY TECHNOLOGY GRANTS.—Section 20158(b)(3) of title 49, United States Code, is amended by striking ''20156(e)(2)'' and inserting ''20156(e)''.

(f) ROADWAY USER SIGHT DISTANCE AT HIGHWAY-RAIL GRADE CROSSINGS.—Section 20159 of title 49, United States Code, is amended by striking ''the Secretary'' and inserting ''the Secretary of Transportation''

(g) MINIMUM TRAINING STANDARDS AND PLANS.—Section 20162(a)(3) of title 49, United States Code, is amended by striking ''railroad compliance with Federal standards'' and inserting ''railroad carrier compliance with Federal standards''.

(h) DEVELOPMENT AND USE OF RAIL SAFETY TECHNOLOGY.—Section 20164(a) of title 49, United States Code, is amended by striking ''the Railroad Safety Enhancement Act of 2008'' and inserting ''the Rail Safety Improvement Act of 2008''.

(i) NONAPPLICATION, EXEMPTION, AND ALTERNATE HOURS OF SERVICE REGIME.—Section 21102(c)(4) of title 49, United States Code, is amended by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(j) RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY.—Section 411(a) of the Rail Safety Improvement Act of 2008 is amended—

(1) by striking ''5101(a)'' and inserting ''5105(a)''; and

(2) by striking ''5101(b)'' and inserting ''5105(b)''.

(k) SAFETY INSPECTIONS IN MEXICO.—Section 416 of the Rail Safety Improvement Act of 2008 is amended—

(1) by striking ''Secretary of Transportation'' and inserting ''Secretary'';

(2) in paragraphs (3) and (4), by striking ''Federal Railroad Administration'' and inserting ''Secretary''; and

(3) in paragraph (4) by striking ''subsection'' and inserting ''section''.

(l) ASSISTANCE TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.—Section 1139 of title 49, United States Code, is amended—

(1) in subsection (a)(1) by striking ''phone number'' and inserting ''telephone number'';

(2) in subsection (a)(2) by striking ''post trauma communication with families'' and inserting ''post-trauma communication with families'';

(3) in subsection (j)(1) by striking ''(other than subsection (g))'' and inserting ''(other than subsections (g) and (k))''; and

(4) in paragraphs (1) and (2) of subsection (j) by striking ''railroad passenger accident'' and inserting ''rail passenger accident''.

(m) AMTRAK BOARD OF DIRECTORS.—Section 24302(a)(3) of title 49, United States Code, is amended by striking ''5 individuals'' and inserting ''4 individuals''.

(n) ESTABLISHMENT OF GRANT PROCESS.—Section 206(a) of the Passenger Rail Investment and Improvement Act of 2008 is amended by inserting ''of this division'' after ''302''.

(o) NORTHEAST CORRIDOR STATE-OF-GOOD-REPAIR PLAN.—Section 211 of the Passenger Rail Investment and Improvement Act of 2008 is amended—

(1) by inserting ''of this division'' after ''101(c)'' in subsection (d); and

(2) by inserting ''of this division'' after ''101(d)'' in subsection (e).

(p) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION; SAFETY COMMITTEE.—Section 24905 of title 49, United States Code, is amended—

(1) by redesignating subparagraph (D) of subsection (a)(1) as subparagraph (E);

(2) by striking ''and'' at the end of subparagraph (C) of subsection (a)(1);

(3) by inserting after such subparagraph (C) the following new subparagraph:

''(D) 1 non-voting member from each of the States of Maine, New Hampshire, and Vermont, designated by, and serving at the pleasure of, the chief executive officer thereof; and'';

(4) by striking subsection (e) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission $3,000,000 for the period encompassing fiscal years 2009 through 2013 to carry out subsection (a) through (d) of this section and subsection (e) of section 212 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4925).''; and

(5) in subsection (f)(1)—

(A) in subparagraph (C) by striking ''freight carriers'' and inserting ''freight railroad carriers''; and

(B) in subparagraph (F) by striking ''rail labor'' and inserting ''representatives of nonprofit employee labor organizations representing railroad employees''.

(q) CAPITAL INVESTMENT GRANTS TO SUPPORT INTERCITY PASSENGER RAIL SERVICE.—Section 24402 of title 49, United States Code, is amended—

(1) by striking ''22506'' in subsection (d) and inserting ''22706'';

(2) by striking ''22504(a)(5)'' in subsection (e) and inserting ''22705(a)(5)'';

(3) by striking ''ranked'' in subsection (e);

(4) by striking ''AND EARLY SYSTEMS WORK AGREEMENTS'' in the heading of subsection (f);

(5) by striking ''A metropolitan planning organization, State transportation department, or other project sponsor'' in subsection (i)(1) and inserting ''An applicant''; and

(6) by striking subsection (k) and inserting the following:

''(k) SMALL CAPITAL PROJECTS.—The Secretary 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-**

DITIONAL HIGH-SPEED RAIL PROJECTS'' and inserting ''**PROPOSALS FOR HIGH-SPEED RAIL CORRIDOR DEVELOPMENT**''.

(2) TABLE OF CONTENTS AMENDMENT.—The item relating to section 502 in table of contents in section 1(b) of the Passenger Rail Investment and Improvement Act of 2008 is amended to read as follows:

''502. Proposals for high-speed rail corridor development.''.

(3) REQUESTS FOR PROPOSALS.—In section 502 of the Passenger Rail Investment and Improvement Act of 2008—

(A) in subsection (a)—

(i) redesignate paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) strike paragraph (2) and insert the following:

''(2) ADDITIONAL REQUEST FOR PROPOSALS.—The Secretary shall issue an additional request for proposals 60 days after the date of enactment of the Surface Transportation Authorization Act of 2009.

''(3) SUBMISSION.—Proposals under paragraphs (1) and (2) shall be submitted to the Secretary not later than 270 days after the publication

of request for proposals under each paragraph.''; and

(B) in subsection (b), by striking ''the proposals under subsection (a)'' and insert ''all the proposals under subsection (a)(1) and (2)''.

(v) PROMPT MEDICAL ATTENTION.—Section 20109(c)(1) of title 49, United States Code, is amended by striking ''the railroad shall promptly arrange'' and inserting ''the railroad carrier shall promptly arrange''.

(w) ENFORCEMENT REPORT.—Section 20120(a) of title 49, United States Code, is amended—

(1) in paragraph (2)(G), by inserting ''and'' at the end; and

(2) in paragraph (5)(B) by striking ''Administrative Hearing Officer or Administrative Law Judge'' and inserting ''administrative hearing officer or administrative law judge''.

(x) RAILROAD SAFETY RISK REDUCTION PROGRAM.—Section 20156 of title 49, United States Code, is amended—

(1) in subsection (c) by inserting a comma after ''In developing its railroad safety risk reduction program''; and

(2) in subsection (g)(1) by striking ''non-profit'' and inserting ''nonprofit''.

(y) IMPLEMENTATION OF POSITIVE TRAIN CONTROL SYSTEMS.—Section 20157(a)(1) of title 49, United States Code, is amended—

(1) by striking ''Class I railroad carrier'' and inserting ''Class I railroad''; and

(2) by striking ''parts 171.8, 173.115, and 173.132'' and inserting ''sections 171.8, 173.115, and 173.132''.

(z) NATIONAL CROSSING INVENTORY.—Section 20160 of title 49, United States Code, is amended—

(1) in subsection (a)(1) by striking ''or with respect to'' and inserting ''with respect to''; and

(2) in subsection (b)(1)(A) by striking ''or with respect to'' and inserting ''with respect to''.

(aa) EMPLOYEE SLEEPING QUARTERS.—Section 22106(b) of title 49, United States Code, is amended by striking ''interest thereof'' and inserting ''interest thereon''.

(bb) PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.—Section 24316 of title 49, United States Code, is amended by striking subsection (g).

(cc) PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.— 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) in the section heading by striking "**Pedestrian crossing safety**" and inserting "**Pedestrian safety at or near railroad passenger stations**";

(2) by striking "strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including" and inserting "strategies and methods to prevent train-related accidents, incidents, injuries, and fatalities that involve a pedestrian at or near a railroad passenger station, including"; and

(3) in paragraph (1) by striking "at railroad passenger stations".

(hh) OPERATION LIFESAVER.—Section 206(a) of the Rail Safety Improvement Act of 2008 is amended by striking "Public Service Announcements" and inserting "public service announcements".

(ii) STUDY AND RULEMAKING ON TRACK INSPECTION TIME; RULEMAKING ON CONCRETE CROSSTIES.—Section 403 of the Rail Safety Improvement Act of 2008 is amended—

(1) in the section heading by striking "**Track inspection time study**" and inserting "**Study and rulemaking on track inspection time; rulemaking on concrete crossties**"; and

(2) in subsection (d)—

(A) by striking ''CROSS TIES'' in the subsection heading and inserting ''CROSSTIES'';

(B) by striking ''cross ties'' and inserting ''crossties''; and

(C) in paragraph (2) by striking ''cross tie'' and inserting ''crosstie''.

(jj) LOCOMOTIVE CAB STUDIES.—Section 405 of the Rail Safety Improvement Act of 2008 is amended—

(1) in subsection (a) by striking ''cell phones'' and inserting ''cellular telephones''; and

(2) in subsection (d) by striking ''Secretary of Transportation'' and inserting ''Secretary''.

(kk) ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES.—Section 412 of the Rail Safety Improvement Act of 2008 is amended by striking ''Secretary of Transportation'' and inserting ''Secretary''.

(ll) TUNNEL INFORMATION.—Section 414 of the Rail Safety Improvement Act of 2008 is amended—

(1) in paragraph (2) by striking ''parts 171.8, 173.115,'' and inserting ''sections 171.8, 173.115,''; and

(2) by striking ''part 1520.5'' and inserting ''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

(2) by inserting the following:

''(3) For fiscal year 2011, $22,150,000.

''(4) For fiscal year 2012, $23,300,000.

''(5) For fiscal year 2013, $24,500,000.''.

(pp) STATE RAIL PLANS.—Section 303 of the Passenger Rail Investment and Improvement Act of 2008 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) TEMPORARY WAIVER.—The Secretary may waive the requirement that a project conducted using funds provided under chapter 244 or chapter 261 of title 49, United States Code, be in a State rail plan developed under chapter 227 of title 49, United States Code, for a period not to exceed four years after the date of enactment of this Act.''.

SEC. 6004. CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS.

Section 22301(g) of title 49, United States Code, is amended to read as follows:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There 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

(B) by inserting ''or insurance, including bond insurance,'' after ''authority and credit risk'';

(3) in subsection (f)(3), by inserting ''or, at the discretion of the Secretary, in a series of payments over the term of the loan. If insurance, including bond insurance, is used, the policy premium shall be paid before the loan is disbursed'' after ''of loan amounts'';

(4) in paragraph (3) of subsection (h) by—

(A) striking ''and'' at the end of paragraph (A);

(B) striking ''guarantee.'' at the end of paragraph (B) and inserting ''guarantee; and''; and

(C) inserting the following:

''(C) the grant requirements of section 24405(a) of title 49, United States Code.''; and

(5) by adding at the end the following new subsection:

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out subsection (e)(3) such funds as may be necessary for the period encompassing fiscal years 2010 through 2015.''.

SEC. 6006. AMTRAK DOMESTIC BUYING PREFERENCE.

At the end of section 24305(f) of title 49, United States Code, add the following:

''(5) If the Secretary determines that it is necessary to exempt Amtrak from this subsection based on a finding under paragraph (4), the Secretary shall, before the date on which such finding takes effect—

''(A) publish in the Federal Register a detailed written justification as to why the waiver is needed; and

''(B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days.

''(6) Not later than December 31, 2012, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on any waivers granted under paragraph (4).''.

SEC. 6007. SEPARATION REQUIREMENTS.

(a) STUDY.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit a study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate 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;

"(2) the current physical condition of the rail system, including quality of infrastructure and the capability of infrastructure to support current and future levels of traffic;

"(3) the current operational performance of the rail system, including data on average train speed, cars on line, terminal dwell time, and average reliability of times required to deliver shipments;

"(4) the safety performance of the railroads;

"(5) the backlog of current railroad needs; and

"(6) estimates of future railroad needs of the United States.

"(b) PUBLIC INFORMATION SOURCES.—In preparing the report, the Secretary shall use to the greatest extent practicable public domain information sources including the Federal Railroad Administration's railroad safety data and railroad reports and filings to Federal Government agencies. If the Secretary determines that additional information is needed to complete the report and such information is not available from public domain information sources but is available from the Bureau of Transportation Statistics, the Secretary may obtain and use such information from the Bureau of Transportation Statistics but shall protect the confidentiality of such information as required under existing law.

"(c) COMPARISON WITH PRIOR REPORTS.—Each report under subsection (a) shall provide the names, including all necessary information, to relate and compare the conditions and performance measures used in the previous biennial reports.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 101 of title 49, United States Code, is amended by adding at the end the following new item:

"10103. Reports on railroad conditions and performance.".

TITLE VII—HAZARDOUS MATERIAL TRANSPORTATION

SEC. 7001. SHORT TITLE.

This title may be cited as the "Hazardous Material Transportation Safety Act of 2009".

SEC. 7002. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—Strengthening Emergency Response Capabilities and Information

SEC. 7003. MINIMUM STANDARDS FOR EMERGENCY RESPONSE INFORMATION SERVICES.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prescribe, by regulation, minimum standards for persons who provide hazardous material transportation emergency response information services required or governed by regulations prescribed under chapter 51 of title 49, United States Code.

(b) AUTHORITY.—Section 5103(b)(1)(A) is amended—

(1) in clause (vi) by striking ''or'' after the semicolon;

(2) by redesignating clause (vii) as clause (viii);

(3) in clause (viii), as so redesignated, by striking ''through (vi)'' and inserting ''through (vii)''; and

(4) by inserting after clause (vi) the following:

''(vii) provides hazardous material transportation emergency response information services required or governed by

regulations prescribed under this chapter; or''.

SEC. 7004. TRAINING FOR EMERGENCY RESPONDERS.

(a) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1) by adding at the end the following:

''To the extent that a grant is used to train emergency responders, the State or Indian tribe shall certify, in writing, to the Secretary that such training shall ensure that emergency responders who have received such training, at a minimum, have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material, in accordance with existing regulations or National Fire Protection Association Standard 472.'';

(2) in subsection (j)—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

''(5) The Secretary may only make a grant to an organization if the organization ensures that emergency responders who receive training under such grant, at a minimum, have the ability to pro-

tect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material, in accordance with existing regulations of the Secretary or National Fire Protection Association Standard 472.

"(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, such grants may be used to train public sector employees to respond to accidents and incidents involving hazardous material."; and

(3) in subsection (k) by striking the second sentence and inserting the following:

"The report shall identify the ultimate recipients of such grants and include—

"(1) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of and purpose for each expenditure;

"(2) the number of persons trained under the grant program by training level;

"(3) an evaluation of the efficacy of such training; and

"(4) any recommendations the Secretary may have for improving such grant programs.".

(b) TRAINING CURRICULUM.—Section 5115 is amended in each of subsections (b)(1)(B), (b)(2), and (c) by striking ''basic''.

SEC. 7005. ASSESSMENT OF VOLUNTEER FIREFIGHTER TRAINING CAPABILITIES.

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct an assessment of the existing training capabilities of, and delivery methods available for the preparedness and training to, volunteer fire services personnel to safely respond to accidents and incidents involving the transportation of hazardous material.

(2) CONSULTATION.—In carrying out the assessment, the Secretary may collaborate with the national hazardous materials fusion center, established under section 5128 of title 49, United States Code, (as added by section 7006 of this Act) and emergency response organizations.

(b) PILOT PROGRAM.—

(1) IN GENERAL.—Upon completion of the assessment, the Secretary may carry out a pilot volunteer firefighter hazardous material training program based on the results of the assessment.

(2) ACTIVITIES.—Under the program in paragraph (1), the Secretary, in order to assist volunteer fire services personnel in safely responding to accidents and incidents involving the transportation of hazardous material, may—

(A) develop training curricula and implement innovative measures for delivering training;

(B) determine authorized training programs that are eligible for reimbursement from the Secretary;

(C) provide assistance to volunteer fire services personnel to enable the acquisition of training materials and supplies and to support preparedness training and exercises; and

(D) coordinate with Federal, State, and local agencies to foster the exchange of fire-related training information and resources.

(c) REPORT.—Upon completion of the assessment and, if applicable, the pilot program, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the assessment and pilot program, including any recommendations for strengthening

training for volunteer firefighters to safely respond to accidents and incidents involving the transportation of hazardous material.

SEC. 7006. NATIONAL HAZARDOUS MATERIALS FUSION CENTER.

Chapter 51 is amended by redesigning section 5128 as section 5130 and by inserting after section 5127 the following:

"§ 5128. National hazardous materials fusion center

''(a) IN GENERAL.—The Secretary shall establish and maintain a national hazardous materials fusion center to serve as a data and information network for emergency response providers, Federal, State, and local government agencies, and for-profit and nonprofit organizations that are engaged in hazardous material response.

''(b) DUTIES.—Such center shall—

''(1) enhance emergency response provider communication and safety with respect to accidents and incidents involving the transportation of hazardous material;

''(2) improve decisionmaking for the prevention and mitigation of such accidents and incidents;

''(3) establish and operate regional incident survey 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.

"(2) The term 'regional incident survey team' means teams that are established by the national hazardous materials fusion center and that are composed of persons who are skilled by reason of education, training, or experience in the response to hazardous material accidents and incidents.".

SEC. 7007. EMERGENCY RESPONSE TO ACCIDENTS AND INCIDENTS INVOLVING ALTERNATIVE TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall conduct research to develop appropriate techniques, training, and equipment necessary for public sector employees to respond to accidents and incidents involving the transportation or use in transportation of alternative technologies that utilize hazardous material, including biofuels, hybrid fuel cells, lithium batteries, and hydrogen fuel cells.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the activities carried out under subsection (a).

SEC. 7008. COLLECTION AND SHARING OF COMMODITY FLOW DATA.

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5128 (as added by section 7006 of this Act) the following:

"§ 5129. Collection and sharing of commodity flow data

"(a) IN GENERAL.—Not later than 12 months after the date of enactment of the Hazardous Material Transportation Safety Act of 2009, the Secretary shall establish and maintain a system to collect data on the volume of hazardous material transported throughout the United States by all modes of transportation for the purpose of enhancing the planning and preparation of Federal, State, and local governments and emergency responders for incident response and management.

"(b) SPECIFIC REQUIREMENTS.—The Secretary shall—

"(1) establish the system using as a model existing and emerging data systems used to plot commodity movements; and

"(2) make the system accessible, as the Secretary determines appropriate, to Federal, State, and local government and emergency response representatives as an emergency planning and preparedness tool.

1 "(c) ADDITIONAL DATA COLLECTION.—In estab-
2 lishing and maintaining such system, the Secretary shall,
3 to the greatest extent practicable, collect data on the vol-
4 ume of hazardous material transported into and out of the
5 United States from Canada and Mexico by all modes of
6 transportation.".

7 (b) CLERICAL AMENDMENT.—The analysis for such
8 chapter is amended by striking the item relating to section
9 5128 and inserting after the item relating to section 5127
10 the following:

"5128. National hazardous materials fusion center.
"5129. Collection and sharing of commodity flow data.
"5130. Authorization of appropriations.".

11 **SEC. 7009. PAPERLESS HAZARD COMMUNICATIONS PILOT**
12 **PROGRAM.**

13 (a) IN GENERAL.—The Secretary may conduct 3
14 pilot projects, at least one of which shall be in a rural
15 area, to evaluate the feasibility and effectiveness of using
16 paperless hazard communications systems.

17 (b) REQUIREMENTS.—In conducting the pilot
18 projects under subsection (a), the Secretary—

19 (1) may not waive the requirements of section
20 5110 of title 49, United States Code; and

21 (2) shall consult with organizations rep-
22 resenting—

23 (A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, commercial motor vehicle, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, commercial motor vehicle, rail, and water.

(c) REPORTS.—

(1) INTERIM REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(A) prepare an interim report on the results of the pilot projects carried out under this section, including—

(i) a detailed description of the pilot projects;

(ii) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(iii) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations; and

(iv) a recommendation on whether paperless hazard communications systems should be incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code, on a permanent basis; and

(B) transmit such interim report to the organizations consulted under subsection (b)(2) and shall request that such organizations provide written comments in response to the interim report within 60 days.

(2) FINAL REPORT.—Not later than 120 days after transmitting the interim report to the organizations consulted under subsection (b)(2), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a final report on

the results of the pilot projects carried out under this section, including the matter described in paragraph (1)(A) and the written comments requested under paragraph (1)(B).

(d) DEFINITION.—In this section, the term ''paperless hazard communications system'' means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel.

Subtitle B—Strengthening Hazardous Material Safety

SEC. 7010. TRANSPORTATION OF LITHIUM CELLS AND BATTERIES.

(a) IN GENERAL.—Chapter 51 of title 49, United States Code, is amended by inserting after section 5110 the following:

"§ 5111. Transportation of lithium cells and batteries

''(a) REVISIONS TO CURRENT REGULATIONS.—Not later than 24 months after the date of enactment of this section, the Administrator of the Pipeline and Hazardous Materials Safety Administration, in coordination with the Administrator of the Federal Aviation Administration, shall issue regulations in accordance with this section to 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);

"(6) adopt a watt-hours requirement in lieu of equivalent lithium content to provide a more easily understood measure of the hazard posed by lithium cells and batteries;

"(7) establish appropriate packaging performance requirements, including outer packaging requirements, for lithium cells and batteries and other such energy producing devices to minimize the risk during transportation, including the prevention of short-circuiting, overheating, initiation of fires, and fire propagation;

"(8) establish limits on the number of lithium cells and batteries and other such energy producing devices that may be contained in a single package and limits on the number of packages containing such cells, batteries, and devices that may be transported in a unit load device, pallet, or container on board aircraft;

"(9) limit the stowage of lithium cells and batteries and other such energy producing devices to crew accessible locations on aircraft, unless such cells, batteries, and devices are transported in a fire-resistant container or the aircraft contains a fire suppression system capable of extinguishing a lithium 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

for safety reasons or damaged and shall prohibit the transport of such defective or damaged items in air transportation and intrastate air transportation.

"(2) RECALLS.—When such lithium cells or batteries are recalled for safety reasons, the Administrator of the Pipeline and Hazardous Materials Safety Administration, in consultation with the Consumer Product Safety Commission, shall establish a mechanism for appropriate notification to the manufacturer and consumers that these items are prohibited from being transported in air transportation and intrastate air transportation.

"(e) SIMPLIFY AND CONSOLIDATE REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator of the Pipeline and Hazardous Materials Safety Administration, in coordination with the Administrator of the Federal Aviation Administration, shall consolidate and simplify for clarity, ease of understanding, and use the regulations of the Department of Transportation governing requirements for transporting lithium cells and batteries.

"(2) EDUCATION.—The Administrator of the Pipeline and Hazardous Materials Safety Administration, in coordination with the Administrator of

the Federal Aviation Administration, shall develop a program to educate and provide guidance to the air traveling public, including flight crews, about how to safely carry authorized lithium cells or batteries or electronic devices containing such cells or batteries on board aircraft and shall establish a process to periodically measure the effectiveness of efforts to educate the air traveling public, including flight crews.

"(f) RESEARCH AND TESTING.—

"(1) IN GENERAL.—The Administrator of the Pipeline and Hazardous Materials Safety Administration, in coordination with the Administrator of the Federal Aviation Administration, shall conduct research and testing to evaluate the risks posed by lithium cells and batteries and other energy producing devices that utilize hazardous material in order to further enhance risk reduction for the transportation of such cells, batteries, and devices.

"(2) AREAS TO BE COVERED.—The research and testing shall cover, at a minimum, the following areas:

"(A) Fire behavior of lithium cells and batteries of various sizes and packaging configurations to better understand the transportation risks posed by these cells and batteries.

"(B) Fire-resistant containers to develop performance standards for such containers, including fireproof overpacks and unit load devices, which can be used for the transportation of lithium cells and batteries of all types on board aircraft.

"(C) Fire-resistant containers that flight crews can use in an emergency to temporarily store a lithium cell or battery or electronic device that is hot.

"(D) How container designs and their locations in aircraft cargo compartments may decrease potential risks of fire.

"(E) Fire detection and suppression, including analysis of possible container internal detection and suppression methods and their effectiveness on the control or containment of lithium cell and battery fires and of the pressure effects of burning and exploding batteries and the possible penetration of compartment liners and containers by high temperature fragments.

"(3) ADDITIONAL MEASURES.—

"(A) IN GENERAL.—Based on any results of the research described under this subsection,

the Administrator of the Pipeline and Hazardous Materials Safety Administration, in coordination with the Administrator of the Federal Aviation Administration, shall consider requiring additional safety measures to reduce the risks posed by the transportation of lithium cells and batteries of all types.

"(B) INTERNATIONAL STANDARDS SETTING.—The Administrator of the Pipeline and Hazardous Materials Safety Administration shall work with appropriate international transportation standards setting organizations, such as the United Nations Subcommittee on the Transport of Dangerous Goods and the International Civil Aviation Organization, to consider other safety enhancing measures for the transport of lithium cells and batteries and other energy producing devices that utilize hazardous material.

"(g) PRIMARY LITHIUM BATTERIES.—Nothing in this section shall be construed to authorize the Administrator of the Pipeline and Hazardous Materials Safety Administration or the Administrator of the Federal Aviation Administration to permit the transportation of primary

lithium batteries and cells on board passenger-carrying aircraft.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 51 of such title is amended by inserting after the item relating to section 5110 the following:

''5111. Transportation of lithium cells and batteries.''.

SEC. 7011. REQUIREMENTS RELATING TO EXTERNAL PRODUCT PIPING ON CARGO TANKS TRANSPORTING HAZARDOUS MATERIAL.

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

''§ 5118. Requirements relating to external product piping on cargo tanks transporting hazardous material

''(a) IN GENERAL.—

''(1) PROHIBITION FOR VEHICLES MANUFACTURED AFTER 2010.—Subject to subsection (b), the Secretary shall prohibit the transportation of hazardous material in the external product piping of all cargo tank motor vehicles manufactured on or after 2 years after the date of enactment of the Hazardous Material Transportation Safety Act of 2009.

''(2) PROHIBITION FOR ALL VEHICLES.—Subject to subsection (b), no person may offer for transportation or transport a hazardous material in the

external product piping of a cargo tank motor vehicle on or after December 31, 2020.

"(b) LIMITATION ON APPLICABILITY.—Subsection (a) does not apply to—

"(1) a cargo tank motor vehicle designed and constructed with engine, body, and cargo tank permanently mounted on the same chassis with product piping protected from impact by another motor vehicle by the structural components of the cargo tank motor vehicle, such as damage protection guards, framing members, or wheel assemblies; and

"(2) a minimal amount, as determined by the Secretary by regulation, of hazardous material residue that remains in the external product piping after the piping is drained.

"(c) DEFINITIONS.—In this section, the term 'cargo tank motor vehicle' has the meaning given such term in part 171 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

"5118. 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.

Section 5103a(h)(2) is amended to read as follows:

"(2) RECORDS CHECK.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that such background records check under paragraph (1) includes a check of the operator's criminal history in—

"(A) the United States and Canada, for operators domiciled in Canada; and

"(B) the United States and Mexico, for operators domiciled in Mexico.".

SEC. 7013. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.

(a) ESTABLISHMENT OF WORKING GROUP.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall establish a working group for the purpose of improving the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(b) MEMBERSHIP.—The working group shall consist of—

(1) at least one representative of the following agencies appointed by the head of each agency.

(A) The Federal Aviation Administration.

(B) The Federal Motor Carrier Safety Administration.

(C) The Federal Railroad Administration.

(D) The Maritime Administration.

(E) The Pipeline and Hazardous Materials Safety Administration.

(2) such other officers or employees of the Department as the Administrator may appoint.

(c) DUTIES.—The working group shall—

(1) review the Pipeline and Hazardous Materials Safety Administration's methods for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) staff resources of the Administration related to data collection, analysis, and reporting; and

(D) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information;

(2) make recommendations to the Administration for improving the collection, analysis, reporting, and use of such data; and

(3) such other duties as the Administrator determines are appropriate.

(d) DEVELOPMENT OF ACTION PLAN.—Not later than 180 days after the date of enactment of this Act, taking into consideration the recommendations made by the working group, the Administrator shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(e) SUBMISSION TO DOT INSPECTOR GENERAL FOR REVIEW.—Not later than 15 days after the date of development of the action plan and timeline under subsection (d), the Administrator shall submit the action plan and timeline to the Inspector General of the Department. The Inspector General shall review the action plan and timeline.

(f) SUBMISSION TO CONGRESS.—Not later than 60 days after the date of submission of an action plan and timeline by the Administrator under subsection (d), the Inspector General shall transmit any recommendations to the Administrator for improving the action plan and timeline and submit such recommendations, the action plan, and timeline to the Committee on Transportation and Infrastructure of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate.

Subtitle C—Strengthening Enforcement

SEC. 7020. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a hazardous material enforcement training program to—

(1) develop uniform performance standards for training hazardous material inspectors and investigators; and

(2) collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material.

(b) STANDARDS AND GUIDELINES.—Under the program described in subsection (a), the Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate accident and incident investigation efforts among Federal, State, and local jurisdictions.

(c) AVAILABILITY.—The Secretary may make the standards, protocols, and findings of the program described in this section available to Federal, State, and local enforcement personnel.

SEC. 7021. INSPECTIONS AND INVESTIGATIONS.

(a) NOTICE OF ENFORCEMENT MEASURES.—Section 5121(c)(1) is amended—

(1) in subparagraph (E) by striking ''and'';

(2) in subparagraph (F) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package rea-

sonable notice of any findings made and actions being taken as a result of an inspection or investigation conducted under this subsection.''.

(b) REGULATIONS.—Section 5121(e) is amended by adding at the end the following:

''(3) MATTERS TO BE ADDRESSED.—In issuing the regulations to carry out subsections (c) and (d), the Secretary shall address, at a minimum, the following:

''(A) Safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations.

''(B) Appropriate training and equipment for inspectors.

''(C) The proper closure of packaging in accordance with the hazardous material regulations.''.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by striking ''security'' and inserting ''safety and security''.

(d) AUTHORITY TO CONDUCT INVESTIGATIONS.—Section 5121 is amended by adding at the end the following:

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.

"(4) NATIONAL TRANSPORTATION SAFETY BOARD.—Pursuant to chapter 11, the National Transportation Safety Board retains authority to lead the investigation into an accident or incident involving the transportation of hazardous material. The Secretary shall use the Secretary's authority under this paragraph to support any investigation the Board undertakes.

"(5) REPORTS.—When the Secretary determines it to be in the public interest, the Secretary shall make available to the public the results of an investigation conducted by the Secretary with respect to an accident or incident involving the transportation of hazardous material, including a statement of the cause of the accident or incident and such recommendations as the Secretary considers appropriate.".

SEC. 7022. CIVIL PENALTIES FOR DENIAL OF ENTRY.

Section 5123 is amended by adding at the end the following:

"(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under section 5121(c) or 5121(i).".

SEC. 7023. INSPECTOR STAFFING.

The Secretary of Transportation shall increase the total number of full-time equivalent positions for hazardous material transportation safety inspection and enforcement personnel at the Pipeline and Hazardous Materials Safety Administration so that by each date listed below, the total number of such positions is at least as follows:

(1) December 31, 2011, **[**____**]**;

(2) December 31, 2012, **[**____**]**;

(3) December 31, 2013, **[**____**]**;

(4) December 31, 2014, **[**____**]**; and

(5) December 31, 2015, **[**____**]**.

Subtitle D—Miscellaneous

SEC. 7030. HAZARDOUS MATERIAL RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary may conduct research and development aimed at reducing risks associated with the transportation of hazardous material and identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

(b) COOPERATIVE RESEARCH PROGRAM.—The Secretary shall continue, subject to the availability of funds, to support the hazardous material cooperative research 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-

port, or cause to be transported, hazardous material by motor vehicle developed by the alliance of States known as the 'Alliance for Uniform Hazmat Transportation Procedures'.

"(b) FINANCIAL AND TECHNICAL ASSISTANCE AND SUPPORT.—

"(1) IN GENERAL.—The Secretary may provide planning and transition assistance to States in order to encourage State adoption of the program established by the Secretary under this section.

"(2) USE OF FUNDS.—Assistance awarded to a State under this subsection may be used only to assist the State in transitioning the existing registration and permitting programs of the State to the program established under this section.

"(3) TERMINATION OF AUTHORITY.—The authority to provide assistance to States under this subsection shall terminate on the effective date of the regulations issued to carry out this section or such earlier date as the Secretary may establish.

"(c) REGULATIONS.—Not later than 6 years after the date of enactment of the Hazardous Material Transportation Safety Act of 2009, the Secretary shall issue regulations to carry out this section.

"(d) RELATED EXPENSES.—For purposes of section 5125(f)(1), expenses related to transporting hazardous material may include costs incurred in implementing and administering the program established by the Secretary under this section, including costs of establishing or modifying forms, procedures, and systems.

"(e) TRANSITION OF STATE PROGRAMS.—Not later than the effective date of the regulations issued to carry out this section, a State may enforce registration and permitting requirements for motor carriers that transport hazardous material in commerce only in accordance with the program established by the Secretary under this section.

"(f) LIMITATION.—Nothing in this section or the regulations issued by the Secretary to carry out this section shall limit the amount of a fee a State may impose or collect for registering and issuing permits to persons who transport, or cause to be transported, hazardous material by motor vehicle.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out subsection (b).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5119 and inserting the following:

"5119. Uniform hazardous material State registration and permit program.".

SEC. 7032. IMPLEMENTATION OF THE HAZARDOUS MATERIAL SAFETY PERMIT PROGRAM.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall conduct a study, and transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, on the implementation of the hazardous material safety permit program under section 5109 of title 49, United States Code.

(b) MATTERS TO BE REVIEWED.—In conducting the study, the Comptroller General shall review, at a minimum—

(1) the list of hazardous material requiring a safety permit;

(2) the number of permits that have been issued, denied, revoked, or suspended since inception of the program and the number of commercial motor carriers that have never had a permit denied, revoked, or suspended since inception of the program;

(3) the reasons for such denials, revocations, or suspensions;

(4) the criteria used by the Federal Motor Carrier Safety Administration to determine whether a hazardous material safety permit issued by a State is equivalent to the Federal permit; and

(5) the Secretary's actions to improve the permit application process.

(c) RECOMMENDATIONS.—The Comptroller General shall include in the report any recommendations the Comptroller General has for improving the hazardous material safety permit program.

SEC. 7033. AUTHORIZATION OF APPROPRIATIONS.

Section 5130 (as so redesignated by section 7008 of this Act) is amended—

(1) in subsection (a), by adding at the end the following:

"(5) For fiscal year 2009, [$00,000,000].

"(6) For fiscal year 2010, [$00,000,000].

"(7) For fiscal year 2011, [$00,000,000].

"(8) For fiscal year 2012, [$00,000,000].

"(9) For fiscal year 2013, [$00,000,000].

"(10) For fiscal year 2014, [$00,000,000].".

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

SEC. 8001. DISCRETIONARY SPENDING LIMITS FOR THE HIGHWAY AND MASS TRANSIT CATEGORIES.

[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]