

112TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To reauthorize Federal-aid highway and highway safety construction programs, 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.**—This Act may be cited as the
5 “Moving Ahead for Progress in the 21st Century Act” or
6 the “MAP-21”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

2

Subtitle A—Authorizations and Programs

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Definitions.
- Sec. 1104. National highway system.
- Sec. 1105. Apportionment.
- Sec. 1106. National highway performance program.
- Sec. 1107. Emergency relief.
- Sec. 1108. Transportation mobility program.
- Sec. 1109. Workforce development.
- Sec. 1110. Highway use tax evasion projects.
- Sec. 1111. National bridge and tunnel inventory and inspection standards.
- Sec. 1112. Highway safety improvement program.
- Sec. 1113. Congestion mitigation and air quality improvement program.
- Sec. 1114. Territorial and Puerto Rico highway program.
- Sec. 1115. National freight program.
- Sec. 1116. Federal lands and tribal transportation programs.
- Sec. 1117. Alaska Highway.
- Sec. 1118. Projects of national and regional significance.

Subtitle B—Performance Management

- Sec. 1201. Metropolitan transportation planning.
- Sec. 1202. Statewide and nonmetropolitan transportation planning.
- Sec. 1203. National goals.

Subtitle C—Acceleration of Project Delivery

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

Subtitle D—Highway Safety

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

Subtitle E—Miscellaneous

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- Sec. 1501. Program efficiencies.
- Sec. 1502. Project approval and oversight.
- Sec. 1503. Standards.
- Sec. 1504. Construction.
- Sec. 1505. Maintenance.
- Sec. 1506. Federal share payable.
- Sec. 1507. Transferability of Federal-aid highway funds.
- Sec. 1508. Special permits during periods of national emergency.
- Sec. 1509. Electric vehicle charging stations.
- Sec. 1510. HOV facilities.
- Sec. 1511. Construction equipment and vehicles.
- Sec. 1512. Use of debris from demolished bridges and overpasses.
- Sec. 1513. Extension of public transit vehicle exemption from axle weight restrictions.
- Sec. 1514. Uniform Relocation Assistance Act amendments.
- Sec. 1515. Use of youth service and conservation corps.
- Sec. 1516. Consolidation of programs; repeal of obsolete provisions.
- Sec. 1517. Rescissions.
- Sec. 1518. State autonomy for culvert pipe selection.

TITLE II—RESEARCH AND EDUCATION

Subtitle A—Funding

- Sec. 2101. Authorization of appropriations.

Subtitle B—Research, Technology, and Education

- Sec. 2201. Research, technology, and education.
- Sec. 2202. Surface transportation research, development, and technology.
- Sec. 2203. Research and technology development and deployment.
- Sec. 2204. Training and education.
- Sec. 2205. State planning and research.
- Sec. 2206. International highway transportation program.
- Sec. 2207. Surface transportation environmental cooperative research program.
- Sec. 2208. National cooperative freight research.
- Sec. 2209. University transportation centers program.
- Sec. 2210. Bureau of transportation statistics.
- Sec. 2211. Administrative authority.
- Sec. 2212. Transportation research and development strategic planning.

Subtitle C—Intelligent Transportation Systems Research

- Sec. 2301. Use of funds for ITS activities.
- Sec. 2302. Goals and purposes.
- Sec. 2303. General authorities and requirements.
- Sec. 2304. Research and development.
- Sec. 2305. National architecture and standards.
- Sec. 2306. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.

TITLE III—AMERICA FAST FORWARD FINANCING INNOVATION

- Sec. 3001. Short title.
- Sec. 3002. Transportation Infrastructure Finance and Innovation Act amendments.
- Sec. 3003. State infrastructure banks.

TITLE IV—HIGHWAY SPENDING CONTROLS

Sec. 4001. Highway spending controls.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

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

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

7 **TITLE I—FEDERAL-AID**
8 **HIGHWAYS**
9 **Subtitle A—Authorizations and**
10 **Programs**

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

12 (a) IN GENERAL.—The following sums are author-
13 ized to be appropriated out of the Highway Trust Fund
14 (other than the Mass Transit Account):

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

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

2 and

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

4 (2) TRANSPORTATION INFRASTRUCTURE FI-
5 NANCE AND INNOVATION PROGRAM.—For credit as-
6 sistance under the transportation infrastructure fi-
7 nance and innovation program under chapter 6 of
8 title 23, United States Code, \$1,000,000,000 for
9 each of fiscal years 2012 and 2013.

10 (3) FEDERAL LANDS AND TRIBAL TRANSPOR-
11 TATION PROGRAMS.—

12 (A) TRIBAL TRANSPORTATION PRO-
13 GRAM.—For the tribal transportation program
14 under section 202 of title 23, United States
15 Code, \$450,000,000 for each of fiscal years
16 2012 and 2013.

17 (B) FEDERAL LANDS TRANSPORTATION
18 PROGRAM.—For the Federal lands transpor-
19 tation program under section 203 of title 23,
20 United States Code, \$300,000,000 for each of
21 fiscal years 2012 and 2013, of which
22 \$260,000,000 of the amount made available for
23 each fiscal year shall be the amount for the Na-
24 tional Park Service and the United States Fish
25 and Wildlife Service.

1 (C) FEDERAL LANDS ACCESS PROGRAM.—

2 For the Federal lands access program under
3 section 204 of title 23, United States Code,
4 \$250,000,000 for each of fiscal years 2012 and
5 2013.

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

11 (b) DISADVANTAGED BUSINESS ENTERPRISES.—

12 (1) DEFINITIONS.—In this subsection, the fol-
13 lowing definitions apply:

14 (A) SMALL BUSINESS CONCERN.—

15 (i) IN GENERAL.—The term “small
16 business concern” means a small business
17 concern (as the term is used in section 3
18 of the Small Business Act (15 U.S.C.
19 632)).

20 (ii) EXCLUSIONS.—The term “small
21 business concern” does not include any
22 concern or group of concerns controlled by
23 the same socially and economically dis-
24 advantaged individual or individuals that
25 have average annual gross receipts during

1 the preceding 3 fiscal years in excess of
2 \$22,410,000, as adjusted annually by the
3 Secretary for inflation.

4 (B) SOCIALLY AND ECONOMICALLY DIS-
5 ADVANTAGED INDIVIDUALS.—The term “so-
6 cially and economically disadvantaged individ-
7 uals” means—

8 (i) women; and

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

15 (2) AMOUNTS FOR SMALL BUSINESS CON-
16 CERNS.—Except to the extent that the Secretary de-
17 termines otherwise, not less than 10 percent of the
18 amounts made available for any program under ti-
19 tles I, II, and III of this Act and section 403 of title
20 23, United States Code, shall be expended through
21 small business concerns owned and controlled by so-
22 cially and economically disadvantaged individuals.

23 (3) ANNUAL LISTING OF DISADVANTAGED BUSI-
24 NESS ENTERPRISES.—Each State shall annually—

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

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

8 (i) women;

9 (ii) socially and economically dis-
10 advantaged individuals (other than
11 women); and

12 (iii) individuals who are women and
13 are otherwise socially and economically dis-
14 advantaged individuals.

15 (4) UNIFORM CERTIFICATION.—

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

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

25 (i) on-site visits;

- 1 (ii) personal interviews with personnel;
- 2 (iii) issuance or inspection of licenses;
- 3 (iv) analyses of stock ownership;
- 4 (v) listings of equipment;
- 5 (vi) analyses of bonding capacity;
- 6 (vii) listings of work completed;
- 7 (viii) examination of the resumes of
- 8 principal owners;
- 9 (ix) analyses of financial capacity; and
- 10 (x) analyses of the type of work pre-
- 11 ferred.

12 (5) REPORTING.—The Secretary shall establish
13 minimum requirements for use by State govern-
14 ments in reporting to the Secretary—

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

18 (B) such other information as the Sec-
19 retary determines to be appropriate for the
20 proper monitoring of the disadvantaged busi-
21 ness enterprise program.

22 (6) COMPLIANCE WITH COURT ORDERS.—Noth-
23 ing in this subsection limits the eligibility of an indi-
24 vidual or entity to receive funds made available
25 under titles I, II, and III of this Act and section 403

1 of title 23, United States Code, if the entity or per-
2 son is prevented, in whole or in part, from complying
3 with paragraph (2) because a Federal court issues a
4 final order in which the court finds that a require-
5 ment or the implementation of paragraph (2) is un-
6 constitutional.

7 **SEC. 1102. OBLIGATION CEILING.**

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

12 (1) \$41,564,000,000 for fiscal year 2012; and

13 (2) \$42,227,000,000 for fiscal year 2013.

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

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

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

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

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

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

4 (6) sections 1103 through 1108 of the Inter-
5 modal Surface Transportation Efficiency Act of
6 1991 (105 Stat. 2027);

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

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

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

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

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

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

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

10 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

11 For each of fiscal years 2012 through 2013, the Sec-
12 retary—

13 (1) shall not distribute obligation authority pro-
14 vided by subsection (a) for the fiscal year for—

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

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

20 (2) shall not distribute an amount of obligation
21 authority provided by subsection (a) that is equal to
22 the unobligated balance of amounts made available
23 from the Highway Trust Fund (other than the Mass
24 Transit Account) for Federal-aid highway and high-
25 way safety construction programs for previous fiscal

1 years the funds for which are allocated by the Sec-
2 retary;

3 (3) shall determine the proportion that—

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

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

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

1 Code (other than to programs to which paragraph
2 (1) applies), by multiplying—

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

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

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

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

23 (B) the total of the amounts authorized to
24 be appropriated for the programs that are ap-

1 portioned under title 23, United States Code, to
2 all States for the fiscal year.

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

7 (1) revise a distribution of the obligation au-
8 thority made available under subsection (c) if an
9 amount distributed cannot be obligated during that
10 fiscal year; and

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

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

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

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

3 (B) title II of this Act.

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

6 (A) remain available for a period of 4 fis-
7 cal years; and

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

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

14 (1) IN GENERAL.—Not later than 30 days after
15 the date of distribution of obligation authority under
16 subsection (c) for each of fiscal years 2012 through
17 2013, the Secretary shall distribute to the States
18 any funds that—

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

22 (B) the Secretary determines will not be
23 allocated to the States, and will not be available
24 for obligation, for the fiscal year because of the

1 imposition of any obligation limitation for the
2 fiscal year.

3 (2) **RATIO.**—Funds shall be distributed under
4 paragraph (1) in the same proportion as the dis-
5 tribution of obligation authority under subsection
6 (c)(5).

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

11 **SEC. 1103. DEFINITIONS.**

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

14 (1) by striking paragraphs (6), (7), (9), (12),
15 (19), (20), (24), (25), (26), (28), (38), and (39);

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

23 (3) by inserting after paragraph (1) the fol-
24 lowing:

1 “(2) ASSET MANAGEMENT.—The term ‘asset
2 management’ means a strategic and systematic pro-
3 cess of operating, maintaining, and improving phys-
4 ical assets, with a focus on both engineering and
5 economic analysis based upon quality information, to
6 identify a structured sequence of maintenance, re-
7 pair, rehabilitation, and replacement actions that
8 will achieve and sustain a desired state of good re-
9 pair over the lifecycle of the assets at minimum
10 practicable cost.”;

11 (4) in paragraph (4) (as redesignated by para-
12 graph (2))—

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

16 (B) by striking subparagraph (A) and in-
17 serting the following:

18 “(A) preliminary engineering, engineering,
19 and design-related services directly relating to
20 the construction of a highway project, including
21 engineering, design, project development and
22 management, construction project management
23 and inspection, surveying, mapping (including
24 the establishment of temporary and permanent
25 geodetic control in accordance with specifica-

1 tions of the National Oceanic and Atmospheric
2 Administration), and architectural-related serv-
3 ices;”;

4 (C) in subparagraph (B)—

5 (i) by inserting “reconstruction,” be-
6 fore “resurfacing”; and

7 (ii) by striking “and rehabilitation”
8 and inserting “rehabilitation, and preserva-
9 tion”;

10 (D) in subparagraph (E) by striking “rail-
11 way” and inserting “railway-highway”; and

12 (E) in subparagraph (F) by striking “ob-
13 stacles” and inserting “hazards”.

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

15 (A) by inserting “public” before “highway
16 eligible”; and

17 (B) by inserting “functionally” before
18 “classified”;

19 (6) by inserting after paragraph (6) (as so re-
20 designated) the following:

21 “(7) FEDERAL LANDS ACCESS TRANSPOR-
22 TATION FACILITY.—The term ‘Federal Lands access
23 transportation facility’ means a public highway,
24 road, bridge, trail, or transit system that is located
25 on, is adjacent to, or provides access to Federal

1 lands for which title or maintenance responsibility is
2 vested in a State, county, town, township, tribal,
3 municipal, or local government.

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

13 (7) in paragraph (11)(B) by inserting “includ-
14 ing public roads on dams” after “drainage struc-
15 ture”;

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

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

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

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

1 any other undertaking” and inserting “any under-
2 taking”;

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

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

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

8 (11) by striking paragraph (23) (as so redesign-
9 nated) and inserting the following:

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

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

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

23 (13) by striking paragraph (29) (as so redesign-
24 nated) and inserting the following:

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

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

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

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

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

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

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

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

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

1 “(I) Archaeological planning and research.

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

5 “(i) to address stormwater manage-
6 ment, control, and water pollution preven-
7 tion or abatement related to highway con-
8 struction or due to highway runoff, includ-
9 ing activities described in sections
10 133(b)(11), 328(a), and 329; or

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

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

17 “(30) TRANSPORTATION SYSTEMS MANAGE-
18 MENT AND OPERATIONS.—

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

1 prove security, safety, and reliability of the
2 transportation system.

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

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

18 “(ii) coordination of the implementation of regional transportation system
19 management and operations investments
20 (such as traffic incident management, traveler information services, emergency management,
21 roadway weather management,
22 intelligent transportation systems, communication networks, and information sharing
23
24
25

1 systems) requiring agreements, integration,
2 and interoperability to achieve targeted
3 system performance, reliability, safety, and
4 customer service levels.

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

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

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

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

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

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

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

1 “(b) NATIONAL HIGHWAY SYSTEM.—

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

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

10 “(B) meet national defense requirements;
11 and

12 “(C) serve interstate and interregional
13 travel and commerce.

14 “(2) COMPONENTS.—The National Highway
15 System described in paragraph (1) consists of the
16 following:

17 “(A) The National Highway System de-
18 picted on the map submitted by the Secretary
19 of Transportation to Congress with the report
20 entitled ‘Pulling Together: The National High-
21 way System and its Connections to Major Inter-
22 modal Terminals’ and dated May 24, 1996, and
23 modifications approved by the Secretary before
24 the date of enactment of the MAP-21.

1 “(B) Other urban and rural principal arte-
2 rial routes, and border crossings on those
3 routes, that were not included on the National
4 Highway System before the date of enactment
5 of the MAP-21.

6 “(C) Other connector highways (including
7 toll facilities) that provide motor vehicle access
8 between arterial routes on the National High-
9 way System and a major intermodal transpor-
10 tation facility that was not included on the Na-
11 tional Highway System before the date of en-
12 actment of the MAP-21.

13 “(D) A strategic highway network that—

14 “(i) consists of a network of highways
15 that are important to the United States
16 strategic defense policy, that provide de-
17 fense access, continuity, and emergency ca-
18 pabilities for the movement of personnel,
19 materials, and equipment in both peace-
20 time and wartime, and that were not in-
21 cluded on the National Highway System
22 before the date of enactment of the MAP-
23 21;

24 “(ii) may include highways on or off
25 the Interstate System; and

1 “(iii) shall be designated by the Sec-
2 retary, in consultation with appropriate
3 Federal agencies and the States.

4 “(E) Major strategic highway network con-
5 nectors that—

6 “(i) consist of highways that provide
7 motor vehicle access between major mili-
8 tary installations and highways that are
9 part of the strategic highway network but
10 were not included on the National High-
11 way System before the date of enactment
12 of the MAP-21; and

13 “(ii) shall be designated by the Sec-
14 retary, in consultation with appropriate
15 Federal agencies and the States.

16 “(3) MODIFICATIONS TO NHS.—

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

23 “(i) meets the criteria established for
24 the National Highway System under this

1 title after the date of enactment of the
2 MAP-21; and

3 “(ii) enhances the national transpor-
4 tation characteristics of the National High-
5 way System.

6 “(B) COOPERATION.—

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

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

16 “(c) INTERSTATE SYSTEM.—

17 “(1) DESCRIPTION.—

18 “(A) IN GENERAL.—The Dwight D. Eisen-
19 hower National System of Interstate and De-
20 fense Highways within the United States (in-
21 cluding the District of Columbia and Puerto
22 Rico) consists of highways designed, located,
23 and selected in accordance with this paragraph.

24 “(B) DESIGN.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), highways on the Inter-
3 state System shall be designed in accord-
4 ance with the standards of section 109(b).

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

12 “(C) LOCATION.—Highways on the Inter-
13 state System shall be located so as—

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

17 “(ii) to serve the national defense; and

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

22 “(D) SELECTION OF ROUTES.—To the
23 maximum extent practicable, each route of the
24 Interstate System shall be selected by joint ac-
25 tion of the State transportation departments of

1 the State in which the route is located and the
2 adjoining States, in cooperation with local and
3 regional officials, and subject to the approval of
4 the Secretary.

5 “(2) MAXIMUM MILEAGE.—The mileage of
6 highways on the Interstate System shall not exceed
7 43,000 miles, exclusive of designations under para-
8 graph (4).

9 “(3) MODIFICATIONS.—The Secretary may ap-
10 prove or require modifications to the Interstate Sys-
11 tem in a manner consistent with the policies and
12 procedures established under this subsection.

13 “(4) INTERSTATE SYSTEM DESIGNATIONS.—

14 “(A) ADDITIONS.—If the Secretary deter-
15 mines that a highway on the National Highway
16 System meets all standards of a highway on the
17 Interstate System and that the highway is a
18 logical addition or connection to the Interstate
19 System, the Secretary may, upon the affirma-
20 tive recommendation of the State or States in
21 which the highway is located, designate the
22 highway as a route on the Interstate System.

23 “(B) DESIGNATIONS AS FUTURE INTER-
24 STATE SYSTEM ROUTES.—

1 “(i) IN GENERAL.—Subject to clauses
2 (ii) through (vi), if the Secretary deter-
3 mines that a highway on the National
4 Highway System would be a logical addi-
5 tion or connection to the Interstate System
6 and would qualify for designation as a
7 route on the Interstate System under sub-
8 paragraph (A) if the highway met all
9 standards of a highway on the Interstate
10 System, the Secretary may, upon the af-
11 firmative recommendation of the State or
12 States in which the highway is located,
13 designate the highway as a future Inter-
14 state System route.

15 “(ii) WRITTEN AGREEMENT.—A des-
16 ignation under clause (i) shall be made
17 only upon the written agreement of each
18 State described in that clause that the
19 highway will be constructed to meet all
20 standards of a highway on the Interstate
21 System by not later than the date that is
22 25 years after the date of the agreement.

23 “(iii) FAILURE TO COMPLETE CON-
24 STRUCTION.—If a State described in clause
25 (i) has not substantially completed the con-

1 construction of a highway designated under
2 this subparagraph by the date specified in
3 clause (ii), the Secretary shall remove the
4 designation of the highway as a future
5 Interstate System route.

6 “(iv) EFFECT OF REMOVAL.—Re-
7 moval of the designation of a highway
8 under clause (iii) shall not preclude the
9 Secretary from designating the highway as
10 a route on the Interstate System under
11 subparagraph (A) or under any other pro-
12 vision of law providing for addition to the
13 Interstate System.

14 “(v) RETROACTIVE EFFECT.—An
15 agreement described in clause (ii) that is
16 entered into before August 10, 2005, shall
17 be deemed to include the 25-year time lim-
18 itation described in that clause, regardless
19 of any earlier construction completion date
20 in the agreement.

21 “(vi) REFERENCES.—No law, rule,
22 regulation, map, document, or other record
23 of the United States, or of any State or
24 political subdivision of a State, shall refer
25 to any highway designated as a future

1 Interstate System route under this sub-
2 paragraph, and no such highway shall be
3 signed or marked, as a highway on the
4 Interstate System, until such time as the
5 highway—

6 “(I) is constructed to the geo-
7 metric and construction standards for
8 the Interstate System; and

9 “(II) has been designated as a
10 route on the Interstate System.

11 “(C) FINANCIAL RESPONSIBILITY.—Except
12 as provided in this title, the designation of a
13 highway under this paragraph shall create no
14 additional Federal financial responsibility with
15 respect to the highway.

16 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the Interstate System shall
19 not be considered to be a historic site under
20 section 303 of title 49 or section 138 of this
21 title, regardless of whether the Interstate Sys-
22 tem or portions or elements of the Interstate
23 System are listed on, or eligible for listing on,
24 the National Register of Historic Places.

1 “(B) INDIVIDUAL ELEMENTS.—Subject to
2 subparagraph (C)—

3 “(i) the Secretary shall determine,
4 through the administrative process estab-
5 lished for exempting the Interstate System
6 from section 106 of the National Historic
7 Preservation Act (16 U.S.C. 470f), those
8 individual elements of the Interstate Sys-
9 tem that possess national or exceptional
10 historic significance (such as a historic
11 bridge or a highly significant engineering
12 feature); and

13 “(ii) those elements shall be consid-
14 ered to be historic sites under section 303
15 of title 49 or section 138 of this title, as
16 applicable.

17 “(C) CONSTRUCTION, MAINTENANCE, RES-
18 Toration, AND REHABILITATION ACTIVITIES.—
19 Subparagraph (B) does not prohibit a State
20 from carrying out construction, maintenance,
21 restoration, or rehabilitation activities for a por-
22 tion of the Interstate System referred to in sub-
23 paragraph (B) upon compliance with section
24 303 of title 49 or section 138 of this title, as

1 applicable, and section 106 of the National His-
2 toric Preservation Act (16 U.S.C. 470f).

3 “(d) OPERATION OF CONVENTIONAL COMBINATION
4 VEHICLES ON THE NATIONAL HIGHWAY SYSTEM.—

5 “(1) DEFINITION OF CONVENTIONAL COMBINA-
6 TION VEHICLES.—In this subsection, the term ‘con-
7 ventional combination vehicles’ means—

8 “(A) truck-tractor or semi-trailer combina-
9 tions with semi-trailers up to 53 feet in length
10 and 102 inches in width;

11 “(B) truck-tractor, semi-trailer, or trailer
12 combinations with each semi-trailer and trailer
13 up to 28.5 feet in length and 102 inches in
14 width; and

15 “(C) drive-away saddlemount combina-
16 tions, not to exceed 97 feet in overall length,
17 with up to 3 truck tractors, with or without a
18 full mount, towed by a truck tractor.

19 “(2) NATIONAL NETWORK.—The National Net-
20 work designated under the Surface Transportation
21 Assistance Act of 1982 (Public Law 97–424; 96
22 Stat. 2119) is repealed.

23 “(3) OPERATION OF CONVENTIONAL COMBINA-
24 TION VEHICLES.—

1 “(A) REQUIREMENT.—Conventional com-
2 bination vehicles shall be permitted to operate
3 in all States on all segments of the National
4 Highway System other than segments—

5 “(i) that were open to traffic on the
6 date of enactment of the MAP-21; and

7 “(ii) on which all nonpassenger com-
8 mercial motor vehicles are banned on the
9 date of enactment of the MAP-21.

10 “(B) RESTRICTIONS.—A State may re-
11 quest temporary or permanent restrictions on
12 the operation of conventional combination vehi-
13 cles, subject to approval by the Secretary, based
14 on safety considerations, geometric constraints,
15 work zones, weather, or traffic management re-
16 quirements of special events or emergencies.

17 “(C) REASONABLE ACCESS.—Conventional
18 combination vehicles shall be given reasonable
19 access, by the most reasonable, practicable, and
20 safe route available, subject to review by the
21 Secretary—

22 “(i) between the National Highway
23 System and facilities for food, fuel, and
24 rest within 1 mile of the National Highway
25 System; and

1 “(ii) to terminal locations for the un-
2 loading and loading of cargo.”.

3 (b) CONFORMING AMENDMENTS.—

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

 “103. National highway system.”.

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

10 (A) in subsection (a) by striking “the Fed-
11 eral-aid systems” and inserting “Federal-aid
12 highways”; and

13 (B) in subsection (b), in the first sentence,
14 by striking “of the Federal-aid systems” and
15 inserting “Federal-aid highway”.

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

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

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

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

8 **SEC. 1105. APPORTIONMENT.**

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

11 **“§ 104. Apportionment**

12 “(a) ADMINISTRATIVE EXPENSES.—

13 “(1) IN GENERAL.—There are authorized to be
14 appropriated from the Highway Trust Fund (other
15 than the Mass Transit Account) to be made avail-
16 able to the Secretary for administrative expenses of
17 the Federal Highway Administration \$480,000,000
18 for each of fiscal years 2012 and 2013.

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

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

1 “(B) to make transfers of such sums as
2 the Secretary determines to be appropriate to
3 the Appalachian Regional Commission for ad-
4 ministrative activities associated with the Appa-
5 lachian development highway system; and

6 “(C) to reimburse, as appropriate, the Of-
7 fice of Inspector General of the Department of
8 Transportation for the conduct of annual audits
9 of financial statements in accordance with sec-
10 tion 3521 of title 31.

11 “(3) AVAILABILITY.—The amounts made avail-
12 able under paragraph (1) shall remain available until
13 expended.

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

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

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

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

9 “(4) CONGESTION MITIGATION AND AIR QUAL-
10 ITY IMPROVEMENT PROGRAM.—For the congestion
11 mitigation and air quality improvement program, an
12 amount determined by multiplying the amount de-
13 termined for the State under subsection (c) by the
14 proportion that—

15 “(A) the amount apportioned to the State
16 for the congestion mitigation and air quality
17 improvement program for fiscal year 2009, plus
18 10 percent of the amount apportioned to the
19 State for the surface transportation program
20 for that fiscal year; bears to

21 “(B) the total amount of funds appor-
22 tioned to the State for that fiscal year for the
23 programs referred to in section 105(a)(2) (ex-
24 cept for the high priority projects program re-
25 ferred to in section 105(a)(2)(H)), as in effect

1 on the day before the date of enactment of the
2 MAP-21.

3 “(5) NATIONAL FREIGHT PROGRAM.—For the
4 national freight program, 5.7 percent of the amount
5 remaining after distributing amounts under para-
6 graphs (4) and (6).

7 “(6) METROPOLITAN PLANNING.—To carry out
8 section 134, an amount determined by multiplying
9 the amount determined for the State under sub-
10 section (c) by the proportion that—

11 “(A) the amount apportioned to the State
12 to carry out section 134 for fiscal year 2009;
13 bears to

14 “(B) the total amount of funds appor-
15 tioned to the State for that fiscal year for the
16 programs referred to in section 105(a)(2) (ex-
17 cept for the high priority projects program re-
18 ferred to in section 105(a)(2)(H)), as in effect
19 on the day before the date of enactment of the
20 MAP-21.

21 “(c) CALCULATION OF STATE AMOUNTS.—

22 “(1) STATE SHARE.—The amount for each
23 State of combined apportionments for the national
24 highway performance program under section 119,
25 the transportation mobility program under section

1 133, the highway safety improvement program
2 under section 148, the congestion mitigation and air
3 quality improvement program under section 149, the
4 national freight program under section 167, and to
5 carry out section 134 shall be determined as follows:

6 “(A) INITIAL AMOUNT.—The initial
7 amount for each State shall be determined by
8 multiplying the total amount available for ap-
9 portionment by the share for each State which
10 shall be equal to the proportion that—

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

14 “(ii) the amount of those apportion-
15 ments and allocations received by all
16 States for those fiscal years.

17 “(B) ADJUSTMENTS TO AMOUNTS.—The
18 initial amounts resulting from the calculation
19 under subparagraph (A) shall be adjusted to
20 ensure that, for each State, the amount of com-
21 bined apportionments for the programs shall
22 not be less than 95 percent of the estimated tax
23 payments attributable to highway users in the
24 State paid into the Highway Trust Fund (other

1 minimum apportionment for use in car-
2 rying out section 134 for fiscal year 2009
3 may, subject to the approval of the Sec-
4 retary, use the funds apportioned under
5 subsection (b)(6) to fund transportation
6 planning outside of urbanized areas.

7 “(B) UNUSED FUNDS.—Any funds that
8 are not used to carry out section 134 may be
9 made available by a metropolitan planning or-
10 ganization to the State to fund activities under
11 section 135.

12 “(2) DISTRIBUTION OF AMOUNTS WITHIN
13 STATES.—

14 “(A) IN GENERAL.—The distribution with-
15 in any State of the planning funds made avail-
16 able to organizations under paragraph (1) shall
17 be in accordance with a formula that—

18 “(i) is developed by each State and
19 approved by the Secretary; and

20 “(ii) takes into consideration, at a
21 minimum, population, status of planning,
22 attainment of air quality standards, metro-
23 politan area transportation needs, and
24 other factors necessary to provide for an
25 appropriate distribution of funds to carry

1 out section 134 and other applicable re-
2 quirements of Federal law.

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

12 “(3) DETERMINATION OF POPULATION FIG-
13 URES.—For the purpose of determining population
14 figures under this subsection, the Secretary shall use
15 the latest available data from the decennial census
16 conducted under section 141(a) of title 13, United
17 States Code.

18 “(e) CERTIFICATION OF APPORTIONMENTS.—

19 “(1) IN GENERAL.—The Secretary shall—

20 “(A) on October 1 of each fiscal year, cer-
21 tify to each of the State transportation depart-
22 ments the amount that has been apportioned to
23 the State under this section for the fiscal year;
24 and

1 “(B) to permit the States to develop ade-
2 quate plans for the use of amounts apportioned
3 under this section, advise each State of the
4 amount that will be apportioned to the State
5 under this section for a fiscal year not later
6 than 90 days before the beginning of the fiscal
7 year for which the sums to be apportioned are
8 authorized.

9 “(2) NOTICE TO STATES.—If the Secretary has
10 not made an apportionment under this section for a
11 fiscal year beginning after September 30, 1998, by
12 not later than the date that is the twenty-first day
13 of that fiscal year, the Secretary shall submit, by not
14 later than that date, to the Committee on Transpor-
15 tation and Infrastructure of the House of Represent-
16 atives and the Committee on Environment and Pub-
17 lic Works of the Senate, a written statement of the
18 reason for not making the apportionment in a timely
19 manner.

20 “(3) APPORTIONMENT CALCULATIONS.—

21 “(A) IN GENERAL.—The calculation of of-
22 ficial apportionments of funds to the States
23 under this title is a primary responsibility of
24 the Department and shall be carried out only

1 by employees (and not contractors) of the De-
2 partment.

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

8 “(f) TRANSFER OF HIGHWAY AND TRANSIT
9 FUNDS.—

10 “(1) TRANSFER OF HIGHWAY FUNDS FOR
11 TRANSIT PROJECTS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), amounts made available for transit
14 projects or transportation planning under this
15 title may be transferred to and administered by
16 the Secretary in accordance with chapter 53 of
17 title 49.

18 “(B) NON-FEDERAL SHARE.—The provi-
19 sions of this title relating to the non-Federal
20 share shall apply to the amounts transferred
21 under subparagraph (A).

22 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-
23 WAY PROJECTS.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), amounts made available for highway

1 projects or transportation planning under chap-
2 ter 53 of title 49 may be transferred to and ad-
3 ministered by the Secretary in accordance with
4 this title.

5 “(B) NON-FEDERAL SHARE.—The provi-
6 sions of chapter 53 of title 49 relating to the
7 non-Federal share shall apply to amounts trans-
8 ferred under subparagraph (A).

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

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the Secretary may, at the request of
13 a State, transfer amounts apportioned or allo-
14 cated under this title to the State to another
15 State, or to the Federal Highway Administra-
16 tion, for the purpose of funding 1 or more
17 projects that are eligible for assistance with
18 amounts so apportioned or allocated.

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

22 “(C) FUNDS SUBALLOCATED TO URBAN-
23 IZED AREAS.—Amounts that are apportioned or
24 allocated to a State under subsection (b)(3) (as
25 in effect on the day before the date of enact-

1 ment of the MAP-21) or subsection (b)(2) and
2 attributed to an urbanized area of a State with
3 a population of more than 200,000 individuals
4 under section 133(d) may be transferred under
5 this paragraph only if the metropolitan plan-
6 ning organization designated for the area con-
7 curs, in writing, with the transfer request.

8 “(4) TRANSFER OF OBLIGATION AUTHORITY.—
9 Obligation authority for amounts transferred under
10 this subsection shall be transferred in the same
11 manner and amount as the amounts for the projects
12 that are transferred under this subsection.”.

13 (b) CONFORMING AMENDMENT.—Section 146(a) of
14 title 23, United States Code, is amended by striking “sec-
15 tions 104(b)(1) and 104(b)(3)” and inserting “section
16 104(b)(2)”.

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

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

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

21 “(a) ESTABLISHMENT.—The Secretary shall estab-
22 lish and implement a national highway performance pro-
23 gram under this section.

24 “(b) PURPOSES.—The purposes of the national high-
25 way performance program shall be—

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

3 “(2) to ensure that investments of Federal-aid
4 funds in highway infrastructure are directed to
5 achievement of established national performance
6 goals for infrastructure condition and performance.

7 “(c) ELIGIBLE FACILITIES.—Except as provided in
8 subsection (d), to be eligible for funding apportioned
9 under section 104(b)(1) to carry out this section, a facility
10 shall be located on the National Highway System, as de-
11 fined in section 103.

12 “(d) ELIGIBLE PROJECTS.—Funds apportioned to a
13 State to carry out the national highway performance pro-
14 gram may be obligated only for a project on an eligible
15 facility that is—

16 “(1) a project, or is part of a program of
17 projects, supporting progress toward the achieve-
18 ment of national performance goals for improving
19 infrastructure condition, safety, mobility, or freight
20 movement on the National Highway System and
21 consistent with sections 134 and 135; and

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

23 “(A) Construction, reconstruction, resur-
24 facing, restoration, rehabilitation, preservation,

1 or operational improvement of segments of the
2 National Highway System.

3 “(B) Construction, replacement (including
4 replacement with fill material), rehabilitation,
5 preservation, and protection (including scour
6 countermeasures, seismic retrofits, impact pro-
7 tection measures, security countermeasures,
8 and protection against extreme events) of
9 bridges on the National Highway System.

10 “(C) Construction, replacement (including
11 replacement with fill material), rehabilitation,
12 preservation, and protection (including impact
13 protection measures, security countermeasures,
14 and protection against extreme events) of tun-
15 nels on the National Highway System.

16 “(D) Inspection and evaluation, as de-
17 scribed in section 144, of bridges and tunnels
18 on the National Highway System, and inspec-
19 tion and evaluation of other highway infrastruc-
20 ture assets on the National Highway System,
21 including signs and sign structures, earth re-
22 taining walls, and drainage structures.

23 “(E) Training of bridge and tunnel inspec-
24 tors, as described in section 144.

1 “(F) Construction, rehabilitation, or re-
2 placement of existing ferry boats and ferry boat
3 facilities, including approaches, that connect
4 road segments of the National Highway Sys-
5 tem.

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

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

18 “(ii) the construction or improvements
19 will enhance the level of service on the fully
20 access-controlled highway described in
21 clause (i) and improve regional traffic flow;
22 and

23 “(iii) the construction or improve-
24 ments are more cost-effective, as deter-
25 mined by benefit-cost analysis, than an im-

1 provement to the fully access-controlled
2 highway described in clause (i).

3 “(H) Bicycle transportation and pedestrian
4 walkways in accordance with section 217.

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

7 “(J) Capital and operating costs for traffic
8 and traveler information monitoring, manage-
9 ment, and control facilities and programs.

10 “(K) Development and implementation of
11 a State asset management plan for the National
12 Highway System in accordance with this sec-
13 tion, including data collection, maintenance,
14 and integration and the cost associated with ob-
15 taining, updating, and licensing software and
16 equipment required for risk-based asset man-
17 agement and performance-based management.

18 “(L) Infrastructure-based intelligent trans-
19 portation systems capital improvements.

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

22 “(N) Control of noxious weeds and aquatic
23 noxious weeds and establishment of native spe-
24 cies in accordance with section 329.

1 lations) and State transportation
2 planning processes; and

3 “(ii) with respect to participation in a
4 natural habitat or wetland mitigation ef-
5 fort relating to a project funded under this
6 title that has an impact that occurs within
7 the service area of a mitigation bank, pref-
8 erence is given, to the maximum extent
9 practicable, to the use of the mitigation
10 bank if the bank contains sufficient avail-
11 able credits to offset the impact and the
12 bank is approved in accordance with appli-
13 cable Federal law (including regulations).

14 “(e) LIMITATION ON NEW CAPACITY.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), the maximum amount that a State may
17 obligate under this section for projects under sub-
18 section (d)(2)(G) and that is attributable to the por-
19 tion of the cost of any project undertaken to expand
20 the capacity of eligible facilities on the National
21 Highway System, in a case in which the new capac-
22 ity consists of 1 or more new travel lanes that are
23 not high-occupancy vehicle lanes, shall not, in total,
24 exceed 40 percent of the combined apportionments

1 of a State under section 104(b)(1) for the most re-
2 cent 3 consecutive fiscal years.

3 “(2) EXCEPTION.—Paragraph (1) shall not
4 apply to a project for the construction of auxiliary
5 lanes or widening of a bridge during rehabilitation
6 or replacement to meet current geometric, construc-
7 tion, and structural standards for the types and vol-
8 umes of projected traffic over the design life of the
9 project.

10 “(f) STATE PERFORMANCE MANAGEMENT.—

11 “(1) IN GENERAL.—A State shall develop a
12 risk-based asset management plan for the National
13 Highway System based on a process defined by the
14 Secretary to guide effective investment decisions to
15 improve or preserve asset condition and system per-
16 formance.

17 “(2) PERFORMANCE DRIVEN PLAN.—A State
18 asset management plan shall include strategies lead-
19 ing to a program of projects that would make
20 progress toward achievement of the State targets for
21 asset condition and performance of the National
22 Highway System in accordance with paragraph (5)
23 and, to the maximum extent practicable, reflect the
24 national goals identified in section 150.

1 “(3) PLAN CONTENTS.—A State asset manage-
2 ment plan shall, at a minimum, be in a form that
3 the Secretary determines to be appropriate and in-
4 clude—

5 “(A) a summary listing of the highway in-
6 frastructure assets on the National Highway
7 System in the State, including a description of
8 the condition of those assets;

9 “(B) asset management objectives and
10 measures;

11 “(C) performance gap identification;

12 “(D) lifecycle cost and risk management
13 analysis;

14 “(E) a financial plan; and

15 “(F) investment strategies.

16 “(4) STANDARDS AND MEASURES.—Not later
17 than 18 months after the date of enactment of the
18 MAP–21, the Secretary shall, by regulation and in
19 consultation with State departments of transpor-
20 tation and other stakeholders, establish—

21 “(A) minimum standards for States to use
22 in developing and operating pavement manage-
23 ment systems and bridge management systems;

24 “(B) measures for States to use to as-
25 sess—

1 “(i) the condition of pavements on the
2 Interstate system;

3 “(ii) the condition of pavements on
4 the National Highway System (excluding
5 the Interstate);

6 “(iii) the condition of bridges on the
7 National Highway System;

8 “(iv) the performance of the Inter-
9 state System; and

10 “(v) the performance of the National
11 Highway System (excluding the Interstate
12 System);

13 “(C) the data elements that are necessary
14 to collect and maintain data, and a standard-
15 ized process for collection and sharing of data
16 with appropriate governmental entities at the
17 Federal, State, and local levels (including met-
18 ropolitan planning organizations), to carry out
19 paragraph (5); and

20 “(D) minimum levels for—

21 “(i) the condition of pavement on the
22 Interstate System; and

23 “(ii) the condition of bridges on the
24 National Highway System.

25 “(5) STATE PERFORMANCE TARGETS.—

1 “(A) ESTABLISHMENT OF TARGETS.—Not
2 later than 1 year after the date on which the
3 Secretary promulgates regulations under para-
4 graph (4), each State, in consultation with met-
5 ropolitan planning organizations, shall establish
6 targets that address each of the performance
7 measures identified in paragraph (4)(B).

8 “(B) PERIODIC UPDATES.—Each State
9 shall periodically update the targets established
10 under subparagraph (A).

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

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

18 “(B) State targets that address the per-
19 formance measures identified in paragraph
20 (4)(B).

21 “(7) CERTIFICATION OF PLAN DEVELOPMENT
22 PROCESS.—

23 “(A) IN GENERAL.—Not later than 90
24 days after the date on which a State submits a
25 request for approval of the process used by the

1 State to develop the State asset management
2 plan for the National Highway System, the Sec-
3 retary shall—

4 “(i) review the process; and

5 “(ii)(I) certify that the process meets
6 the requirements established by the Sec-
7 retary; or

8 “(II) deny certification and specify ac-
9 tions necessary for the State to take to
10 correct deficiencies in the State process.

11 “(B) RECERTIFICATION.—Not less often
12 than every 4 years, the Secretary shall review
13 and recertify that the process used by a State
14 to develop and maintain the State asset man-
15 agement plan for the National Highway System
16 meets the requirements for the process, as es-
17 tablished by the Secretary.

18 “(8) PERFORMANCE REPORTS.—

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

23 “(i) the condition and performance of
24 the National Highway System in the State;

1 “(ii) progress in achieving State tar-
2 gets for each of the performance measures
3 for the National Highway System; and

4 “(iii) the effectiveness of the invest-
5 ment strategy documented in the State
6 asset management plan for the National
7 Highway System.

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

17 “(g) INTERSTATE SYSTEM AND NHS BRIDGE CON-
18 DITIONS.—

19 “(1) CONDITION OF INTERSTATE SYSTEM.—

20 “(A) PENALTY.—If, during 2 consecutive
21 reporting periods, the condition of the Inter-
22 state System in a State falls below the min-
23 imum condition level established by the Sec-
24 retary under subsection (f)(4)(D), the State

1 shall be required, during the following fiscal
2 year—

3 “(i) to obligate, from the amounts ap-
4 portioned to the State under section
5 104(b)(1), an amount that is not less than
6 the amount of funds apportioned to the
7 State for fiscal year 2009 under the Inter-
8 state maintenance program for the pur-
9 poses described in this section (as in effect
10 on the day before the date of enactment of
11 the MAP-21), except that the amount re-
12 served under this clause shall be increased
13 by 2 percent over the amount reserved in
14 the previous fiscal year for each year after
15 fiscal year 2013; and

16 “(ii) to transfer, from the amounts
17 apportioned to the State under section
18 104(b)(2) to the apportionment of the
19 State under section 104(b)(1), an amount
20 equal to 10 percent of the amount of funds
21 apportioned to the State for fiscal year
22 2009 under the Interstate maintenance
23 program for the purposes described in this
24 section (as in effect on the day before the
25 date of enactment of the MAP-21).

1 “(B) RESTORATION.—The obligation re-
2 quirement for the Interstate System in a State
3 required by subparagraph (A) for a fiscal year
4 shall remain in effect for each subsequent fiscal
5 year until such time as the condition of the
6 Interstate System in the State exceeds the min-
7 imum condition level established by the Sec-
8 retary.

9 “(2) CONDITION OF NHS BRIDGES.—

10 “(A) PENALTY.—If, during 2 consecutive
11 reporting periods, the condition of bridges on
12 the National Highway System in a State falls
13 below the minimum condition level established
14 by the Secretary under subsection (f)(4)(D), the
15 State shall be required, during the following fis-
16 cal year—

17 “(i) to obligate, from the amounts ap-
18 portioned to the State under section
19 104(b)(1), an amount for bridges on the
20 National Highway System that is not less
21 than 50 percent of the amount of funds
22 apportioned to the State for fiscal year
23 2009 under the highway bridge program
24 for the purposes described in section 144
25 (as in effect on the day before the date of

1 enactment of the MAP–21), except that
2 the amount reserved under this clause
3 shall be increased by 2 percent over the
4 amount reserved in the previous fiscal year
5 for each year after fiscal year 2013; and

6 “(ii) to transfer, from the amounts
7 apportioned to the State under section
8 104(b)(2) to the apportionment of the
9 State under section 104(b)(1), an amount
10 equal to 10 percent of the amount of funds
11 apportioned to the State for fiscal year
12 2009 under the highway bridge program
13 for the purposes described in section 144
14 (as in effect on the day before the date of
15 enactment of the MAP–21).

16 “(B) RESTORATION.—The obligation re-
17 quirement for bridges on the National Highway
18 System in a State required by subparagraph
19 (A) for a fiscal year shall remain in effect for
20 each subsequent fiscal year until such time as
21 the condition of bridges on the National High-
22 way System in the State exceeds the minimum
23 condition level established by the Secretary.”.

24 (b) TRANSITION PERIOD.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), until such date as a State has in effect
3 an approved asset management plan and has estab-
4 lished performance targets as described in section
5 119 of title 23, United States Code, that will con-
6 tribute to achieving the national goals for the condi-
7 tion and performance of the National Highway Sys-
8 tem, but not later than 15 months after the date on
9 which the Secretary promulgates regulations re-
10 quired under section 119(f)(4) of that title, the Sec-
11 retary shall approve obligations of funds apportioned
12 to a State to carry out the national highway per-
13 formance program under section 119 of that title,
14 for projects that otherwise meet the requirements of
15 that section.

16 (2) EXTENSION.—The Secretary may extend
17 the transition period for a State under paragraph
18 (1) if the Secretary determines that the State has
19 made a good faith effort to establish an asset man-
20 agement plan and performance targets referred to in
21 that paragraph.

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

“119. National highway performance program.”.

1 **SEC. 1107. EMERGENCY RELIEF.**

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

4 **“§ 125. Emergency relief**

5 “(a) IN GENERAL.—Subject to this section and sec-
6 tion 120, an emergency fund is authorized for expenditure
7 by the Secretary for the repair or reconstruction of high-
8 ways, roads, and trails, in any area of the United States,
9 including Indian reservations, that the Secretary finds
10 have suffered serious damage as a result of—

11 “(1) a natural disaster over a wide area, such
12 as by a flood, hurricane, tidal wave, earthquake, se-
13 vere storm, or landslide; or

14 “(2) catastrophic failure from any external
15 cause.

16 “(b) RESTRICTION ON ELIGIBILITY.—

17 “(1) DEFINITION OF CONSTRUCTION PHASE.—
18 In this subsection, the term ‘construction phase’
19 means the phase of physical construction of a high-
20 way or bridge facility that is separate from any
21 other identified phases, such as planning, design, or
22 right-of-way phases, in the State transportation im-
23 provement program.

24 “(2) RESTRICTION.—In no case shall funds be
25 used under this section for the repair or reconstruc-
26 tion of a bridge—

1 “(A) that has been permanently closed to
2 all vehicular traffic by the State or responsible
3 local official because of imminent danger of col-
4 lapse due to a structural deficiency or physical
5 deterioration; or

6 “(B) if a construction phase of a replace-
7 ment structure is included in the approved
8 Statewide transportation improvement program
9 at the time of an event described in subsection
10 (a).

11 “(c) FUNDING.—

12 “(1) IN GENERAL.—Subject to the limitations
13 described in paragraph (2), there are authorized to
14 be appropriated from the Highway Trust Fund
15 (other than the Mass Transit Account) such sums as
16 are necessary to establish the fund authorized by
17 this section and to replenish that fund on an annual
18 basis.

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

21 “(A) not more than \$100,000,000 is au-
22 thorized to be obligated in any 1 fiscal year
23 commencing after September 30, 1980, to carry
24 out this section, except that, if for any fiscal
25 year the total of all obligations under this sec-

1 tion is less than the amount authorized to be
2 obligated for the fiscal year, the unobligated
3 balance of that amount shall—

4 “(i) remain available until expended;
5 and

6 “(ii) be in addition to amounts other-
7 wise available to carry out this section for
8 each year; and

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

16 “(ii) funds obligated under this subpara-
17 graph shall be reimbursed from the appropria-
18 tion or replenishment.

19 “(d) ELIGIBILITY.—

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

1 “(A) no funds shall be so expended unless
2 an emergency has been declared by the Gov-
3 ernor of the State with concurrence by the Sec-
4 retary, unless the President has declared the
5 emergency to be a major disaster for the pur-
6 poses of the Robert T. Stafford Disaster Relief
7 and Emergency Assistance Act (42 U.S.C. 5121
8 et seq.) for which concurrence of the Secretary
9 is not required; and

10 “(B) the Secretary has received an applica-
11 tion from the State transportation department
12 that includes a comprehensive list of all eligible
13 project sites and repair costs by not later than
14 2 years after the natural disaster or cata-
15 strophic failure.

16 “(2) COST LIMITATION.—

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

1 “(B) LIMITATION.—The total cost of a
2 project funded under this section may not ex-
3 ceed the cost of repair or reconstruction of a
4 comparable facility.

5 “(3) DEBRIS REMOVAL.—The costs of debris
6 removal shall be an eligible expense only for events
7 not eligible for assistance pursuant to the Robert T.
8 Stafford Disaster Relief and Emergency Assistance
9 Act (42 U.S.C. 5121 et seq.).

10 “(4) TERRITORIES.—The total obligations for
11 projects under this section for any fiscal year in the
12 Virgin Islands, Guam, American Samoa, and the
13 Commonwealth of the Northern Mariana Islands
14 shall not exceed \$20,000,000.

15 “(5) SUBSTITUTE TRAFFIC.—Notwithstanding
16 any other provision of this section, actual and nec-
17 essary costs of maintenance and operation of ferry-
18 boats or additional transit service providing tem-
19 porary substitute highway traffic service, less the
20 amount of fares charged for comparable service, may
21 be expended from the emergency fund authorized by
22 this section for Federal-aid highways.

23 “(e) TRIBAL TRANSPORTATION FACILITIES, FED-
24 ERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC
25 ROADS ON FEDERAL LANDS.—

1 “(1) DEFINITION OF OPEN TO PUBLIC TRAV-
2 EL.—In this subsection, the term ‘open to public
3 travel’ means, with respect to a road, that, except
4 during scheduled periods, extreme weather condi-
5 tions, or emergencies, the road is open to the general
6 public for use with a standard passenger vehicle,
7 without restrictive gates or prohibitive signs or regu-
8 lations, other than for general traffic control or re-
9 strictions based on size, weight, or class of registra-
10 tion.

11 “(2) EXPENDITURE OF FUNDS.—Notwith-
12 standing subsection (d)(1), the Secretary may ex-
13 pend funds from the emergency fund authorized by
14 this section, independently or in cooperation with
15 any other branch of the Federal Government, a
16 State agency, a tribal government, an organization,
17 or a person, for the repair or reconstruction of tribal
18 transportation facilities, Federal lands transpor-
19 tation facilities, and other federally owned roads that
20 are open to public travel, whether or not those facili-
21 ties are Federal-aid highways.

22 “(3) REIMBURSEMENT.—

23 “(A) IN GENERAL.—The Secretary may re-
24 imburse Federal and State agencies (including
25 political subdivisions) for expenditures made for

1 projects determined eligible under this section,
2 including expenditures for emergency repairs
3 made before a determination of eligibility.

4 “(B) TRANSFERS.—With respect to reim-
5 bursements described in subparagraph (A)—

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

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

18 “(f) TREATMENT OF TERRITORIES.—For purposes of
19 this section, the Virgin Islands, Guam, American Samoa,
20 and the Commonwealth of the Northern Mariana Islands
21 shall be considered to be States and parts of the United
22 States, and the chief executive officer of each such terri-
23 tory shall be considered to be a Governor of a State.”.

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

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

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

5 “(a) ESTABLISHMENT.—The Secretary shall estab-
6 lish and implement a transportation mobility program
7 under this section.

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

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

16 “(1) Construction, reconstruction, rehabilita-
17 tion, resurfacing, restoration, preservation, or oper-
18 ational improvements for highways, including con-
19 struction of designated routes of the Appalachian de-
20 velopment highway system.

21 “(2) Replacement (including replacement with
22 fill material), rehabilitation, preservation, protection
23 (including painting, scour countermeasures, seismic
24 retrofits, impact protection measures, security coun-
25 termeasures, and protection against extreme events)
26 and application of calcium magnesium acetate, so-

1 dium acetate/formate, or other environmentally ac-
2 ceptable, minimally corrosive anti-icing and deicing
3 compositions for bridges (and approaches to bridges
4 and other elevated structures) and tunnels on public
5 roads of all functional classifications, including any
6 such construction or reconstruction necessary to ac-
7 commodate other transportation modes.

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

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

18 “(5) Training of bridge and tunnel inspectors
19 (within the meaning of section 144).

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

1 “(7) Carpool projects, fringe and corridor park-
2 ing facilities and programs, including electric vehicle
3 infrastructure in accordance with section 137, bicy-
4 cle transportation and pedestrian walkways in ac-
5 cordance with section 217, and the modification of
6 public sidewalks to comply with the Americans with
7 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

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

13 “(9) Highway and transit research and develop-
14 ment and technology transfer programs.

15 “(10) Capital and operating costs for traffic
16 and traveler information monitoring, management,
17 and control facilities and programs, including truck
18 stop electrification systems.

19 “(11) Projects and strategies designed to sup-
20 port congestion pricing, including electronic toll col-
21 lection and travel demand management strategies
22 and programs.

23 “(12) Surface transportation planning.

24 “(13) Transportation enhancement activities.

1 “(14) Recreational trails projects eligible for
2 funding under section 206.

3 “(15) Construction of ferry boats and ferry ter-
4 minal facilities eligible for funding under section
5 129(c).

6 “(16) Border infrastructure projects eligible for
7 funding under section 1303 of the SAFETEA-LU
8 (Public Law 109–59).

9 “(17) Projects associated with National Scenic
10 Byways, All-American Roads, and America’s Byways
11 eligible for funding under section 162.

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

14 “(19) Safe routes to school projects eligible for
15 funding under section 1404 of the SAFETEA–LU
16 (23 U.S.C. 402 note; Public Law 109–59).

17 “(20) Transportation control measures de-
18 scribed in section 108(f)(1)(A) of the Clean Air Act
19 (42 U.S.C. 7408(f)(1)(A)), other than section
20 108(f)(1)(A)(xvi) of that Act.

21 “(21) Development and implementation of a
22 State asset management plan for the National High-
23 way System in accordance with section 119, includ-
24 ing data collection, maintenance, and integration
25 and the costs associated with obtaining, updating,

1 and licensing software and equipment required for
2 risk-based asset management and performance-based
3 management, and for similar activities relating to
4 the development and implementation of a perform-
5 ance-based management system for other public
6 roads.

7 “(22) In accordance with all applicable Federal
8 law (including regulations), participation in natural
9 habitat and wetlands mitigation efforts relating to
10 projects funded under this title, which may include
11 participation in natural habitat and wetlands mitiga-
12 tion banks, contributions to statewide and regional
13 efforts to conserve, restore, enhance, and create nat-
14 ural habitats and wetlands, and development of
15 statewide and regional natural habitat and wetlands
16 conservation and mitigation plans, including any
17 such banks, efforts, and plans developed in accord-
18 ance with applicable Federal law (including regula-
19 tions), on the conditions that—

20 “(A) contributions to those mitigation ef-
21 forts may—

22 “(i) take place concurrent with or in
23 advance of project construction; and

24 “(ii) occur in advance of project con-
25 struction only if the efforts are consistent

1 with all applicable requirements of Federal
2 law (including regulations) and State
3 transportation planning processes; and

4 “(B) with respect to participation in a nat-
5 ural habitat or wetland mitigation effort relat-
6 ing to a project funded under this title that has
7 an impact that occurs within the service area of
8 a mitigation bank, preference is given, to the
9 maximum extent practicable, to the use of the
10 mitigation bank if the bank contains sufficient
11 available credits to offset the impact and the
12 bank is approved in accordance with applicable
13 Federal law (including regulations).

14 “(23) Infrastructure-based intelligent transpor-
15 tation systems capital improvements.

16 “(24) Environmental restoration and pollution
17 abatement in accordance with section 328.

18 “(25) Control of noxious weeds and aquatic
19 noxious weeds and establishment of native species in
20 accordance with section 329.

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

1 “(A) the project will make significant im-
2 provement to freight movements on the national
3 freight network;

4 “(B) the public benefit of the project ex-
5 ceeds the Federal investment; and

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

12 “(d) ALLOCATIONS OF APPORTIONED FUNDS TO
13 AREAS BASED ON POPULATION.—

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

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

20 “(i) in urbanized areas of the State
21 with an urbanized area population of over
22 200,000;

23 “(ii) in areas of the State other than
24 urban areas with a population greater than
25 5,000; and

1 “(iii) in other areas of the State; and

2 “(B) 50 percent may be obligated in any
3 area of the State.

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

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

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

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

24 “(e) LOCATION OF PROJECTS.—Except as provided
25 in subsection (g) and for projects described in paragraphs

1 (2), (4), (7), (8), (13), (14), and (19) of subsection (c),
2 transportation mobility program projects may not be un-
3 dertaken on roads functionally classified as local or rural
4 minor collectors.

5 “(f) APPLICABILITY OF PLANNING REQUIRE-
6 MENTS.—Programming and expenditure of funds for
7 projects under this section shall be consistent with sections
8 134 and 135.

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

10 “(1) DEFINITION OF OFF-SYSTEM BRIDGE.—

11 The term ‘off-system bridge’ means a highway
12 bridge located on a public road, other than a bridge
13 on a Federal-aid highway.

14 “(2) SPECIAL RULE.—

15 “(A) PENALTY.—If the total deck area of
16 deficient off-system bridges in a State increases
17 for the 2 most recent consecutive years, the
18 State shall be required, during the following fis-
19 cal year, to obligate for the improvement of de-
20 ficient off-system bridges from the amounts ap-
21 portioned to the State under section 104(b)(2)
22 an amount that is not less than 110 percent of
23 the amount of funds required to be obligated by
24 the State for off-system bridges for fiscal year
25 2009 under section 144(f)(2), as in effect on

1 the day before the date of enactment of the
2 MAP-21, except that the amount reserved
3 under this subparagraph shall be increased by
4 2 percent over the amount reserved in the pre-
5 vious fiscal year for each year after fiscal year
6 2013.

7 “(B) RESTORATION.—The obligation re-
8 quirement for off-system bridges in a State re-
9 quired by subparagraph (A) for a fiscal year
10 shall remain in effect for each subsequent fiscal
11 year until such time as the total deck area of
12 deficient off-system bridges in the State has de-
13 creased to the level it was in the State for the
14 fiscal year prior to the establishment of the ob-
15 ligation requirement for the State under sub-
16 paragraph (A).

17 “(3) CREDIT FOR BRIDGES NOT ON FEDERAL-
18 AID HIGHWAYS.—Notwithstanding any other provi-
19 sion of law, with respect to any project not on a
20 Federal-aid highway for the replacement of a bridge
21 or rehabilitation of a bridge that is wholly funded
22 from State and local sources, is eligible for Federal
23 funds under this section, is noncontroversial, is cer-
24 tified by the State to have been carried out in ac-
25 cordance with all standards applicable to such

1 projects under this section, and is determined by the
2 Secretary upon completion to be no longer a defi-
3 cient bridge—

4 “(A) any amount expended after the date
5 of enactment of this subsection from State and
6 local sources for the project in excess of 20 per-
7 cent of the cost of construction of the project
8 may be credited to the non-Federal share of the
9 cost of other bridge projects in the State that
10 are eligible for Federal funds under this sec-
11 tion; and

12 “(B) that crediting shall be conducted in
13 accordance with procedures established by the
14 Secretary.”.

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

“133. Transportation mobility program.”.

19 **SEC. 1109. WORKFORCE DEVELOPMENT.**

20 (a) ON-THE-JOB TRAINING.—Section 140(b) of title
21 23, United States Code, is amended—

22 (1) by striking “Whenever apportionments are
23 made under section 104(b)(3),” and inserting
24 “From administrative funds made available under
25 section 104(a),”; and

1 (2) by striking “the surface transportation pro-
2 gram under section 104(b) and the bridge program
3 under section 144” and inserting “the transpor-
4 tation mobility program under section 104(b)”.

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

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

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

13 (1) in subsection (b)—

14 (A) by striking paragraph (2) and insert-
15 ing the following:

16 “(2) FUNDING.—

17 “(A) IN GENERAL.—From administrative
18 funds made available under section 104(a), the
19 Secretary shall deduct such sums as are nec-
20 essary, not to exceed \$10,000,000 for each fis-
21 cal year, to carry out this section.

22 “(B) ALLOCATION OF FUNDS.—Funds
23 made available to carry out this section may be
24 allocated to the Internal Revenue Service and
25 the States at the discretion of the Secretary, ex-

1 cept that of funds so made available for each
2 fiscal year, \$2,000,000 shall be available only to
3 carry out intergovernmental enforcement ef-
4 forts, including research and training.”; and

5 (B) in paragraph (8)—

6 (i) in the paragraph heading by strik-
7 ing “SURFACE TRANSPORTATION PRO-
8 GRAM” and inserting “TRANSPORTATION
9 MOBILITY PROGRAM”; and

10 (ii) by striking “section 104(b)(3)”
11 and inserting “section 104(b)(2)”; and

12 (2) in subsection (c)(3) by striking “for each of
13 fiscal years 2005 through 2009,” and inserting “for
14 each fiscal year,”.

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

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

19 **“§ 144. National bridge and tunnel inventory and in-**
20 **spection standards**

21 “(a) FINDINGS AND DECLARATIONS.—

22 “(1) FINDINGS.—Congress finds that—

23 “(A) the condition of the bridges of the
24 United States has improved since the date of
25 enactment of the Transportation Equity Act for

1 the 21st Century (Public Law 105–178; 112
2 Stat. 107), yet continued improvement to
3 bridge conditions is essential to protect the
4 safety of the traveling public and allow for the
5 efficient movement of people and goods on
6 which the economy of the United States relies;
7 and

8 “(B) the systematic preventative mainte-
9 nance of bridges, and replacement and rehabili-
10 tation of deficient bridges, should be under-
11 taken through an overall asset management ap-
12 proach to transportation investment.

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

15 “(A) to inventory, inspect, and improve the
16 condition of the highway bridges and tunnels of
17 the United States;

18 “(B) to use a data-driven, risk-based ap-
19 proach and cost-effective strategy for systematic
20 preventative maintenance, replacement, and re-
21 habilitation of highway bridges and tunnels to
22 ensure safety and extended service life;

23 “(C) to use performance-based bridge
24 management systems to assist States in making
25 timely investments;

1 “(D) to ensure accountability and link per-
2 formance outcomes to investment decisions; and

3 “(E) to ensure connectivity and access for
4 residents of rural areas of the United States
5 through strategic investments in National High-
6 way System bridges and bridges on all public
7 roads.

8 “(b) NATIONAL BRIDGE AND TUNNEL INVEN-
9 TORIES.—

10 “(1) IN GENERAL.—The Secretary, in consulta-
11 tion with the States, shall—

12 “(A) inventory all highway bridges on pub-
13 lic roads that are bridges over waterways, other
14 topographical barriers, other highways, and
15 railroads;

16 “(B) classify the bridges according to serv-
17 iceability, safety, and essentiality for public use,
18 including the potential impacts to emergency
19 evacuation routes and to regional and national
20 freight and passenger mobility if the service-
21 ability of the bridge is restricted or diminished;
22 and

23 “(C) based on that classification, assign
24 each a risk-based priority for systematic pre-

1 ventative maintenance, replacement, or rehabili-
2 tation.

3 “(2) TRIBALLY OWNED AND FEDERALLY
4 OWNED BRIDGES.—As part of the activities carried
5 out under paragraph (1), the Secretary, in consulta-
6 tion with the Secretaries of appropriate Federal
7 agencies, shall—

8 “(A) inventory all tribally owned and Fed-
9 erally owned highway bridges that are open to
10 the public, over waterways, other topographical
11 barriers, other highways, and railroads;

12 “(B) classify the bridges according to serv-
13 iceability, safety, and essentiality for public use;
14 and

15 “(C) based on the classification, assign
16 each a risk-based priority for systematic pre-
17 ventative maintenance, replacement, or rehabili-
18 tation.

19 “(3) TUNNELS.—The Secretary shall establish
20 a national inventory of highway tunnels reflecting
21 the findings of the most recent highway tunnel in-
22 spections conducted by States under this section.

23 “(c) GENERAL BRIDGE AUTHORITY.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2) and notwithstanding any other provision

1 of law, the General Bridge Act of 1946 (33 U.S.C.
2 525 et seq.) shall apply to bridges authorized to be
3 replaced, in whole or in part, by this title.

4 “(2) EXCEPTION.—Section 502(b) of the Gen-
5 eral Bridge Act of 1946 (33 U.S.C. 525(b)) and sec-
6 tion 9 of the Act of March 3, 1899 (33 U.S.C. 401),
7 shall not apply to any bridge constructed, recon-
8 structed, rehabilitated, or replaced with assistance
9 under this title, if the bridge is over waters that—

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

14 “(B) are—

15 “(i) not tidal; or

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

19 “(d) INVENTORY UPDATES AND REPORTS.—

20 “(1) IN GENERAL.—The Secretary shall—

21 “(A) annually revise the inventories au-
22 thorized by subsection (b); and

23 “(B) submit to the Committee on Trans-
24 portation and Infrastructure of the House of
25 Representatives and the Committee on Environ-

1 ment and Public Works of the Senate a report
2 on the inventories.

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

9 “(3) GUIDANCE.—The Secretary shall provide
10 guidance to States and Federal agencies for imple-
11 mentation of this subsection.

12 “(4) BRIDGES NOT ON NATIONAL HIGHWAY
13 SYSTEM.—The Secretary shall—

14 “(A) conduct a study on the benefits, cost-
15 effectiveness, and feasibility of requiring ele-
16 ment-level data collection for bridges not on the
17 National Highway System; and

18 “(B) submit to the Committee on Trans-
19 portation and Infrastructure of the House of
20 Representatives and the Committee on Environ-
21 ment and Public Works of the Senate a report
22 on the results of the study.

23 “(e) BRIDGES WITHOUT TAXING POWERS.—

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of law, any bridge that is owned and oper-

1 ated by an agency that does not have taxing powers
2 and whose functions include operating a federally as-
3 sisted public transit system subsidized by toll reve-
4 nues shall be eligible for assistance under this title,
5 but the amount of such assistance shall in no event
6 exceed the cumulative amount which such agency
7 has expended for capital and operating costs to sub-
8 sidize such transit system.

9 “(2) INSUFFICIENT ASSETS.—Before author-
10 izing an expenditure of funds under this subsection,
11 the Secretary shall determine that the applicant
12 agency has insufficient reserves, surpluses, and pro-
13 jected revenues (over and above those required for
14 bridge and transit capital and operating costs) to
15 fund the necessary bridge replacement or rehabilita-
16 tion project.

17 “(3) CREDITING OF NON-FEDERAL FUNDS.—
18 Any non-Federal funds expended for the seismic ret-
19 rofit of the bridge may be credited toward the non-
20 Federal share required as a condition of receipt of
21 any Federal funds for seismic retrofit of the bridge
22 made available after the date of the expenditure.

23 “(f) REPLACEMENT OF DESTROYED BRIDGES AND
24 FERRY BOAT SERVICE.—

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

5 “(A) any low water crossing (regardless of
6 the length of the low water crossing);

7 “(B) any bridge that was destroyed prior
8 to January 1, 1965;

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

11 “(D) any road bridge that is rendered ob-
12 solete as a result of a Corps of Engineers flood
13 control or channelization project and is not re-
14 built with funds from the Corps of Engineers.

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

19 “(g) HISTORIC BRIDGES.—

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

24 “(2) COORDINATION.—The Secretary shall, in
25 cooperation with the States, encourage the retention,

1 rehabilitation, adaptive reuse, and future study of
2 historic bridges.

3 “(3) STATE INVENTORY.—The Secretary shall
4 require each State to complete an inventory of all
5 bridges on and off Federal-aid highways to deter-
6 mine the historic significance of the bridges.

7 “(4) ELIGIBILITY.—

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

17 “(B) BRIDGES NOT USED FOR VEHICLE
18 TRAFFIC.—In the case of a historic bridge that
19 is no longer used for motorized vehicular traf-
20 fic, the costs eligible as reimbursable project
21 costs pursuant to this chapter shall not exceed
22 the estimated cost of demolition of the historic
23 bridge.

24 “(5) PRESERVATION.—Any State that proposes
25 to demolish a historic bridge for a replacement

1 project with funds made available to carry out this
2 section shall first make the historic bridge available
3 for donation to a State, locality, or responsible pri-
4 vate entity if the State, locality, or responsible entity
5 enters into an agreement—

6 “(A) to maintain the bridge and the fea-
7 tures that give the historic bridge its historic
8 significance; and

9 “(B) to assume all future legal and finan-
10 cial responsibility for the historic bridge, which
11 may include an agreement to hold the State
12 transportation department harmless in any li-
13 ability action.

14 “(6) COSTS INCURRED.—

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

22 “(B) ADDITIONAL FUNDING.—Any bridge
23 preserved pursuant to this paragraph shall not
24 be eligible for any other funds authorized pur-
25 suant to this title.

1 “(h) NATIONAL BRIDGE AND TUNNEL INSPECTION
2 STANDARDS.—

3 “(1) REQUIREMENT.—

4 “(A) IN GENERAL.—The Secretary shall
5 establish and maintain inspection standards for
6 the proper inspection and evaluation of all high-
7 way bridges and tunnels for safety and service-
8 ability.

9 “(B) UNIFORMITY.—The standards under
10 this subsection shall be designed to ensure uni-
11 formity of the inspections and evaluations.

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

15 “(A) specify, in detail, the method by
16 which the inspections shall be carried out by the
17 States, Federal agencies, and tribal govern-
18 ments;

19 “(B) establish the maximum time period
20 between inspections;

21 “(C) establish the qualifications for those
22 charged with carrying out the inspections;

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

1 “(i) written reports on the results of
2 highway bridge and tunnel inspections and
3 notations of any action taken pursuant to
4 the findings of the inspections; and

5 “(ii) current inventory data for all
6 highway bridges and tunnels reflecting the
7 findings of the most recent highway bridge
8 and tunnel inspections conducted; and

9 “(E) establish a procedure for national
10 certification of highway bridge inspectors and
11 tunnel inspectors.

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

14 “(A) establish, in consultation with the
15 States, and interested and knowledgeable pri-
16 vate organizations and individuals, procedures
17 to conduct reviews of State compliance with—

18 “(i) the standards established under
19 this subsection; and

20 “(ii) the calculation or reevaluation of
21 bridge load ratings; and

22 “(B) establish, in consultation with the
23 States, and interested and knowledgeable pri-
24 vate organizations and individuals, procedures

1 for States to follow in reporting to the Sec-
2 retary—

3 “(i) critical findings relating to struc-
4 tural or safety-related deficiencies of high-
5 way bridges; and

6 “(ii) monitoring activities and correc-
7 tive actions taken in response to a critical
8 finding.

9 “(4) REVIEWS OF STATE COMPLIANCE.—

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

13 “(B) NONCOMPLIANCE.—If an annual re-
14 view in accordance with subparagraph (A) iden-
15 tifies noncompliance by a State, the Secretary
16 shall—

17 “(i) issue a report detailing the issues
18 of the noncompliance by December 31 of
19 the calendar year in which the review was
20 made; and

21 “(ii) provide the State an opportunity
22 to address the noncompliance by—

23 “(I) developing a corrective ac-
24 tion plan to remedy the noncompli-
25 ance; or

1 “(II) resolving the issues of non-
2 compliance not later than 45 days
3 after the date of notification.

4 “(5) PENALTY FOR NONCOMPLIANCE.—

5 “(A) IN GENERAL.—If a State fails to sat-
6 isfy the requirements of paragraph (4)(B) by
7 August 1 of the calendar year following the
8 year of a finding of noncompliance, the Sec-
9 retary shall, on October 1 of that year, and
10 each year thereafter as may be necessary, re-
11 quire the State to dedicate funds apportioned to
12 the State under sections 119 and 133 after the
13 date of enactment of the MAP-21 to correct
14 the noncompliance with the minimum inspection
15 standards established under this subsection.

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

19 “(i) be determined by the State based
20 on an analysis of the actions needed to ad-
21 dress the noncompliance; and

22 “(ii) require approval by the Sec-
23 retary.

24 “(6) UPDATE OF STANDARDS.—Not later than
25 3 years after the date of enactment of the MAP-21,

1 the Secretary shall update inspection standards to
2 cover—

3 “(A) the methodology, training, and quali-
4 fications for inspectors; and

5 “(B) the frequency of inspection.

6 “(7) RISK-BASED APPROACH.—In carrying out
7 the revisions required by paragraph (6), the Sec-
8 retary shall consider a risk-based approach to deter-
9 mining the frequency of bridge inspections.

10 “(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL
11 INSPECTORS.—

12 “(1) IN GENERAL.—The Secretary, in coopera-
13 tion with the State transportation departments, shall
14 maintain a program designed to train appropriate
15 personnel to carry out highway bridge and tunnel in-
16 spections.

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

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

23 (b) CONFORMING AMENDMENT.—The analysis for
24 chapter 1 of title 23, United States Code, is amended by

1 striking the item relating to section 144 and inserting the
2 following:

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

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

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

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

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

9 “(1) HIGH RISK RURAL ROAD.—The term ‘high
10 risk rural road’ means any roadway functionally
11 classified as a rural major or minor collector or a
12 rural local road with significant safety risks, as de-
13 fined by a State in accordance with an updated
14 State strategic highway safety plan.

15 “(2) HIGHWAY BASEMAP.—The term ‘highway
16 basemap’ means a representation of all public roads
17 that can be used to geolocate attribute data on a
18 roadway.

19 “(3) HIGHWAY SAFETY IMPROVEMENT PRO-
20 GRAM.—The term ‘highway safety improvement pro-
21 gram’ means projects, activities, plans, and reports
22 carried out under this section.

23 “(4) HIGHWAY SAFETY IMPROVEMENT
24 PROJECT.—

1 “(A) IN GENERAL.—The term ‘highway
2 safety improvement project’ means strategies,
3 activities, and projects on a public road that are
4 consistent with a State strategic highway safety
5 plan and—

6 “(i) correct or improve a hazardous
7 road location or feature; or

8 “(ii) address a highway safety prob-
9 lem.

10 “(B) INCLUSIONS.—The term ‘highway
11 safety improvement project’ includes, but is not
12 limited to, a project for 1 or more of the fol-
13 lowing:

14 “(i) An intersection safety improve-
15 ment.

16 “(ii) Pavement and shoulder widening
17 (including addition of a passing lane to
18 remedy an unsafe condition).

19 “(iii) Installation of rumble strips or
20 another warning device, if the rumble
21 strips or other warning devices do not ad-
22 versely affect the safety or mobility of
23 bicyclists and pedestrians, including per-
24 sons with disabilities.

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

4 “(v) An improvement for pedestrian
5 or bicyclist safety or safety of persons with
6 disabilities.

7 “(vi) Construction and improvement
8 of a railway-highway grade crossing safety
9 feature, including installation of protective
10 devices.

11 “(vii) The conduct of a model traffic
12 enforcement activity at a railway-highway
13 crossing.

14 “(viii) Construction of a traffic
15 calming feature.

16 “(ix) Elimination of a roadside haz-
17 ard.

18 “(x) Installation, replacement, and
19 other improvement of highway signage and
20 pavement markings, or a project to main-
21 tain minimum levels of retroreflectivity,
22 that addresses a highway safety problem
23 consistent with a State strategic highway
24 safety plan.

1 “(xi) Installation of a priority control
2 system for emergency vehicles at signalized
3 intersections.

4 “(xii) Installation of a traffic control
5 or other warning device at a location with
6 high crash potential.

7 “(xiii) Transportation safety planning.

8 “(xiv) Collection, analysis, and im-
9 provement of safety data.

10 “(xv) Planning integrated interoper-
11 able emergency communications equip-
12 ment, operational activities, or traffic en-
13 forcement activities (including police as-
14 sistance) relating to work zone safety.

15 “(xvi) Installation of guardrails, bar-
16 riers (including barriers between construc-
17 tion work zones and traffic lanes for the
18 safety of road users and workers), and
19 crash attenuators.

20 “(xvii) The addition or retrofitting of
21 structures or other measures to eliminate
22 or reduce crashes involving vehicles and
23 wildlife.

1 “(xviii) Installation of yellow-green
2 signs and signals at pedestrian and bicycle
3 crossings and in school zones.

4 “(xix) Construction and operational
5 improvements on high risk rural roads.

6 “(xx) Geometric improvements to a
7 road for safety purposes that improve safe-
8 ty.

9 “(xxi) A road safety audit.

10 “(xxii) Roadway safety infrastructure
11 improvements consistent with the rec-
12 ommendations included in the publication
13 of the Federal Highway Administration en-
14 titled ‘Highway Design Handbook for
15 Older Drivers and Pedestrians’ (FHWA-
16 RD-01-103), dated May 2001 or as subse-
17 quently revised and updated.

18 “(xxiii) Truck parking facilities eligi-
19 ble for funding under section 1401 of the
20 MAP-21.

21 “(xxiv) Systemic safety improvements.

22 “(5) MODEL INVENTORY OF ROADWAY ELE-
23 MENTS.—The term ‘model inventory of roadway ele-
24 ments’ means the listing and standardized coding by
25 the Federal Highway Administration of roadway and

1 traffic data elements critical to safety management,
2 analysis, and decisionmaking.

3 “(6) PROJECT TO MAINTAIN MINIMUM LEVELS
4 OF RETROREFLECTIVITY.—The term ‘project to
5 maintain minimum levels of retroreflectivity’ means
6 a project that is designed to maintain a highway
7 sign or pavement marking retroreflectivity at or
8 above the minimum levels prescribed in Federal or
9 State regulations.

10 “(7) ROAD SAFETY AUDIT.—The term ‘road
11 safety audit’ means a formal safety performance ex-
12 amination of an existing or future road or intersec-
13 tion by an independent multidisciplinary audit team.

14 “(8) ROAD USERS.—The term ‘road user’
15 means a motorist, passenger, public transportation
16 operator or user, truck driver, bicyclist, motorcyclist,
17 or pedestrian, including a person with disabilities.

18 “(9) SAFETY DATA.—

19 “(A) IN GENERAL.—The term ‘safety data’
20 means crash, roadway, and traffic data on a
21 public road.

22 “(B) INCLUSION.—The term ‘safety data’
23 includes, in the case of a railway-highway grade
24 crossing, the characteristics of highway and
25 train traffic, licensing, and vehicle data.

1 “(10) SAFETY PROJECT UNDER ANY OTHER
2 SECTION.—

3 “(A) IN GENERAL.—The term ‘safety
4 project under any other section’ means a
5 project carried out for the purpose of safety
6 under any other section of this title.

7 “(B) INCLUSION.—The term ‘safety
8 project under any other section’ includes—

9 “(i) a project consistent with the
10 State strategic highway safety plan that
11 promotes the awareness of the public and
12 educates the public concerning highway
13 safety matters (including motorcycle safe-
14 ty);

15 “(ii) a project to enforce highway
16 safety laws; and

17 “(iii) a project to provide infrastruc-
18 ture and infrastructure-related equipment
19 to support emergency services.

20 “(11) STATE HIGHWAY SAFETY IMPROVEMENT
21 PROGRAM.—The term ‘State highway safety im-
22 provement program’ means a program of highway
23 safety improvement projects, activities, plans and re-
24 ports carried out as part of the Statewide transpor-
25 tation improvement program under section 135(g).

1 “(12) STATE STRATEGIC HIGHWAY SAFETY
2 PLAN.—The term ‘State strategic highway safety
3 plan’ means a comprehensive plan, based on safety
4 data, developed by a State transportation depart-
5 ment that—

6 “(A) is developed after consultation with—

7 “(i) a highway safety representative of
8 the Governor of the State;

9 “(ii) regional transportation planning
10 organizations and metropolitan planning
11 organizations, if any;

12 “(iii) representatives of major modes
13 of transportation;

14 “(iv) State and local traffic enforce-
15 ment officials;

16 “(v) a highway-rail grade crossing
17 safety representative of the Governor of
18 the State;

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

22 “(vii) motor vehicle administration
23 agencies;

24 “(viii) county transportation officials;

25 and

1 “(ix) other major Federal, State, trib-
2 al, and local safety stakeholders;

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

5 “(C) addresses engineering, management,
6 operation, education, enforcement, and emer-
7 gency services elements (including integrated,
8 interoperable emergency communications) of
9 highway safety as key factors in evaluating
10 highway projects;

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

15 “(E) considers the results of State, re-
16 gional, or local transportation and highway
17 safety planning processes;

18 “(F) describes a program of strategies to
19 reduce or eliminate safety hazards;

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

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

23 “(I) is updated and submitted to the Sec-
24 retary for approval as required under sub-
25 section (d)(2).

1 “(13) SYSTEMIC SAFETY IMPROVEMENT.—The
2 term ‘systemic safety improvement’ means an im-
3 provement that is widely implemented based on
4 high-risk roadway features that are correlated with
5 particular crash types, rather than crash frequency.

6 “(b) PROGRAM.—

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

9 “(2) PURPOSE.—The purpose of the highway
10 safety improvement program shall be to achieve a
11 significant reduction in traffic fatalities and serious
12 injuries on all public roads, including non-State-
13 owned public roads and roads on tribal land.

14 “(c) ELIGIBILITY.—

15 “(1) IN GENERAL.—To obligate funds appor-
16 tioned under section 104(b)(3) to carry out this sec-
17 tion, a State shall have in effect a State highway
18 safety improvement program under which the
19 State—

20 “(A) develops, implements, and updates a
21 State strategic highway safety plan that identi-
22 fies and analyzes highway safety problems and
23 opportunities as provided in subsections (a)(12)
24 and (d);

1 “(B) produces a program of projects or
2 strategies to reduce identified safety problems;
3 and

4 “(C) evaluates the strategic highway safety
5 plan on a regularly recurring basis in accord-
6 ance with subsection (d)(1) to ensure the accu-
7 racy of the data and priority of proposed strate-
8 gies.

9 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-
10 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As
11 part of the State highway safety improvement pro-
12 gram, a State shall—

13 “(A) have in place a comprehensive safety
14 data system with the ability to perform safety
15 problem identification and countermeasure
16 analysis—

17 “(i) to improve the timeliness, accu-
18 racy, completeness, uniformity, integration,
19 and accessibility of the safety data on all
20 public roads, including non-State-owned
21 public roads and roads on tribal land in
22 the State;

23 “(ii) to evaluate the effectiveness of
24 data improvement efforts;

1 “(iii) to link State data systems, in-
2 cluding traffic records, with other data sys-
3 tems within the State;

4 “(iv) to improve the compatibility and
5 interoperability of safety data with other
6 State transportation-related data systems
7 and the compatibility and interoperability
8 of State safety data systems with data sys-
9 tems of other States and national data sys-
10 tems;

11 “(v) to enhance the ability of the Sec-
12 retary to observe and analyze national
13 trends in crash occurrences, rates, out-
14 comes, and circumstances; and

15 “(vi) to improve the collection of data
16 on nonmotorized crashes;

17 “(B) based on the analysis required by
18 subparagraph (A)—

19 “(i) identify hazardous locations, sec-
20 tions, and elements (including roadside ob-
21 stacles, railway-highway crossing needs,
22 and unmarked or poorly marked roads)
23 that constitute a danger to motorists (in-
24 cluding motorecyclists), bicyclists, pedes-
25 trians, and other highway users;

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, fatalities, serious injuries, traf-
5 fic volume levels, and other relevant data;

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

9 “(iv) identify highway safety improve-
10 ment projects on the basis of crash experi-
11 ence, crash potential, or other data-sup-
12 ported means; and

13 “(v) consider which projects maximize
14 opportunities to advance safety;

15 “(C) adopt strategic and performance-
16 based goals that—

17 “(i) address traffic safety, including
18 behavioral and infrastructure problems and
19 opportunities on all public roads;

20 “(ii) focus resources on areas of
21 greatest need; and

22 “(iii) are coordinated with other State
23 highway safety programs;

1 “(D) advance the capabilities of the State
2 for safety data collection, analysis, and integra-
3 tion in a manner that—

4 “(i) complements the State highway
5 safety program under chapter 4 and the
6 commercial vehicle safety plan under sec-
7 tion 31102 of title 49;

8 “(ii) includes all public roads, includ-
9 ing public non-State-owned roads and
10 roads on tribal land;

11 “(iii) identifies hazardous locations,
12 sections, and elements on all public roads
13 that constitute a danger to motorists (in-
14 cluding motorcyclists), bicyclists, pedes-
15 trians, persons with disabilities, and other
16 highway users;

17 “(iv) includes a means of identifying
18 the relative severity of hazardous locations
19 described in clause (iii) in terms of crash-
20 es, serious injuries, fatalities, and traffic
21 volume levels; and

22 “(v) improves the ability of the State
23 to identify the number of fatalities and se-
24 rious injuries on all public roads in the

1 State with a breakdown by functional clas-
2 sification and ownership in the State;

3 “(E)(i) determine priorities for the correc-
4 tion of hazardous road locations, sections, and
5 elements (including railway-highway crossing
6 improvements), as identified through safety
7 data analysis;

8 “(ii) identify opportunities for preventing
9 the development of such hazardous conditions;
10 and

11 “(iii) establish and implement a schedule
12 of highway safety improvement projects for haz-
13 ard correction and hazard prevention; and

14 “(F)(i) establish an evaluation process to
15 analyze and assess results achieved by highway
16 safety improvement projects carried out in ac-
17 cordance with procedures and criteria estab-
18 lished by this section; and

19 “(ii) use the information obtained under
20 clause (i) in setting priorities for highway safety
21 improvement projects.

22 “(d) UPDATES TO STRATEGIC HIGHWAY SAFETY
23 PLANS.—

24 “(1) ESTABLISHMENT OF REQUIREMENTS.—

1 “(A) IN GENERAL.—Not later than 1 year
2 after the date of enactment of the MAP–21, the
3 Secretary shall establish requirements for regu-
4 larly recurring State updates of strategic high-
5 way safety plans.

6 “(B) CONTENTS OF UPDATED STRATEGIC
7 HIGHWAY SAFETY PLANS.—In establishing re-
8 quirements under this subsection, the Secretary
9 shall ensure that States take into consideration,
10 with respect to updated strategic highway safe-
11 ty plans—

12 “(i) the findings of road safety audits;

13 “(ii) the locations of fatalities and se-
14 rious injuries;

15 “(iii) the locations that do not have
16 an empirical history of fatalities and seri-
17 ous injuries, but possess risk factors for
18 potential crashes;

19 “(iv) rural roads, including all public
20 roads, commensurate with fatality data;

21 “(v) motor vehicle crashes that in-
22 clude fatalities or serious injuries to pedes-
23 trians and bicyclists;

24 “(vi) the cost-effectiveness of improve-
25 ments;

1 “(vii) improvements to rail-highway
2 grade crossings; and

3 “(viii) safety on all public roads, in-
4 cluding non-State-owned public roads and
5 roads on tribal land.

6 “(2) APPROVAL OF UPDATED STRATEGIC HIGH-
7 WAY SAFETY PLANS.—

8 “(A) IN GENERAL.—Each State shall—

9 “(i) update the strategic highway
10 safety plans of the State in accordance
11 with the requirements established by the
12 Secretary under this subsection; and

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

16 “(B) REQUIREMENTS FOR APPROVAL.—

17 The Secretary shall not approve the process for
18 an updated strategic highway safety plan un-
19 less—

20 “(i) the updated strategic highway
21 safety plan is consistent with the require-
22 ments of this subsection and subsection
23 (a)(12); and

24 “(ii) the process used is consistent
25 with the requirements of this subsection.

1 “(3) PENALTY FOR FAILURE TO HAVE AN AP-
2 PROVED UPDATED STRATEGIC HIGHWAY SAFETY
3 PLAN.—If a State does not have an updated stra-
4 tegic highway safety plan with a process approved by
5 the Secretary by August 1 of the fiscal year begin-
6 ning after the date of establishment of the require-
7 ments under paragraph (1)—

8 “(A) the State shall not be eligible to re-
9 ceive any additional limitation pursuant to the
10 redistribution of the limitation on obligations
11 for Federal-aid highway and highway safety
12 construction programs that occurs after August
13 1 for each succeeding fiscal year until the fiscal
14 year during which the plan is approved; and

15 “(B) the Secretary shall, on October 1 of
16 each fiscal year thereafter, transfer from funds
17 apportioned to the State under section
18 104(b)(2) an amount equal to 10 percent of the
19 funds so apportioned for the fiscal year for use
20 under the highway safety improvement program
21 under this section to the apportionment of the
22 State under section 104(b)(3) until the fiscal
23 year in which the plan is approved.

24 “(e) ELIGIBLE PROJECTS.—

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

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

7 “(B) as provided in subsection (f), other
8 safety projects.

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

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

14 “(B) USE OF OTHER FUNDS.—States are
15 encouraged to address the full scope of the safe-
16 ty needs and opportunities of the States by
17 using funds made available under other provi-
18 sions of this title (except a provision that spe-
19 cifically prohibits that use).

20 “(f) FLEXIBLE FUNDING FOR STATES WITH A STRA-
21 TEGIC HIGHWAY SAFETY PLAN.—

22 “(1) IN GENERAL.—To further the implementa-
23 tion of a State strategic highway safety plan, a State
24 may use up to 10 percent of the amount of funds
25 apportioned to the State under section 104(b)(3) for

1 a fiscal year to carry out safety projects under any
2 other section as provided in the State strategic high-
3 way safety plan if the State certifies that—

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

7 “(B) the funds are being used for the most
8 effective projects to make progress toward
9 achieving the safety performance targets of the
10 State.

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

15 “(g) DATA IMPROVEMENT.—

16 “(1) DEFINITION OF DATA IMPROVEMENT AC-
17 TIVITIES.—In this subsection:

18 “(A) IN GENERAL.—The term ‘data im-
19 provement activities’ means a project or activity
20 to further the capacity of a State to make more
21 informed and effective safety infrastructure in-
22 vestment decisions.

23 “(B) INCLUSIONS.—The term ‘data im-
24 provement activities’ includes a project or activ-
25 ity—

1 “(i) to create, update, or enhance a
2 highway basemap of all public roads in a
3 State;

4 “(ii) to collect safety data, including
5 data identified as part of the model inven-
6 tory of roadway elements, for creation of
7 or use on a highway basemap of all public
8 roads in a State;

9 “(iii) to store and maintain safety
10 data in an electronic manner;

11 “(iv) to develop analytical processes
12 for safety data elements;

13 “(v) to acquire and implement road-
14 way safety analysis tools; and

15 “(vi) to support the collection, mainte-
16 nance, and sharing of safety data on all
17 public roads and related systems associated
18 with the analytical usage of that data.

19 “(2) APPORTIONMENT.—Of the funds appor-
20 tioned to a State under section 104(b)(3) for a fiscal
21 year—

22 “(A) not less than 8 percent of the funds
23 apportioned for each of fiscal years 2012
24 through 2013 shall be available only for data

1 improvement activities under this subsection;
2 and

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

7 “(3) SPECIAL RULE.—A State may use funds
8 apportioned to the State pursuant to this subsection
9 for any project eligible under this section if the
10 State demonstrates to the satisfaction of the Sec-
11 retary that the State has met all of the State needs
12 for data collection to support the State strategic
13 highway safety plan and sufficiently addressed the
14 data improvement activities described in paragraph
15 (1).

16 “(4) MODEL INVENTORY OF ROADWAY ELE-
17 MENTS.—The Secretary shall—

18 “(A) establish a subset of the model inven-
19 tory of roadway elements that are useful for the
20 inventory of roadway safety; and

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

23 “(h) PERFORMANCE MEASURES AND TARGETS FOR
24 STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

1 “(1) ESTABLISHMENT OF PERFORMANCE MEAS-
2 URES.—Not later than 1 year after the date of en-
3 actment of the MAP–21, the Secretary shall issue
4 guidance to States on the establishment, collection,
5 and reporting of performance measures that re-
6 flect—

7 “(A) serious injuries and fatalities per ve-
8 hicle mile traveled;

9 “(B) serious injuries and fatalities per cap-
10 ita; and

11 “(C) the number of serious injuries and fa-
12 talities

13 “(2) ESTABLISHMENT OF STATE PERFORMANCE
14 TARGETS.—Not later than 1 year after the Secretary
15 has issued guidance to States on the establishment,
16 collection, and reporting of performance measures,
17 each State shall set performance targets that re-
18 flect—

19 “(A) serious injuries and fatalities per ve-
20 hicle mile traveled;

21 “(B) serious injuries and fatalities per cap-
22 ita; and

23 “(C) the number of serious injuries and fa-
24 talities.

25 “(i) SPECIAL RULES.—

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

11 “(2) RAIL-HIGHWAY GRADE CROSSINGS.—If the
12 fatality rate at highway grade crossings in a State
13 increases over the most recent 2-year period for
14 which data are available, that State shall be required
15 to obligate in the next fiscal year on rail-highway
16 grade crossings an amount equal to 120 percent of
17 the amount of funds the State received for fiscal
18 year 2009 for rail-highway grade crossings under
19 section 130(f) (as in effect on the day before the
20 date of enactment of the MAP-21).

21 “(j) REPORTS.—

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

1 “(A) describes the progress being made to
2 achieve the performance targets established
3 under subsection (h);

4 “(B) describes progress being made to im-
5 plement highway safety improvement projects
6 under this section;

7 “(C) assesses the effectiveness of those im-
8 provements; and

9 “(D) describes the extent to which the im-
10 provements funded under this section have con-
11 tributed to reducing—

12 “(i) the number and rate of fatalities
13 on all public roads with, to the maximum
14 extent practicable, a breakdown by func-
15 tional classification and ownership in the
16 State;

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

22 “(iii) the occurrences of fatalities and
23 serious injuries at railway-highway cross-
24 ings.

1 “(2) CONTENTS; SCHEDULE.—The Secretary
2 shall establish the content and schedule for the sub-
3 mission of the report under paragraph (1).

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

8 “(A) the website of the Department; and

9 “(B) such other means as the Secretary
10 determines to be appropriate.

11 “(4) DISCOVERY AND ADMISSION INTO EVI-
12 DENCE OF CERTAIN REPORTS, SURVEYS, AND INFOR-
13 MATION.—Notwithstanding any other provision of
14 law, reports, surveys, schedules, lists, or data com-
15 piled or collected for any purpose relating to this
16 section, shall not be subject to discovery or admitted
17 into evidence in a Federal or State court proceeding
18 or considered for other purposes in any action for
19 damages arising from any occurrence at a location
20 identified or addressed in the reports, surveys,
21 schedules, lists, or other data.

22 “(k) STATE PERFORMANCE TARGETS.—If the Sec-
23 retary determines that a State has not met or made sig-
24 nificant progress toward meeting the performance targets
25 of the State established under subsection (h) by the date

1 that is 2 years after the date of the establishment of the
2 performance targets, the State shall—

3 “(1) use obligation authority equal to the ap-
4 portionment of the State for the prior year under
5 section 104(b)(3) only for highway safety improve-
6 ment projects under this section until the Secretary
7 determines that the State has met or made signifi-
8 cant progress toward meeting the performance tar-
9 gets of the State; and

10 “(2) submit annually to the Secretary, until the
11 Secretary determines that the State has met or
12 made significant progress toward meeting the per-
13 formance targets of the State, an implementation
14 plan that—

15 “(A) identifies roadway features that con-
16 stitute a hazard to road users;

17 “(B) identifies highway safety improve-
18 ment projects on the basis of crash experience,
19 crash potential, or other data-supported means;

20 “(C) describes how highway safety im-
21 provement program funds will be allocated, in-
22 cluding projects, activities, and strategies to be
23 implemented;

24 “(D) describes how the proposed projects,
25 activities, and strategies funded under the State

1 highway safety improvement program will allow
2 the State to make progress toward achieving
3 the safety performance targets of the State; and

4 “(E) describes the actions the State will
5 undertake to meet the performance targets of
6 the State.

7 “(1) FEDERAL SHARE OF HIGHWAY SAFETY IM-
8 PROVEMENT PROJECTS.—Except as provided in sections
9 120 and 130, the Federal share of the cost of a highway
10 safety improvement project carried out with funds appor-
11 tioned to a State under section 104(b)(3) shall be 90 per-
12 cent.”.

13 **SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IM-**
14 **PROVEMENT PROGRAM.**

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

17 **“§ 149. Congestion mitigation and air quality im-**
18 **provement program**

19 “(a) ESTABLISHMENT.—The Secretary shall estab-
20 lish and implement a congestion mitigation and air quality
21 improvement program in accordance with this section.

22 “(b) ELIGIBLE PROJECTS.—

23 “(1) IN GENERAL.—Except as provided in sub-
24 section (c), a State may obligate funds apportioned
25 to the State for the congestion mitigation and air

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

17 “(A)(i)(I) if the Secretary, after consulta-
18 tion with the Administrator determines, on the
19 basis of information published by the Environ-
20 mental Protection Agency pursuant to subpara-
21 graph (A) of section 108(f)(1) of the Clean Air
22 Act (other than clause (xvi) of that subpara-
23 graph) (42 U.S.C. 7408(f)(1)) that the project
24 or program is likely to contribute to—

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

3 “(bb) the maintenance of a national
4 ambient air quality standard in a mainte-
5 nance area; and

6 “(II) there exists a high level of effective-
7 ness in reducing air pollution, in cases of
8 projects or programs where sufficient informa-
9 tion is available in the database established pur-
10 suant to subsection (h) to determine the relative
11 effectiveness of such projects or programs; or

12 “(ii) in any case in which such information
13 is not available, if the Secretary, after such con-
14 sultation, determines that the project or pro-
15 gram is part of a program, method, or strategy
16 described in such section 108(f)(1)(A);

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

21 “(C) to establish or operate a traffic moni-
22 toring, management, and control facility or pro-
23 gram, including advanced truck stop electrifica-
24 tion systems, if the Secretary, after consultation
25 with the Administrator, determines that the fa-

1 cility or program is likely to contribute to the
2 attainment of a national ambient air quality
3 standard;

4 “(D) if the program or project improves
5 traffic flow, including projects to improve sig-
6 nalization, construct high-occupancy vehicle
7 lanes, improve intersections, add turning lanes,
8 improve transportation systems management
9 and operations that mitigate congestion and im-
10 prove air quality, and implement intelligent
11 transportation system strategies and such other
12 projects that are eligible for assistance under
13 this section on the day before the date of enact-
14 ment of the MAP-21, including programs or
15 projects to improve incident and emergency re-
16 sponse or improve mobility, such as through
17 real-time traffic, transit, and multimodal trav-
18 eler information;

19 “(E) if the project or program involves the
20 purchase of integrated, interoperable emergency
21 communications equipment;

22 “(F) if the project or program is for—

23 “(i) the purchase of diesel retrofits
24 that are—

1 “(I) for motor vehicles (as de-
2 fined in section 216 of the Clean Air
3 Act (42 U.S.C. 7550)); or

4 “(II) verified or certified tech-
5 nologies included in the list published
6 pursuant to subsection (f)(2), as in ef-
7 fect on the day before the date of en-
8 actment of the MAP-21, for nonroad
9 vehicles and nonroad engines (as de-
10 fined in section 216 of the Clean Air
11 Act (42 U.S.C. 7550)) that are used
12 in construction projects that are—

13 “(aa) located in nonattain-
14 ment or maintenance areas for
15 ozone, PM₁₀, or PM_{2.5} (as de-
16 fined under the Clean Air Act
17 (42 U.S.C. 7401 et seq.)); and

18 “(bb) funded, in whole or in
19 part, under this title; or

20 “(ii) the conduct of outreach activities
21 that are designed to provide information
22 and technical assistance to the owners and
23 operators of diesel equipment and vehicles
24 regarding the purchase and installation of
25 diesel retrofits;

1 “(G) if the project or program shifts traf-
2 fic demand to nonpeak hours or other transpor-
3 tation modes, increases vehicle occupancy rates,
4 or otherwise reduces demand for roads through
5 such means as telecommuting, ridesharing,
6 carsharing, alternative work hours, and pricing;
7 or

8 “(H) if the Secretary, after consultation
9 with the Administrator, determines that the
10 project or program is likely to contribute to the
11 attainment of a national ambient air quality
12 standard, whether through reductions in vehicle
13 miles traveled, fuel consumption, or through
14 other factors.

15 “(2) LIMITATIONS.—Funds apportioned to a
16 State under section 104(b)(4) and not reserved
17 under subsection (1) may not be obligated for a
18 project that will result in the construction of new ca-
19 pacity available to single-occupant vehicles unless
20 the project consists of a high-occupancy vehicle facil-
21 ity available to single-occupant vehicles only at other
22 than peak travel times or such use by single-occu-
23 pant vehicles at peak travel times is subject to a toll.

24 “(c) STATES FLEXIBILITY.—

1 “(1) STATES WITHOUT A NONATTAINMENT
2 AREA.—If a State does not have, and never has had,
3 a nonattainment area designated under the Clean
4 Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon
5 monoxide, or PM_{2.5}, the State may use funds appor-
6 tioned to the State under section 104(b)(4) (exclud-
7 ing the amount of funds reserved under subsection
8 (l)) for any project in the State that—

9 “(A) would otherwise be eligible under sub-
10 section (b) as if the project were carried out in
11 a nonattainment or maintenance area; or

12 “(B) is eligible under the transportation
13 mobility program under section 133.

14 “(2) STATES WITH A NONATTAINMENT AREA.—

15 “(A) IN GENERAL.—If a State has a non-
16 attainment area or maintenance area and re-
17 ceived funds in fiscal year 2009 under section
18 104(b)(2)(D), as in effect on the day before the
19 date of enactment of the MAP–21, above the
20 amount of funds that the State would have re-
21 ceived based on the nonattainment and mainte-
22 nance area population of the State under sub-
23 paragraphs (B) and (C) of section 104(b)(2), as
24 in effect on the day before the date of enact-
25 ment of the MAP–21, the State may use for

1 any project that is eligible under the transpor-
2 tation mobility program under section 133 an
3 amount of funds apportioned to such State
4 under section 104(b)(4) (excluding the amount
5 of funds reserved under subsection (l)) that is
6 equal to the product obtained by multiplying—

7 “(i) the apportioned amount to such
8 State under section 104(b)(4) (excluding
9 the amount of funds reserved under sub-
10 section (l)); by

11 “(ii) the ratio calculated under para-
12 graph (B).

13 “(B) RATIO.—For purposes of this para-
14 graph, the ratio shall be calculated as—

15 “(i) the amount for fiscal year 2009
16 such State was permitted by section
17 149(c)(2), as in effect on the day before
18 the date of enactment of the MAP–21, to
19 obligate in any area of the State for
20 projects eligible under section 133, as in
21 effect on the day before the date of enact-
22 ment of the MAP–21; bears to

23 “(ii) the total apportionment to such
24 State for fiscal year 2009 under section

1 104(b)(2), as in effect on the day before
2 the date of enactment of the MAP-21.

3 “(3) CHANGES IN DESIGNATION.—If a new
4 nonattainment area is designated or a previously
5 designated nonattainment area is redesignated as an
6 attainment area in a State under the Clean Air Act
7 (42 U.S.C. 7401 et seq.), the Secretary shall modify
8 the amount such State is permitted to obligate in
9 any area of the State for projects eligible under sec-
10 tion 133.

11 “(d) APPLICABILITY OF PLANNING REQUIRE-
12 MENTS.—Programming and expenditure of funds for
13 projects under this section shall be consistent with the re-
14 quirements of sections 134 and 135.

15 “(e) PARTNERSHIPS WITH NONGOVERNMENTAL EN-
16 TITIES.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of this title and in accordance with this
19 subsection, a metropolitan planning organization,
20 State transportation department, or other project
21 sponsor may enter into an agreement with any pub-
22 lic, private, or nonprofit entity to cooperatively im-
23 plement any project carried out with funds appor-
24 tioned under section 104(b)(4).

1 “(2) FORMS OF PARTICIPATION BY ENTITIES.—

2 Participation by an entity under paragraph (1) may
3 consist of—

4 “(A) ownership or operation of any land,
5 facility, vehicle, or other physical asset associ-
6 ated with the project;

7 “(B) cost sharing of any project expense;

8 “(C) carrying out of administration, con-
9 struction management, project management,
10 project operation, or any other management or
11 operational duty associated with the project;
12 and

13 “(D) any other form of participation ap-
14 proved by the Secretary.

15 “(3) ALLOCATION TO ENTITIES.—A State may
16 allocate funds apportioned under section 104(b)(4)
17 to an entity described in paragraph (1).

18 “(4) ALTERNATIVE FUEL PROJECTS.—In the
19 case of a project that will provide for the use of al-
20 ternative fuels by privately owned vehicles or vehicle
21 fleets, activities eligible for funding under this sub-
22 section—

23 “(A) may include the costs of vehicle re-
24 fueling infrastructure, including infrastructure
25 that would support the development, produc-

1 tion, and use of emerging technologies that re-
2 duce emissions of air pollutants from motor ve-
3 hicles, and other capital investments associated
4 with the project;

5 “(B) shall include only the incremental
6 cost of an alternative fueled vehicle, as com-
7 pared to a conventionally fueled vehicle, that
8 would otherwise be borne by a private party;
9 and

10 “(C) shall apply other governmental finan-
11 cial purchase contributions in the calculation of
12 net incremental cost.

13 “(5) PROHIBITION ON FEDERAL PARTICIPATION
14 WITH RESPECT TO REQUIRED ACTIVITIES.—A Fed-
15 eral participation payment under this subsection
16 may not be made to an entity to fund an obligation
17 imposed under the Clean Air Act (42 U.S.C. 7401
18 et seq.) or any other Federal law.

19 “(f) PRIORITY CONSIDERATION.—States and metro-
20 politan planning organizations shall give priority in areas
21 designated as nonattainment or maintenance for PM_{2.5}
22 under the Clean Air Act (42 U.S.C. 7401 et seq.) in dis-
23 tributing funds received for congestion mitigation and air
24 quality projects and programs from apportionments under
25 section 104(b)(4) not required to be reserved under sub-

1 section (l) to projects that are proven to reduce PM_{2.5},
2 including diesel retrofits.

3 “(g) INTERAGENCY CONSULTATION.—The Secretary
4 shall encourage States and metropolitan planning organi-
5 zations to consult with State and local air quality agencies
6 in nonattainment and maintenance areas on the estimated
7 emission reductions from proposed congestion mitigation
8 and air quality improvement programs and projects.

9 “(h) EVALUATION AND ASSESSMENT OF
10 PROJECTS.—

11 “(1) DATABASE.—

12 “(A) IN GENERAL.—Using appropriate as-
13 sessments of projects funded under the conges-
14 tion mitigation and air quality program and re-
15 sults from other research, the Secretary shall
16 maintain and disseminate a cumulative data-
17 base describing the impacts of the projects, in-
18 cluding specific information about each project,
19 such as the project name, location, sponsor,
20 cost, and, to the extent already measured by the
21 project sponsor, cost-effectiveness, based on re-
22 ductions in congestion and emissions.

23 “(B) AVAILABILITY.—The database shall
24 be published or otherwise made readily available
25 by the Secretary in electronically accessible for-

1 mat and means, such as the Internet, for public
2 review.

3 “(2) COST EFFECTIVENESS.—

4 “(A) IN GENERAL.—The Secretary, in con-
5 sultation with the Administrator of the Envi-
6 ronmental Protection Agency, shall evaluate
7 projects on a periodic basis and develop a table
8 or other similar medium that illustrates the
9 cost-effectiveness of a range of project types eli-
10 gible for funding under this section as to how
11 the projects mitigate congestion and improve
12 air quality.

13 “(B) CONTENTS.—The table described in
14 subparagraph (A) shall show measures of cost-
15 effectiveness, such as dollars per ton of emis-
16 sions reduced, and assess those measures over
17 a variety of timeframes to capture impacts on
18 the planning timeframes outlined in section
19 134.

20 “(C) USE OF TABLE.—States and metro-
21 politan planning organizations shall consider
22 the information in the table when selecting
23 projects or developing performance plans under
24 subsection (k).

25 “(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

1 “(1) IN GENERAL.—At the discretion of a met-
2 ropolitan planning organization, a technical assess-
3 ment of a selected program of projects may be con-
4 ducted through modeling or other means to dem-
5 onstrate the emissions reduction projection required
6 under this section.

7 “(2) APPLICABILITY.—If an assessment de-
8 scribed in paragraph (1) successfully demonstrates
9 an emissions reduction, all projects included in such
10 assessment shall be eligible for obligation under this
11 section without further demonstration of emissions
12 reduction of individual projects included in such as-
13 sessment.

14 “(j) SUBALLOCATION TO NONATTAINMENT AND
15 MAINTENANCE AREAS.—

16 “(1) IN GENERAL.—An amount equal to 50
17 percent of the amount of funds apportioned to each
18 State under section 104(b)(4) (excluding the amount
19 of funds reserved under subsection (l)) shall be sub-
20 allocated for projects within each area designated as
21 nonattainment or maintenance for the pollutants de-
22 scribed in subsection (b).

23 “(2) DISTRIBUTION OF FUNDS.—The distribu-
24 tion within any State of funds required to be sub-
25 allocated under paragraph (1) to each nonattain-

1 ment or maintenance area shall be in accordance
2 with a formula developed by each State and ap-
3 proved by the Secretary, which shall consider the
4 population of each such nonattainment or mainte-
5 nance area and shall be weighted by the severity of
6 pollution in the manner described in paragraph (6).

7 “(3) PROJECT SELECTION.—Projects under this
8 subsection shall be selected by a State and shall be
9 consistent with the requirements of sections 134 and
10 135.

11 “(4) PRIORITY FOR USE OF SUBALLOCATED
12 FUNDS IN PM_{2.5} AREAS.—

13 “(A) IN GENERAL.—An amount equal to
14 50 percent of the funds suballocated under
15 paragraph (1) for a nonattainment or mainte-
16 nance area that are based all or in part on the
17 weighted population of such area in fine partic-
18 ulate matter nonattainment shall be obligated
19 to projects that reduce such fine particulate
20 matter emissions in such area, including diesel
21 retrofits.

22 “(B) CONSTRUCTION EQUIPMENT.—An
23 amount equal to 30 percent of the funds re-
24 quired to be set aside under subparagraph (A)

1 shall be obligated to carry out the objectives of
2 section 330.

3 “(C) OBLIGATION PROCESS.—Each State
4 or metropolitan planning organization required
5 to obligate funds in accordance with this para-
6 graph shall develop a process to provide funding
7 directly to eligible entities (as defined under
8 section 330) in order to achieve the objectives
9 of such section.

10 “(5) FUNDS NOT SUBALLOCATED.—Except as
11 provided in subsection (c), funds apportioned to a
12 State under section 104(b)(4) (excluding the amount
13 of funds reserved under subsection (l)) and not sub-
14 allocated under paragraph (1) shall be made avail-
15 able to such State for programming in any non-
16 attainment or maintenance area in the State.

17 “(6) FACTORS FOR CALCULATION OF SUB-
18 ALLOCATION.—

19 “(A) IN GENERAL.—For the purposes of
20 paragraph (2), each State shall weight the pop-
21 ulation of each such nonattainment or mainte-
22 nance area by a factor of—

23 “(i) 1.0 if, at the time of the appor-
24 tionment, the area is a maintenance area
25 for ozone or carbon monoxide;

1 “(ii) 1.0 if, at the time of the appor-
2 tionment, the area is classified as a mar-
3 ginal ozone nonattainment area under sub-
4 part 2 of part D of title I of the Clean Air
5 Act (42 U.S.C. 7511 et seq.);

6 “(iii) 1.1 if, at the time of the appor-
7 tionment, the area is classified as a mod-
8 erate ozone nonattainment area under sub-
9 part 2 of part D of title I of the Clean Air
10 Act (42 U.S.C. 7511 et seq.);

11 “(iv) 1.2 if, at the time of the appor-
12 tionment, the area is classified as a serious
13 ozone nonattainment area under subpart 2
14 of part D of title I of the Clean Air Act
15 (42 U.S.C. 7511 et seq.);

16 “(v) 1.3 if, at the time of the appor-
17 tionment, the area is classified as a severe
18 ozone nonattainment area under subpart 2
19 of part D of title I of the Clean Air Act
20 (42 U.S.C. 7511 et seq.);

21 “(vi) 1.5 if, at the time of the appor-
22 tionment, the area is classified as an ex-
23 treme ozone nonattainment area under
24 subpart 2 of part D of title I of the Clean
25 Air Act (42 U.S.C. 7511 et seq.);

1 “(vii) 1.0 if, at the time of the appor-
2 tionment, the area is not a nonattainment
3 or maintenance area for ozone as described
4 in section 149(b), but is designated under
5 section 107 of the Clean Air Act (42
6 U.S.C. 7407) as a nonattainment area for
7 carbon monoxide;

8 “(viii) 1.0 if, at the time of the appor-
9 tionment, the area is designated as non-
10 attainment for ozone under section 107 of
11 the Clean Air Act (42 U.S.C. 7407); or

12 “(ix) 1.2 if, at the time of the appor-
13 tionment, the area is not a nonattainment
14 or maintenance area as described in sec-
15 tion 149(b) for ozone, but is designated as
16 a nonattainment or maintenance area for
17 fine particulate matter, 2.5 micrometers or
18 less, under section 107 of the Clean Air
19 Act (42 U.S.C. 7407).

20 “(B) OTHER FACTORS.—If, in addition to
21 being designated as a nonattainment or mainte-
22 nance area for ozone as described in section
23 149(b), any county within the area was also
24 designated under section 107 of the Clean Air
25 Act (42 U.S.C. 7407) as a nonattainment or

1 maintenance area for carbon monoxide, or was
2 designated under section 107 of the Clean Air
3 Act (42 U.S.C. 7407) as a nonattainment or
4 maintenance area for particulate matter, 2.5
5 micrometers or less, or both, the weighted non-
6 attainment or maintenance area population of
7 the county, as determined under clauses (i)
8 through (vi), or clause (viii), of subparagraph
9 (A), shall be further multiplied by a factor of
10 1.2, or a second further factor of 1.2 if the area
11 is designated as a nonattainment or mainte-
12 nance area for both carbon monoxide and par-
13 ticulate matter, 2.5 micrometers or less.

14 “(7) EXCEPTIONS FOR CERTAIN STATES.—

15 “(A) A State without a nonattainment or
16 maintenance area shall not be subject to the re-
17 quirements of this subsection.

18 “(B) The amount of funds required to be
19 set aside under paragraph (1) in a State that
20 received a minimum apportionment for fiscal
21 year 2009 under section 104(b)(2)(D), as in ef-
22 fect on the day before the date of enactment of
23 the MAP-21, shall be based on the amount of
24 funds such State would otherwise have been ap-
25 portioned under section 104(b)(4) (excluding

1 the amount of funds reserved under subsection
2 (l) but for the minimum apportionment in fis-
3 cal year 2009.

4 “(k) PERFORMANCE PLAN.—

5 “(1) IN GENERAL.—Each tier I metropolitan
6 planning organization (as defined in section 134)
7 representing a nonattainment or maintenance area
8 shall develop a performance plan that—

9 “(A) includes an area baseline level for
10 traffic congestion and on-road mobile source
11 emissions for which the area is in nonattain-
12 ment or maintenance;

13 “(B) identifies air quality and traffic con-
14 gestion reduction target levels based on meas-
15 ures established by the Secretary; and

16 “(C) includes a description of projects
17 identified for funding under this section and a
18 description of how such projects will contribute
19 to achieving emission and traffic congestion re-
20 duction targets.

21 “(2) UPDATED PLANS.—

22 “(A) IN GENERAL.—Performance plans
23 shall be updated on the schedule required under
24 paragraph (3).

1 “(B) CONTENTS.—An updated plan shall
2 include a separate report that assesses the
3 progress of the program of projects under the
4 previous plan in achieving the air quality and
5 traffic congestion targets of the previous plan.

6 “(3) RULEMAKING.—Not later than 18 months
7 after the date of enactment of the MAP–21, the Sec-
8 retary shall promulgate regulations to implement
9 this subsection that identify performance measures
10 for traffic congestion and on-road mobile source
11 emissions, timelines for performance plans, and re-
12 quirements under this section for assessing the im-
13 plementation of projects carried out under this sec-
14 tion.

15 “(l) ADDITIONAL ACTIVITIES.—

16 “(1) RESERVATION OF FUNDS.—Of the funds
17 apportioned to a State under section 104(b)(4), a
18 State shall reserve the amount of funds attributable
19 to the inclusion of the 10 percent of surface trans-
20 portation program funds apportioned to such State
21 for fiscal year 2009 in the formula under section
22 104(b)(4) for projects under this subsection.

23 “(2) ELIGIBLE PROJECTS.—A State may obli-
24 gate the funds reserved under this subsection for
25 any of the following projects or activities:

1 “(A) Transportation enhancements, as de-
2 fined in section 101.

3 “(B) The recreational trails program under
4 section 206.

5 “(C) The safe routes to school program
6 under section 1404 of the SAFETEA-LU (23
7 U.S.C. 402 note; Public Law 109–59).

8 “(D) Planning, designing, or constructing
9 boulevards, main streets, and other roadways,
10 including—

11 “(i) redesign of an underused high-
12 way, particularly a highway that is no
13 longer a principal route after construction
14 of a bypass or Interstate System route,
15 into a boulevard or main street that in-
16 cludes multiple forms of transportation;

17 “(ii) new street construction that en-
18 hances multimodal connectivity and in-
19 cludes public transportation, pedestrian
20 walkways, or bicycle infrastructure;

21 “(iii) redesign of a street to enhance
22 connectivity and increase the efficiency of
23 network performance that includes public
24 transportation, pedestrian walkways, or bi-
25 cycle infrastructure;

1 “(iv) redesign of a highway to support
2 public transportation, including transit-
3 only lanes and priority signalization for
4 transit; or

5 “(v) construction of high-occupancy
6 vehicle lanes and congestion reduction ac-
7 tivities that increase the efficiency of the
8 existing road network.

9 “(E) Providing transportation choices, in-
10 cluding—

11 “(i) on-road and off-road trail facili-
12 ties for pedestrians, bicyclists, and other
13 nonmotorized forms of transportation, in-
14 cluding sidewalks, bicycle infrastructure,
15 pedestrian and bicycle signals, traffic
16 calming techniques, lighting, and other
17 safety-related infrastructure, and transpor-
18 tation projects to achieve compliance with
19 the Americans with Disabilities Act of
20 1990 (42 U.S.C. 12101 et seq.);

21 “(ii) the planning, design, and con-
22 struction of infrastructure-related projects
23 and systems that will provide safe routes
24 for nondrivers, including children, older

1 adults, and individuals with disabilities, to
2 access daily needs;

3 “(iii) activities for safety and edu-
4 cation for pedestrians and bicyclists and to
5 encourage walking and bicycling, including
6 efforts to encourage walking and bicycling
7 to school and community centers;

8 “(iv) conversion and use of abandoned
9 railroad corridors for trails for pedestrians,
10 bicyclists, or other nonmotorized transpor-
11 tation users; and

12 “(v) carpool, vanpool, and car share
13 projects.

14 “(3) FLEXIBILITY OF EXCESS RESERVED
15 FUNDING.—Beginning in the second fiscal year after
16 the date of enactment of the MAP–21, if on August
17 1 of that fiscal year the unobligated balance of avail-
18 able funds apportioned to a State under section
19 104(b)(4) and reserved by a State under this sub-
20 section exceeds 150 percent of such reserved amount
21 in such fiscal year, the State may thereafter obligate
22 the amount of excess funds for any activity—

23 “(A) that is eligible to receive funding
24 under this subsection; or

1 “(B) for which the Secretary has approved
2 the obligation of funds for any State under this
3 section.

4 “(4) TREATMENT OF PROJECTS.—Notwith-
5 standing any other provision of law, projects funded
6 under this subsection shall be treated as projects on
7 a Federal-aid system under this chapter.”.

8 **SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PRO-**
9 **GRAM.**

10 (a) IN GENERAL.—Section 165 of title 23, United
11 States Code, is amended to read as follows:

12 **“§ 165. Territorial and Puerto Rico highway program**

13 “(a) DIVISION OF FUNDS.—Of funds made available
14 in a fiscal year for the territorial and Puerto Rico highway
15 program—

16 “(1) 75 percent shall be for the Puerto Rico
17 highway program under subsection (b); and

18 “(2) 25 percent shall be for the territorial high-
19 way program under subsection (c).

20 “(b) PUERTO RICO HIGHWAY PROGRAM.—

21 “(1) IN GENERAL.—The Secretary shall allo-
22 cate funds made available to carry out this sub-
23 section to the Commonwealth of Puerto Rico to
24 carry out a highway program in the Commonwealth.

1 “(2) TREATMENT OF FUNDS.—Amounts made
2 available to carry out this subsection for a fiscal
3 year shall be administered as follows:

4 “(A) APPORTIONMENT.—

5 “(i) IN GENERAL.—For the purpose
6 of imposing any penalty under this title or
7 title 49, the amounts shall be treated as
8 being apportioned to Puerto Rico under
9 sections 104(b) and 144 (as in effect for
10 fiscal year 1997) for each program funded
11 under those sections in an amount deter-
12 mined by multiplying—

13 “(I) the aggregate of the
14 amounts for the fiscal year; by

15 “(II) the proportion that—

16 “(aa) the amount of funds
17 apportioned to Puerto Rico for
18 each such program for fiscal year
19 1997; bears to

20 “(bb) the total amount of
21 funds apportioned to Puerto Rico
22 for all such programs for fiscal
23 year 1997.

24 “(ii) EXCEPTION.—Funds identified
25 under clause (i) as having been appor-

1 tioned for the national highway system, the
2 surface transportation program, and the
3 Interstate maintenance program shall be
4 deemed to have been apportioned 50 per-
5 cent for the national highway performance
6 program and 50 percent the transportation
7 mobility program for purposes of imposing
8 such penalties.

9 “(B) PENALTY.—The amounts treated as
10 being apportioned to Puerto Rico under each
11 section referred to in subparagraph (A) shall be
12 deemed to be required to be apportioned to
13 Puerto Rico under that section for purposes of
14 the imposition of any penalty under this title or
15 title 49.

16 “(C) ELIGIBLE USES OF FUNDS.—Of
17 amounts allocated to Puerto Rico for the Puer-
18 to Rico Highway Program for a fiscal year—

19 “(i) at least 50 percent shall be avail-
20 able only for purposes eligible under sec-
21 tion 119;

22 “(ii) at least 25 percent shall be avail-
23 able only for purposes eligible under sec-
24 tion 148; and

1 “(iii) any remaining funds may be ob-
2 ligated for activities eligible under chapter
3 1.

4 “(3) EFFECT ON APPORTIONMENTS.—Except
5 as otherwise specifically provided, Puerto Rico shall
6 not be eligible to receive funds apportioned to States
7 under this title.

8 “(c) TERRITORIAL HIGHWAY PROGRAM.—

9 “(1) TERRITORY DEFINED.—In this subsection,
10 the term ‘territory’ means any of the following terri-
11 tories of the United States:

12 “(A) American Samoa.

13 “(B) The Commonwealth of the Northern
14 Mariana Islands.

15 “(C) Guam.

16 “(D) The United States Virgin Islands.

17 “(2) PROGRAM.—

18 “(A) IN GENERAL.—Recognizing the mu-
19 tual benefits that will accrue to the territories
20 and the United States from the improvement of
21 highways in the territories, the Secretary may
22 carry out a program to assist each government
23 of a territory in the construction and improve-
24 ment of a system of arterial and collector high-

1 ways, and necessary inter-island connectors,
2 that is—

3 “(i) designated by the Governor or
4 chief executive officer of each territory;
5 and

6 “(ii) approved by the Secretary.

7 “(B) FEDERAL SHARE.—The Federal
8 share of Federal financial assistance provided
9 to territories under this subsection shall be in
10 accordance with section 120(g).

11 “(3) TECHNICAL ASSISTANCE.—

12 “(A) IN GENERAL.—To continue a long-
13 range highway development program, the Sec-
14 retary may provide technical assistance to the
15 governments of the territories to enable the ter-
16 ritories, on a continuing basis—

17 “(i) to engage in highway planning;

18 “(ii) to conduct environmental evalua-
19 tions;

20 “(iii) to administer right-of-way acqui-
21 sition and relocation assistance programs;

22 and

23 “(iv) to design, construct, operate,
24 and maintain a system of arterial and col-

1 lector highways, including necessary inter-
2 island connectors.

3 “(B) FORM AND TERMS OF ASSISTANCE.—
4 Technical assistance provided under subpara-
5 graph (A), and the terms for the sharing of in-
6 formation among territories receiving the tech-
7 nical assistance, shall be included in the agree-
8 ment required by paragraph (5).

9 “(4) NONAPPLICABILITY OF CERTAIN PROVI-
10 SIONS.—

11 “(A) IN GENERAL.—Except to the extent
12 that provisions of this chapter are determined
13 by the Secretary to be inconsistent with the
14 needs of the territories and the intent of this
15 subsection, this chapter (other than provisions
16 of this chapter relating to the apportionment
17 and allocation of funds) shall apply to funds
18 made available under this subsection.

19 “(B) APPLICABLE PROVISIONS.—The
20 agreement required by paragraph (5) for each
21 territory shall identify the sections of this chap-
22 ter that are applicable to that territory and the
23 extent of the applicability of those sections.

24 “(5) AGREEMENT.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (D), none of the funds made
3 available under this subsection shall be available
4 for obligation or expenditure with respect to
5 any territory until the chief executive officer of
6 the territory has entered into an agreement (in-
7 cluding an agreement entered into under sec-
8 tion 215 as in effect on the day before the en-
9 actment of this section) with the Secretary pro-
10 viding that the government of the territory
11 shall—

12 “(i) implement the program in accord-
13 ance with applicable provisions of this
14 chapter and paragraph (4);

15 “(ii) design and construct a system of
16 arterial and collector highways, including
17 necessary inter-island connectors, in ac-
18 cordance with standards that are—

19 “(I) appropriate for each terri-
20 tory; and

21 “(II) approved by the Secretary;

22 “(iii) provide for the maintenance of
23 facilities constructed or operated under
24 this subsection in a condition to adequately

1 serve the needs of present and future traf-
2 fic; and

3 “(iv) implement standards for traffic
4 operations and uniform traffic control de-
5 vices that are approved by the Secretary.

6 “(B) TECHNICAL ASSISTANCE.—The
7 agreement required by subparagraph (A)
8 shall—

9 “(i) specify the kind of technical as-
10 sistance to be provided under the program;

11 “(ii) include appropriate provisions re-
12 garding information sharing among the
13 territories; and

14 “(iii) delineate the oversight role and
15 responsibilities of the territories and the
16 Secretary.

17 “(C) REVIEW AND REVISION OF AGREE-
18 MENT.—The agreement entered into under sub-
19 paragraph (A) shall be reevaluated and, as nec-
20 essary, revised, at least every 2 years.

21 “(D) EXISTING AGREEMENTS.—With re-
22 spect to an agreement under this subsection or
23 an agreement entered into under section 215 of
24 this title as in effect on the day before the date
25 of enactment of this subsection—

1 “(i) the agreement shall continue in
2 force until replaced by an agreement en-
3 tered into in accordance with subparagraph
4 (A); and

5 “(ii) amounts made available under
6 this subsection under the existing agree-
7 ment shall be available for obligation or ex-
8 penditure so long as the agreement, or the
9 existing agreement entered into under sub-
10 paragraph (A), is in effect.

11 “(6) ELIGIBLE USES OF FUNDS.—

12 “(A) IN GENERAL.—Funds made available
13 under this subsection may be used only for the
14 following projects and activities carried out in a
15 territory:

16 “(i) Eligible transportation mobility
17 program projects described in section
18 133(e).

19 “(ii) Cost-effective, preventive mainte-
20 nance consistent with section 116(d).

21 “(iii) Ferry boats, terminal facilities,
22 and approaches, in accordance with sub-
23 sections (b) and (c) of section 129.

24 “(iv) Engineering and economic sur-
25 veys and investigations for the planning,

1 and the financing, of future highway pro-
2 grams.

3 “(v) Studies of the economy, safety,
4 and convenience of highway use.

5 “(vi) The regulation and equitable
6 taxation of highway use.

7 “(vii) Such research and development
8 as are necessary in connection with the
9 planning, design, and maintenance of the
10 highway system.

11 “(B) PROHIBITION ON USE OF FUNDS FOR
12 ROUTINE MAINTENANCE.—None of the funds
13 made available under this subsection shall be
14 obligated or expended for routine maintenance.

15 “(7) LOCATION OF PROJECTS.—Territorial
16 highway program projects (other than those de-
17 scribed in paragraphs (2), (4), (7), (8), (14), and
18 (19) of section 133(c)) may not be undertaken on
19 roads functionally classified as local.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) CLERICAL AMENDMENT.—The analysis for
22 chapter 1 of title 23, United States Code, is amend-
23 ed by striking the item relating to section 165 and
24 inserting the following:

“165. Territorial and Puerto Rico highway program.”.

1 (2) OBSOLETE TEXT.—Section 215 of that
2 title, and the item relating to that section in the
3 analysis for chapter 2, are repealed.

4 **SEC. 1115. NATIONAL FREIGHT PROGRAM.**

5 (a) IN GENERAL.—Chapter 1 of title 23, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 167. National freight program**

9 “(a) NATIONAL FREIGHT PROGRAM.—It is the policy
10 of the United States to improve the condition and per-
11 formance of the national freight network to ensure that
12 the national freight network provides the foundation for
13 the United States to compete in the global economy and
14 achieve each goal described in subsection (b).

15 “(b) GOALS.—The goals of the national freight pro-
16 gram are—

17 “(1) to invest in infrastructure improvements
18 and to implement operational improvements that—

19 “(A) strengthen the contribution of the na-
20 tional freight network to the economic competi-
21 tiveness of the United States;

22 “(B) reduce congestion; and

23 “(C) increase productivity, particularly for
24 domestic industries and businesses that create
25 high-value jobs;

1 “(2) to reduce the environmental impacts of
2 freight movement on the national freight network;

3 “(3) to improve the safety, security, and resil-
4 ience of freight transportation;

5 “(4) to improve the state of good repair of the
6 national freight network;

7 “(5) to use advanced technology to improve the
8 safety and efficiency of the national freight network;

9 “(6) to incorporate concepts of performance, in-
10 novation, competition, and accountability into the
11 operation and maintenance of the national freight
12 network; and

13 “(7) to improve the economic efficiency of the
14 national freight network.

15 “(c) ESTABLISHMENT OF PROGRAM.—

16 “(1) IN GENERAL.—The Secretary shall estab-
17 lish and implement a national freight program in ac-
18 cordance with this section to strategically direct
19 Federal resources toward improved system perform-
20 ance for efficient movement of freight on highways,
21 including national highway system freight inter-
22 modal connectors and aerotropolis transportation
23 systems.

24 “(2) NETWORK COMPONENTS.—The national
25 freight network shall consist of—

1 “(A) the primary freight network, as des-
2 gnated by the Secretary under subsection (f)
3 (referred to in this section as the ‘primary
4 freight network’) as most critical to the move-
5 ment of freight;

6 “(B) the portions of the Interstate System
7 not designated as part of the primary freight
8 network; and

9 “(C) critical rural freight corridors estab-
10 lished under subsection (g).

11 “(d) USE OF APPORTIONED FUNDS.—

12 “(1) PROJECTS ON THE NATIONAL FREIGHT
13 NETWORK.—At a minimum, following designation of
14 the primary freight network under subsection (f), a
15 State shall obligate funds apportioned under section
16 104(b)(5) to improve the movement of freight on the
17 national freight network.

18 “(2) LOCATION OF PROJECTS.—A project car-
19 ried out using funds apportioned under paragraph
20 (1) shall be located—

21 “(A) on the primary freight network as de-
22 scribed under subsection (f);

23 “(B) on a portion of the Interstate System
24 not designated as primary freight network;

1 “(C) on roads off of the Interstate System
2 or primary freight network, if that use of funds
3 will provide—

4 “(i) a more significant improvement
5 to freight movement on the Interstate Sys-
6 tem or the primary freight network; or

7 “(ii) critical freight access to the
8 Interstate System or the primary freight
9 network;

10 “(D) on a national highway system freight
11 intermodal connector;

12 “(E) on critical rural freight corridors, as
13 designated under subsection (g) (except that
14 not more than 20 percent of the total antici-
15 pated apportionment of a State under section
16 104(b)(5) during fiscal years 2012 and 2013
17 may be used for projects on critical rural
18 freight corridors); or

19 “(F) within the boundaries of public and
20 private intermodal facilities, but shall only in-
21 clude surface infrastructure necessary to facili-
22 tate direct intermodal interchange, transfer,
23 and access into and out of the facility.

24 “(3) PRIMARY FREIGHT NETWORK FUNDING.—
25 Beginning for each fiscal year after the Secretary

1 designates the primary freight network, a State shall
2 obligate from funds apportioned under section
3 104(b)(5) for the primary freight network the lesser
4 of—

5 “(A) an amount equal to the product ob-
6 tained by multiplying—

7 “(i) an amount equal to 110 percent
8 of the apportionment of the State for the
9 fiscal year under section 104(b)(5); and

10 “(ii) the proportion that—

11 “(I) the total designated primary
12 freight network mileage of the State;
13 bears to

14 “(II) the sum of the designated
15 primary freight network mileage of
16 the State and the total Interstate sys-
17 tem mileage of the State that is not
18 designated as part of the primary
19 freight network; or

20 “(B) an amount equal to the total appor-
21 tionment of the State under section 104(b)(5).

22 “(e) ELIGIBILITY.—

23 “(1) ELIGIBLE PROJECTS.—To be eligible for
24 funding under this section, a project shall dem-
25 onstrate the improvement made by the project to the

1 efficient movement of freight on the national freight
2 network.

3 “(2) FREIGHT RAIL AND MARITIME
4 PROJECTS.—

5 “(A) IN GENERAL.—A State may obligate
6 an amount equal to not more than 10 percent
7 of the total apportionment to the State under
8 section 104(b)(5) over the period of fiscal years
9 2012 and 2013 for public or private freight rail
10 or maritime projects.

11 “(B) ELIGIBILITY.—For a State to be eli-
12 gible to obligate funds in the manner described
13 in subparagraph (A), the Secretary shall concur
14 with the State that—

15 “(i) the project for which the State
16 seeks to obligate funds under this para-
17 graph would make significant improvement
18 to freight movements on the national
19 freight network; and

20 “(ii) the public benefit of the
21 project—

22 “(I) exceeds the Federal invest-
23 ment; and

1 “(II) provides a better return
2 than a highway project on a segment
3 of the primary freight network.

4 “(3) ELIGIBLE PROJECT COSTS.—A State may
5 obligate funds apportioned to the State under sec-
6 tion 104(b)(5) for the national freight program for
7 any of the following costs of an eligible project:

8 “(A) Development phase activities, includ-
9 ing planning, feasibility analysis, revenue fore-
10 casting, environmental review, preliminary engi-
11 neering and design work, and other
12 preconstruction activities.

13 “(B) Construction, reconstruction, rehabili-
14 tation, acquisition of real property (including
15 land relating to the project and improvements
16 to land), construction contingencies, acquisition
17 of equipment, and operational improvements di-
18 rectly relating to improving system perform-
19 ance, including but not limited to any segment
20 of the primary freight network that falls below
21 the minimum level established pursuant to sec-
22 tion 119(f).

23 “(C) Intelligent transportation systems
24 and other technology to improve the flow of
25 freight.

1 “(D) Efforts to reduce the environmental
2 impacts of freight movement on the national
3 freight network.

4 “(E) Environmental mitigation.

5 “(F) Railway-highway grade separation.

6 “(G) Geometric improvements to inter-
7 changes and ramps.

8 “(H) Truck-only lanes.

9 “(I) Climbing and runaway truck lanes.

10 “(J) Adding or widening of shoulders.

11 “(K) Truck parking facilities eligible for
12 funding under section 1401 of the MAP-21.

13 “(L) Real-time traffic, truck parking,
14 roadway condition, and multimodal transpor-
15 tation information systems.

16 “(M) Electronic screening and
17 credentialing systems, including weigh-in-mo-
18 tion truck inspection technologies.

19 “(N) Traffic signal optimization including
20 synchronized and adaptive signals.

21 “(O) Work zone management and informa-
22 tion systems.

23 “(P) Highway ramp metering.

1 “(Q) Electronic cargo and border security
2 technologies that improve truck freight move-
3 ment.

4 “(R) Intelligent transportation systems
5 that would increase truck freight efficiencies in-
6 side the boundaries of intermodal facilities.

7 “(S) Any other activities to improve the
8 flow of freight on the national freight network.

9 “(4) OTHER ELIGIBLE COSTS.—In addition to
10 eligible project costs, a State may use funds appor-
11 tioned under section 104(b)(5) for the necessary
12 costs of conducting analyses and data collection to
13 comply with subsection (i) or diesel retrofits or alter-
14 native fuel projects defined under section 149 for
15 class 8 vehicles.

16 “(5) ELIGIBLE PROJECT COSTS PRIOR TO DES-
17 IGNATION OF THE PRIMARY FREIGHT NETWORK.—
18 Prior to the date of designation of the primary
19 freight network, a State may obligate funds appor-
20 tioned to the State under section 104(b)(5) to im-
21 prove freight movement on the Interstate System
22 for—

23 “(A) construction, reconstruction, resur-
24 facing, restoration, and rehabilitation of seg-
25 ments of the Interstate System;

1 “(B) operational improvements for seg-
2 ments of the Interstate System;

3 “(C) construction of, and operational im-
4 provements for, a Federal-aid highway not on
5 the Interstate System, and construction of a
6 transit project eligible for assistance under
7 chapter 53 of title 49, United States Code, if—

8 “(i) the highway or transit project is
9 in the same corridor as, and in proximity
10 to a highway designated as a part of, the
11 Interstate System;

12 “(ii) the construction or improvements
13 would improve the level of service on the
14 Interstate System described in subpara-
15 graph (A) and improve freight traffic flow;
16 and

17 “(iii) the construction or improve-
18 ments are more cost-effective for freight
19 movement than an improvement to the
20 Interstate System described in subpara-
21 graph (A);

22 “(D) highway safety improvements for seg-
23 ments of the Interstate System;

24 “(E) transportation planning in accordance
25 with sections 134 and 135;

1 “(F) the costs of conducting analysis and
2 data collection to comply with this section;

3 “(G) truck parking facilities eligible for
4 funding under section 1401 of the MAP-21;

5 “(H) infrastructure-based intelligent trans-
6 portation systems capital improvements;

7 “(I) environmental restoration and pollu-
8 tion abatement in accordance with section 328;
9 and

10 “(J) in accordance with all applicable Fed-
11 eral law (including regulations), participation in
12 natural habitat and wetlands mitigation efforts
13 relating to projects funded under this title,
14 which may include participation in natural habi-
15 tat and wetlands mitigation banks, contribu-
16 tions to statewide and regional efforts to con-
17 serve, restore, enhance, and create natural habi-
18 tats and wetlands, and development of state-
19 wide and regional natural habitat and wetlands
20 conservation and mitigation plans, including
21 any such banks, efforts, and plans developed in
22 accordance with applicable Federal law (includ-
23 ing regulations), on the conditions that—

24 “(i) contributions to those mitigation
25 efforts may—

1 “(I) take place concurrent with
2 or in advance of project construction;
3 and

4 “(II) occur in advance of project
5 construction only if the efforts are
6 consistent with all applicable require-
7 ments of Federal law (including regu-
8 lations) and State transportation
9 planning processes; and

10 “(ii) with respect to participation in a
11 natural habitat or wetland mitigation ef-
12 fort relating to a project funded under this
13 title that has an impact that occurs within
14 the service area of a mitigation bank, pref-
15 erence is given, to the maximum extent
16 practicable, to the use of the mitigation
17 bank if the bank contains sufficient avail-
18 able credits to offset the impact and the
19 bank is approved in accordance with appli-
20 cable Federal law (including regulations).

21 “(f) DESIGNATION OF PRIMARY FREIGHT NET-
22 WORK.—

23 “(1) INITIAL DESIGNATION OF PRIMARY
24 FREIGHT NETWORK.—

1 “(A) DESIGNATION.—Not later than 1
2 year after the date of enactment of this section,
3 the Secretary shall designate a primary freight
4 network—

5 “(i) based on an inventory of national
6 freight volume conducted by the Adminis-
7 trator of the Federal Highway Administra-
8 tion, in consultation with stakeholders, in-
9 cluding system users and transport pro-
10 viders; and

11 “(ii) that shall be comprised of not
12 more than 27,000 centerline miles of exist-
13 ing roadways that are most critical to the
14 movement of freight.

15 “(B) FACTORS FOR DESIGNATION.—In
16 designating the primary freight network, the
17 Secretary shall consider—

18 “(i) the origins and destinations of
19 freight movement in the United States;

20 “(ii) the total freight tonnage moved
21 by all modes of transportation;

22 “(iii) the percentage of annual aver-
23 age daily truck traffic in the annual aver-
24 age daily traffic on principal arterials;

1 “(iv) the annual average daily truck
2 traffic on principal arterials;

3 “(v) land and maritime ports of entry;

4 “(vi) population centers; and

5 “(vii) network connectivity.

6 “(2) ADDITIONAL MILES ON PRIMARY FREIGHT
7 NETWORK.—In addition to the miles initially des-
8 ignated under paragraph (1), the Secretary may in-
9 crease the number of miles designated as part of the
10 primary freight network by not more than 3,000 ad-
11 ditional centerline miles of roadways (which may in-
12 clude existing or planned roads) critical to future ef-
13 ficient movement of goods on the primary freight
14 network.

15 “(3) REDESIGNATION OF PRIMARY FREIGHT
16 NETWORK.—During calendar year 2015 and every
17 10 years thereafter, using the designation factors de-
18 scribed in paragraph (1), the Secretary shall redesi-
19 gnate the primary freight network (including addi-
20 tional mileage described in subsection (f)(2)).

21 “(g) CRITICAL RURAL FREIGHT CORRIDORS.—A
22 State may designate a road within the borders of the State
23 as a critical rural freight corridor if the road—

24 “(1) is a rural principal arterial roadway and
25 has a minimum of 25 percent of the annual average

1 daily traffic of the road measured in passenger vehi-
2 cle equivalent units from trucks (FHWA vehicle
3 class 8 to 13); or

4 “(2) connects the primary freight network or
5 Interstate System to facilities that handle more
6 than—

7 “(A) 50,000 20-foot equivalent units per
8 year; or

9 “(B) 500,000 tons per year of bulk com-
10 modities.

11 “(h) NATIONAL FREIGHT STRATEGIC PLAN.—

12 “(1) INITIAL DEVELOPMENT OF NATIONAL
13 FREIGHT STRATEGIC PLAN.—Not later than 3 years
14 after the date of enactment of this section, the Sec-
15 retary shall, in consultation with appropriate public
16 and private transportation stakeholders, develop and
17 post on the Department of Transportation public
18 website a national freight strategic plan that shall
19 include—

20 “(A) an assessment of the condition and
21 performance of the national freight network;

22 “(B) an identification of highway bottle-
23 necks on the national freight network that cre-
24 ate significant freight congestion problems;

1 “(C) forecasts of freight volumes for the
2 20-year period beginning in the year during
3 which the plan is issued;

4 “(D) an identification of major trade gate-
5 ways and national freight corridors that connect
6 major population centers, trade gateways, and
7 other major freight generators for current and
8 forecasted traffic and freight volumes, the iden-
9 tification of which shall be revised, as appro-
10 prium, in subsequent plans;

11 “(E) an assessment of statutory, regu-
12 latory, technological, institutional, financial,
13 and other barriers to improved freight transpor-
14 tation performance (including opportunities for
15 overcoming the barriers);

16 “(F) best practices for improving the per-
17 formance of the national freight network;

18 “(G) best practices to mitigate the impacts
19 of freight movement on communities;

20 “(H) a process for addressing multistate
21 projects and encouraging jurisdictions to col-
22 laborate; and

23 “(I) strategies to improve maritime, freight
24 rail, and freight intermodal connectivity.

1 “(ii) using measures determined by
2 the Secretary; and

3 “(B) for every 2-year period, submit to the
4 Secretary a report that contains a description
5 of—

6 “(i) the progress of the State toward
7 meeting the targets; and

8 “(ii) the ways in which the State is
9 addressing congestion at freight bottle-
10 necks within the State.

11 “(3) COMPLIANCE.—

12 “(A) PERFORMANCE TARGETS.—To obli-
13 gate funding apportioned under section
14 104(b)(5), each State shall develop performance
15 targets in accordance with paragraph (2).

16 “(B) DETERMINATION OF SECRETARY.—If
17 the Secretary determines that a State has not
18 met or made significant progress toward meet-
19 ing the performance targets of the State by the
20 date that is 2 years after the date of establish-
21 ment of the performance targets, until the date
22 on which the Secretary determines that the
23 State has met (or has made significant progress
24 towards meeting) the State performance tar-
25 gets, the State shall submit to the Secretary, on

1 a biennial basis, a freight performance improve-
2 ment plan that includes—

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

6 “(ii) a description of the freight poli-
7 cies and strategies that will guide the
8 freight-related transportation investments
9 of the State;

10 “(iii) an inventory of freight bottle-
11 necks within the State and a description of
12 the ways in which the State is allocating
13 funds to improve those bottlenecks; and

14 “(iv) a description of the actions the
15 State will undertake to meet the perform-
16 ance targets of the State.

17 “(j) FREIGHT TRANSPORTATION CONDITIONS AND
18 PERFORMANCE REPORTS.—Not later than 2 years after
19 the date of enactment of this section, and biennially there-
20 after, the Secretary shall prepare a report that contains
21 a description of the conditions and performance of the na-
22 tional freight network in the United States.

23 “(k) TRANSPORTATION INVESTMENT DATA AND
24 PLANNING TOOLS.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this section, the Secretary
3 shall—

4 “(A) begin development of new tools and
5 improvement of existing tools or improve exist-
6 ing tools to support an outcome-oriented, per-
7 formance-based approach to evaluate proposed
8 freight-related and other transportation
9 projects, including—

10 “(i) methodologies for systematic
11 analysis of benefits and costs;

12 “(ii) tools for ensuring that the eval-
13 uation of freight-related and other trans-
14 portation projects could consider safety,
15 economic competitiveness, environmental
16 sustainability, and system condition in the
17 project selection process; and

18 “(iii) other elements to assist in effec-
19 tive transportation planning;

20 “(B) identify transportation-related model
21 data elements to support a broad range of eval-
22 uation methods and techniques to assist in
23 making transportation investment decisions;
24 and

1 “(C) at a minimum, in consultation with
2 other relevant Federal agencies, consider any
3 improvements to existing freight flow data col-
4 lection efforts that could reduce identified
5 freight data gaps and deficiencies and help im-
6 prove forecasts of freight transportation de-
7 mand.

8 “(2) CONSULTATION.—The Secretary shall con-
9 sult with Federal, State, and other stakeholders to
10 develop, improve, and implement the tools and col-
11 lect the data in paragraph (1).

12 “(l) DEFINITION OF AEROTROPOLIS TRANSPOR-
13 TATION SYSTEM.—For the purposes of this section, the
14 term ‘aerotropolis transportation system’ means a planned
15 and coordinated multimodal freight and passenger trans-
16 portation network that, as determined by the Secretary,
17 provides efficient, cost-effective, sustainable, and inter-
18 modal connectivity to a defined region of economic signifi-
19 cance centered around a major airport.

20 “(m) TREATMENT OF PROJECTS.—Notwithstanding
21 any other provision of law, projects funded under this sec-
22 tion shall be treated as projects on a Federal-aid system
23 under this chapter.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 1 of title 23, United States Code, is amended by
3 adding at the end the following:

“167. National freight program.”.

4 **SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION**
5 **PROGRAMS.**

6 (a) IN GENERAL.—Chapter 2 of title 23, United
7 States Code, is amended by striking sections 201 through
8 204 and inserting the following:

9 **“§ 201. Federal lands and tribal transportation pro-**
10 **grams**

11 “(a) PURPOSE.—Recognizing the need for all public
12 Federal and tribal transportation facilities to be treated
13 under uniform policies similar to the policies that apply
14 to Federal-aid highways and other public transportation
15 facilities, the Secretary of Transportation, in collaboration
16 with the Secretaries of the appropriate Federal land man-
17 agement agencies, shall coordinate a uniform policy for all
18 public Federal and tribal transportation facilities that
19 shall apply to Federal lands transportation facilities, tribal
20 transportation facilities, and Federal lands access trans-
21 portation facilities.

22 “(b) AVAILABILITY OF FUNDS.—

23 “(1) AVAILABILITY.—Funds authorized for the
24 tribal transportation program, the Federal lands
25 transportation program, and the Federal lands ac-

1 cess program shall be available for contract upon ap-
2 portionment, or on October 1 of the fiscal year for
3 which the funds were authorized if no apportionment
4 is required.

5 “(2) AMOUNT REMAINING.—Any amount re-
6 maining unexpended for a period of 3 years after the
7 close of the fiscal year for which the funds were au-
8 thorized shall lapse.

9 “(3) OBLIGATIONS.—The Secretary of the de-
10 partment responsible for the administration of funds
11 under this subsection may incur obligations, approve
12 projects, and enter into contracts under such author-
13 izations, which shall be considered to be contractual
14 obligations of the United States for the payment of
15 the cost thereof, the funds of which shall be consid-
16 ered to have been expended when obligated.

17 “(4) EXPENDITURE.—

18 “(A) IN GENERAL.—Any funds authorized
19 for any fiscal year after the date of enactment
20 of this section under the Federal lands trans-
21 portation program, the Federal lands access
22 program, and the tribal transportation program
23 shall be considered to have been expended if a
24 sum equal to the total of the sums authorized

1 for the fiscal year and previous fiscal years have
2 been obligated.

3 “(B) CREDITED FUNDS.—Any funds de-
4 scribed in subparagraph (A) that are released
5 by payment of final voucher or modification of
6 project authorizations shall be—

7 “(i) credited to the balance of unobli-
8 gated authorizations; and

9 “(ii) immediately available for expend-
10 iture.

11 “(5) APPLICABILITY.—This section shall not
12 apply to funds authorized before the date of enact-
13 ment of this paragraph.

14 “(6) CONTRACTUAL OBLIGATION.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of law (including regulations),
17 the authorization by the Secretary, or the Sec-
18 retary of the appropriate Federal land manage-
19 ment agency if the agency is the contracting of-
20 fice, of engineering and related work for the de-
21 velopment, design, and acquisition associated
22 with a construction project, whether performed
23 by contract or agreement authorized by law, or
24 the approval by the Secretary of plans, speci-
25 fications, and estimates for construction of a

1 project, shall be considered to constitute a con-
2 tractual obligation of the Federal Government
3 to pay the total eligible cost of—

4 “(i) any project funded under this
5 title; and

6 “(ii) any project funded pursuant to
7 agreements authorized by this title or any
8 other title.

9 “(B) EFFECT.—Nothing in this para-
10 graph—

11 “(i) affects the application of the Fed-
12 eral share associated with the project being
13 undertaken under this section; or

14 “(ii) modifies the point of obligation
15 associated with Federal salaries and ex-
16 penses.

17 “(7) FEDERAL SHARE.—

18 “(A) TRIBAL AND FEDERAL LANDS TRANS-
19 PORTATION PROGRAM.—The Federal share of
20 the cost of a project carried out under the Fed-
21 eral lands transportation program or the tribal
22 transportation program shall be 100 percent.

23 “(B) FEDERAL LANDS ACCESS PRO-
24 GRAM.—The Federal share of the cost of a
25 project carried out under the Federal lands ac-

1 cess program shall be determined in accordance
2 with section 120.

3 “(c) TRANSPORTATION PLANNING.—

4 “(1) TRANSPORTATION PLANNING PROCE-
5 DURES.—In consultation with the Secretary of each
6 appropriate Federal land management agency, the
7 Secretary shall implement transportation planning
8 procedures for Federal lands and tribal transpor-
9 tation facilities that are consistent with the planning
10 processes required under sections 134 and 135.

11 “(2) APPROVAL OF TRANSPORTATION IMPROVE-
12 MENT PROGRAM.—The transportation improvement
13 program developed as a part of the transportation
14 planning process under this section shall be ap-
15 proved by the Secretary.

16 “(3) INCLUSION IN OTHER PLANS.—Each re-
17 gionally significant tribal transportation program,
18 Federal lands transportation program, and Federal
19 lands access program project shall be—

20 “(A) developed in cooperation with State
21 and metropolitan planning organizations; and

22 “(B) included in appropriate tribal trans-
23 portation program plans, Federal lands trans-
24 portation program plans, Federal lands access

1 program plans, State and metropolitan plans,
2 and transportation improvement programs.

3 “(4) INCLUSION IN STATE PROGRAMS.—The ap-
4 proved tribal transportation program, Federal lands
5 transportation program, and Federal lands access
6 program transportation improvement programs shall
7 be included in appropriate State and metropolitan
8 planning organization plans and programs without
9 further action on the transportation improvement
10 program.

11 “(5) ASSET MANAGEMENT.—The Secretary and
12 the Secretary of each appropriate Federal land man-
13 agement agency shall, to the extent appropriate, im-
14 plement safety, bridge, pavement, and congestion
15 management systems for facilities funded under the
16 tribal transportation program and the Federal lands
17 transportation program in support of asset manage-
18 ment.

19 “(6) DATA COLLECTION.—

20 “(A) DATA COLLECTION.—The Secretaries
21 of the appropriate Federal land management
22 agencies shall collect and report data necessary
23 to implement the Federal lands transportation
24 program, the Federal lands access program,

1 and the tribal transportation program, includ-
2 ing—

3 “(i) inventory and condition informa-
4 tion on Federal lands transportation facili-
5 ties and tribal transportation facilities; and

6 “(ii) bridge inspection and inventory
7 information on any Federal bridge open to
8 the public.

9 “(B) STANDARDS.—The Secretary, in co-
10 ordination with the Secretaries of the appro-
11 priate Federal land management agencies, shall
12 define the collection and reporting data stand-
13 ards.

14 “(7) ADMINISTRATIVE EXPENSES.—To imple-
15 ment the activities described in this subsection, in-
16 cluding direct support of transportation planning ac-
17 tivities among Federal land management agencies,
18 the Secretary may use not more than 5 percent for
19 each fiscal year of the funds authorized for pro-
20 grams under sections 203 and 204.

21 “(d) REIMBURSABLE AGREEMENTS.—In carrying out
22 work under reimbursable agreements with any State, local,
23 or tribal government under this title, the Secretary—

1 “(1) may, without regard to any other provision
2 of law (including regulations), record obligations
3 against accounts receivable from the entity; and

4 “(2) shall credit amounts received from the en-
5 tity to the appropriate account, which shall occur
6 not later than 90 days after the date of the original
7 request by the Secretary for payment.

8 “(e) TRANSFERS.—

9 “(1) IN GENERAL.—To enable the efficient use
10 of funds made available for the Federal lands trans-
11 portation program and the Federal lands access pro-
12 gram, the funds may be transferred by the Secretary
13 within and between each program with the concur-
14 rence of, as appropriate—

15 “(A) the Secretary;

16 “(B) the affected Secretaries of the respec-
17 tive Federal land management agencies;

18 “(C) State departments of transportation;

19 and

20 “(D) local government agencies.

21 “(2) CREDIT.—The funds described in para-
22 graph (1) shall be credited back to the loaning entity
23 with funds that are currently available for obligation
24 at the time of the credit.

1 **“§ 202. Tribal transportation program**

2 “(a) USE OF FUNDS.—

3 “(1) IN GENERAL.—Funds made available
4 under the tribal transportation program shall be
5 used by the Secretary of Transportation and the
6 Secretary of the Interior to pay the costs of—

7 “(A)(i) transportation planning, research,
8 maintenance, engineering, rehabilitation, res-
9 toration, construction, and reconstruction of
10 tribal transportation facilities;

11 “(ii) adjacent vehicular parking areas;

12 “(iii) interpretive signage;

13 “(iv) acquisition of necessary scenic ease-
14 ments and scenic or historic sites;

15 “(v) provisions for pedestrians and bicy-
16 cles;

17 “(vi) environmental mitigation in or adja-
18 cent to tribal land—

19 “(I) to improve public safety and re-
20 duce vehicle-caused wildlife mortality while
21 maintaining habitat connectivity; and

22 “(II) to mitigate the damage to wild-
23 life, aquatic organism passage, habitat,
24 and ecosystem connectivity, including the
25 costs of constructing, maintaining, replac-

1 ing, or removing culverts and bridges, as
2 appropriate;

3 “(vii) construction and reconstruction of
4 roadside rest areas, including sanitary and
5 water facilities; and

6 “(viii) other appropriate public road facili-
7 ties as determined by the Secretary;

8 “(B) operation and maintenance of transit
9 programs and facilities that are located on, or
10 provide access to, tribal land, or are adminis-
11 tered by a tribal government; and

12 “(C) any transportation project eligible for
13 assistance under this title that is located within,
14 or that provides access to, tribal land, or is as-
15 sociated with a tribal government.

16 “(2) CONTRACT.—In connection with an activ-
17 ity described in paragraph (1), the Secretary and the
18 Secretary of the Interior may enter into a contract
19 or other appropriate agreement with respect to the
20 activity with—

21 “(A) a State (including a political subdivi-
22 sion of a State); or

23 “(B) an Indian tribe.

24 “(3) INDIAN LABOR.—Indian labor may be em-
25 ployed, in accordance with such rules and regula-

1 tions as may be promulgated by the Secretary of the
2 Interior, to carry out any construction or other ac-
3 tivity described in paragraph (1).

4 “(4) FEDERAL EMPLOYMENT.—No maximum
5 limitation on Federal employment shall be applicable
6 to the construction or improvement of tribal trans-
7 portation facilities.

8 “(5) FUNDS FOR CONSTRUCTION AND IMPROVE-
9 MENT.—All funds made available for the construc-
10 tion and improvement of tribal transportation facili-
11 ties shall be administered in conformity with regula-
12 tions and agreements jointly approved by the Sec-
13 retary and the Secretary of the Interior.

14 “(6) ADMINISTRATIVE EXPENSES.—

15 “(A) IN GENERAL.—Of the funds author-
16 ized to be appropriated for the tribal transpor-
17 tation program, not more than 6 percent may
18 be used by the Secretary or the Secretary of the
19 Interior for program management and oversight
20 and project-related administrative expenses.

21 “(B) RESERVATION OF FUNDS.—The Sec-
22 retary of the Interior may reserve amounts
23 from administrative funds of the Bureau of In-
24 dian Affairs that are associated with the tribal

1 transportation program to fund tribal technical
2 assistance centers under section 504(b).

3 “(7) MAINTENANCE.—

4 “(A) USE OF FUNDS.—Notwithstanding
5 any other provision of this title, of the amount
6 of funds allocated to an Indian tribe from the
7 tribal transportation program, for the purpose
8 of maintenance (excluding road sealing, which
9 shall not be subject to any limitation), the Sec-
10 retary shall not use an amount more than the
11 greater of—

12 “(i) an amount equal to 25 percent;

13 or

14 “(ii) \$500,000.

15 “(B) RESPONSIBILITY OF BUREAU OF IN-
16 DIAN AFFAIRS AND SECRETARY OF THE INTE-
17 RIOR.—

18 “(i) BUREAU OF INDIAN AFFAIRS.—

19 The Bureau of Indian Affairs shall retain
20 primary responsibility, including annual
21 funding request responsibility, for Bureau
22 of Indian Affairs road maintenance pro-
23 grams on Indian reservations.

24 “(ii) SECRETARY OF THE INTERIOR.—

25 The Secretary of the Interior shall ensure

1 that funding made available under this
2 subsection for maintenance of tribal trans-
3 portation facilities for each fiscal year is
4 supplementary to, and not in lieu of, any
5 obligation of funds by the Bureau of In-
6 dian Affairs for road maintenance pro-
7 grams on Indian reservations.

8 “(C) TRIBAL-STATE ROAD MAINTENANCE
9 AGREEMENTS.—

10 “(i) IN GENERAL.—An Indian tribe
11 and a State may enter into a road mainte-
12 nance agreement under which an Indian
13 tribe shall assume the responsibility of the
14 State for—

15 “(I) tribal transportation facili-
16 ties; and

17 “(II) roads providing access to
18 tribal transportation facilities.

19 “(ii) REQUIREMENTS.—Agreements
20 entered into under clause (i) shall—

21 “(I) be negotiated between the
22 State and the Indian tribe; and

23 “(II) not require the approval of
24 the Secretary.

25 “(8) COOPERATION.—

1 “(A) IN GENERAL.—The cooperation of
2 States, counties, or other local subdivisions may
3 be accepted in construction and improvement.

4 “(B) FUNDS RECEIVED.—Any funds re-
5 ceived from a State, county, or local subdivision
6 shall be credited to appropriations available for
7 the tribal transportation program.

8 “(9) COMPETITIVE BIDDING.—

9 “(A) CONSTRUCTION.—

10 “(i) IN GENERAL.—Subject to clause
11 (ii) and subparagraph (B), construction of
12 each project shall be performed by contract
13 awarded by competitive bidding.

14 “(ii) EXCEPTION.—Clause (i) shall
15 not apply if the Secretary or the Secretary
16 of the Interior affirmatively finds that,
17 under the circumstances relating to the
18 project, a different method is in the public
19 interest.

20 “(B) APPLICABILITY.—Notwithstanding
21 subparagraph (A), section 23 of the Act of
22 June 25, 1910 (25 U.S.C. 47) and section 7(b)
23 of the Indian Self-Determination and Education
24 Assistance Act (25 U.S.C. 450e(b)) shall apply
25 to all funds administered by the Secretary of

1 the Interior that are appropriated for the con-
2 struction and improvement of tribal transpor-
3 tation facilities.

4 “(b) FUNDS DISTRIBUTION.—

5 “(1) NATIONAL TRIBAL TRANSPORTATION FA-
6 CILITY INVENTORY.—

7 “(A) IN GENERAL.—The Secretary of the
8 Interior, in cooperation with the Secretary, shall
9 maintain a comprehensive national inventory of
10 tribal transportation facilities that are eligible
11 for assistance under the tribal transportation
12 program.

13 “(B) TRANSPORTATION FACILITIES IN-
14 CLUDED IN THE INVENTORY.—For purposes of
15 identifying the tribal transportation system and
16 determining the relative transportation needs
17 among Indian tribes, the Secretary shall in-
18 clude, at a minimum, transportation facilities
19 that are eligible for assistance under the tribal
20 transportation program that an Indian tribe
21 has requested, including facilities that—

22 “(i) were included in the Bureau of
23 Indian Affairs system inventory prior to
24 October 1, 2004;

1 “(ii) are owned by an Indian tribal
2 government;

3 “(iii) are owned by the Bureau of In-
4 dian Affairs;

5 “(iv) were constructed or recon-
6 structed with funds from the Highway Ac-
7 count of the Transportation Trust Fund
8 under the Indian reservation roads pro-
9 gram since 1983;

10 “(v) are public roads or bridges within
11 the exterior boundary of Indian reserva-
12 tions, Alaska Native villages, and other
13 recognized Indian communities (including
14 communities in former Indian reservations
15 in the State of Oklahoma) in which the
16 majority of residents are American Indians
17 or Alaska Natives; or

18 “(vi) are primary access routes pro-
19 posed by tribal governments, including
20 roads between villages, roads to landfills,
21 roads to drinking water sources, roads to
22 natural resources identified for economic
23 development, and roads that provide access
24 to intermodal terminals, such as airports,
25 harbors, or boat landings.

1 “(C) LIMITATION ON PRIMARY ACCESS
2 ROUTES.—For purposes of this paragraph, a
3 proposed primary access route is the shortest
4 practicable route connecting 2 points of the pro-
5 posed route.

6 “(D) ADDITIONAL FACILITIES.—Nothing
7 in this paragraph precludes the Secretary from
8 including additional transportation facilities
9 that are eligible for funding under the tribal
10 transportation program in the inventory used
11 for the national funding allocation if such addi-
12 tional facilities are included in the inventory in
13 a uniform and consistent manner nationally.

14 “(E) BRIDGES.—All bridges in the inven-
15 tory shall be recorded in the national bridge in-
16 ventory administered by the Secretary under
17 section 144.

18 “(2) REGULATIONS.—Notwithstanding sections
19 563(a) and 565(a) of title 5, the Secretary of the In-
20 terior shall maintain any regulations governing the
21 tribal transportation program.

22 “(3) BASIS FOR FUNDING FORMULA.—

23 “(A) BASIS.—

24 “(i) IN GENERAL.—After making the
25 set asides authorized under subsections

1 (a)(6), (c), (d), and (e) on October 1 of
2 each fiscal year, the Secretary shall dis-
3 tribute the remainder authorized to be ap-
4 propriated for the tribal transportation
5 program under this section among Indian
6 tribes as follows:

7 “(I) For fiscal year 2012—

8 “(aa) 50 percent, equal to
9 the ratio that the amount allo-
10 cated to each tribe for fiscal year
11 2011 bears to the total amount
12 allocated to all tribes for that fis-
13 cal year; and

14 “(bb) the remainder using
15 tribal shares as described in sub-
16 paragraphs (B) and (C).

17 “(II) For fiscal year 2013 and
18 thereafter, using tribal shares as de-
19 scribed in subparagraphs (B) and (C).

20 “(ii) TRIBAL HIGH PRIORITY
21 PROJECTS.—The High Priority Projects
22 program as included in the Tribal Trans-
23 portation Allocation Methodology of part
24 170 of title 25, Code of Federal Regula-
25 tions (as in effect on the date of enactment

1 of the MAP–21), shall not continue in ef-
2 fect.

3 “(B) TRIBAL SHARES.—Tribal shares
4 under this program shall be determined using
5 the national tribal transportation facility inven-
6 tory as calculated for fiscal year 2012, and the
7 most recent data on American Indian and Alas-
8 ka Native population within each Indian tribe’s
9 American Indian/Alaska Native Reservation or
10 Statistical Area, as computed under the Native
11 American Housing Assistance and Self-Deter-
12 mination Act of 1996 (25 U.S.C. 4101 et seq.),
13 in the following manner:

14 “(i) 20 percent in the ratio that the
15 total eligible lane mileage in each tribe
16 bears to the total eligible lane mileage of
17 all American Indians and Alaskan Natives.
18 For the purposes of this calculation—

19 “(I) eligible lane mileage shall be
20 computed based on the inventory de-
21 scribed in paragraph (1), using only
22 facilities included in the inventory de-
23 scribed in clause (i), (ii), or (iii) of
24 paragraph (1)(B); and

1 “(IV) 20 percent shall be distrib-
2 uted equally among Indian tribes with
3 populations of 1,001 to 10,000.

4 “(V) 74³/₄ percent shall be dis-
5 tributed equally among Indian tribes
6 with populations of 10,001 to 60,000
7 where 3 or more Indian tribes occupy
8 this category in a single Bureau of In-
9 dian Affairs region, and Bureau of In-
10 dian Affairs regions containing less
11 than 3 Indian tribes in this category
12 shall receive funding in accordance
13 with subclause (IV) and clause (iv).

14 “(VI) 1/2 of 1 percent shall be
15 distributed equally among Indian
16 tribes with populations of 60,001 or
17 more.

18 “(iv) For a Bureau of Indian Affairs
19 region that has no Indian tribes meeting
20 the population criteria under 1 or more of
21 subclauses (I) through (VI) of clause (iii),
22 the region shall redistribute any funds sub-
23 ject to such clause or clauses among any
24 such clauses for which the region has In-
25 dian tribes meeting such criteria propor-

1 tionally in accordance with the percentages
2 listed in such clauses until such funds are
3 completely distributed.

4 “(C) TRIBAL SUPPLEMENTAL FUNDING.—

5 “(i) TRIBAL SUPPLEMENTAL FUNDING
6 AMOUNT.—Of funds made available for
7 each fiscal year for the tribal transpor-
8 tation program, the Secretary shall set
9 aside the following amount for a tribal
10 supplemental program:

11 “(I) If the amount made avail-
12 able for the tribal transportation pro-
13 gram is less than or equal to
14 \$275,000,000, 10 percent of such
15 amount.

16 “(II) If the amount made avail-
17 able for the tribal transportation pro-
18 gram exceeds \$275,000,000—

19 “(aa) \$27,500,000; plus

20 “(bb) 12.5 percent of the
21 amount made available for the
22 tribal transportation program in
23 excess of \$275,000,000.

1 “(ii) TRIBAL SUPPLEMENTAL ALLOCA-
2 TION.—The Secretary shall distribute trib-
3 al supplemental funds as follows:

4 “(I) DISTRIBUTION AMONG RE-
5 GIONS.—Of the amounts set aside
6 under clause (i), the Secretary shall
7 distribute to each region of the Bu-
8 reau of Indian Affairs a share of trib-
9 al supplemental funds in proportion to
10 the regional total of tribal shares
11 based on the cumulative tribal shares
12 of all Indian tribes within such region
13 under subparagraph (B).

14 “(II) DISTRIBUTION WITHIN A
15 REGION.—Of the amount that a re-
16 gion receives under subclause (I), the
17 Secretary shall distribute tribal sup-
18 plemental funding among Indian
19 tribes within such region as follows:

20 “(aa) TRIBAL SUPPLE-
21 MENTAL AMOUNTS.—The Sec-
22 retary shall determine—

23 “(AA) which such In-
24 dian tribes would be entitled
25 under subparagraph (A) to

1 receive in a fiscal year less
2 funding than they would re-
3 ceive in fiscal year 2011
4 pursuant to the Tribal
5 Transportation Allocation
6 Methodology described in
7 subpart C of part 170 of
8 title 25, Code of Federal
9 Regulations (as in effect on
10 the date of enactment of the
11 MAP-21); and

12 “(BB) the combined
13 amount that such Indian
14 tribes would be entitled to
15 receive in fiscal year 2011
16 pursuant to such Tribal
17 Transportation Allocation
18 Methodology in excess of the
19 amount that they would be
20 entitled to receive in the fis-
21 cal year under subparagraph
22 (B); and

23 “(bb) Subject to subclause
24 (III), distribute to each Indian
25 tribe that meets the criteria de-

1 scribed in item (aa)(AA) a share
2 of funding under this subpara-
3 graph in proportion to the share
4 of the combined amount deter-
5 mined under item (aa)(BB) at-
6 tributable to such Indian tribe.

7 “(III) CEILING.—An Indian tribe
8 may not receive under subclause (II)
9 and based on its tribal share under
10 subparagraph (A) a combined amount
11 that exceeds the amount that such In-
12 dian tribe would be entitled to receive
13 in fiscal year 2011 pursuant to the
14 Tribal Transportation Allocation
15 Methodology described in subpart C of
16 part 170 of title 25, Code of Federal
17 Regulations (as in effect on the date
18 of enactment of the MAP-21).

19 “(IV) OTHER AMOUNTS.—If the
20 amount made available for a region
21 under subclause (I) exceeds the
22 amount distributed among Indian
23 tribes within that region under sub-
24 clause (II), the Secretary shall dis-
25 tribute the remainder of such region’s

1 funding under such subclause among
2 all Indian tribes in that region in pro-
3 portion to the combined amount that
4 each such Indian tribe received under
5 subparagraph (A) and subclauses (I),
6 (II), and (III).

7 “(4) TRANSFERRED FUNDS.—

8 “(A) IN GENERAL.—Not later than 30
9 days after the date on which funds are made
10 available to the Secretary of the Interior under
11 this paragraph, the funds shall be distributed
12 to, and made available for immediate use by, el-
13 igible Indian tribes, in accordance with the for-
14 mula for distribution of funds under the tribal
15 transportation program.

16 “(B) USE OF FUNDS.—Notwithstanding
17 any other provision of this section, funds made
18 available to Indian tribes for tribal transpor-
19 tation facilities shall be expended on projects
20 identified in a transportation improvement pro-
21 gram approved by the Secretary.

22 “(5) HEALTH AND SAFETY ASSURANCES.—Not-
23 withstanding any other provision of law, an Indian
24 tribal government may approve plans, specifications,
25 and estimates and commence road and bridge con-

1 construction with funds made available from the tribal
2 transportation program through a contract or agree-
3 ment under Indian Self-Determination and Edu-
4 cation Assistance Act (25 U.S.C. 450 et seq.), if the
5 Indian tribal government—

6 “(A) provides assurances in the contract or
7 agreement that the construction will meet or ex-
8 ceed applicable health and safety standards;

9 “(B) obtains the advance review of the
10 plans and specifications from a State-licensed
11 civil engineer that has certified that the plans
12 and specifications meet or exceed the applicable
13 health and safety standards; and

14 “(C) provides a copy of the certification
15 under subparagraph (A) to the Deputy Assist-
16 ant Secretary for Tribal Government Affairs,
17 Department of Transportation, or the Assistant
18 Secretary for Indian Affairs, Department of the
19 Interior, as appropriate.

20 “(6) CONTRACTS AND AGREEMENTS WITH IN-
21 DIAN TRIBES.—

22 “(A) IN GENERAL.—Notwithstanding any
23 other provision of law or any interagency agree-
24 ment, program guideline, manual, or policy di-
25 rective, all funds made available through the

1 Secretary of the Interior under this chapter and
2 section 125(e) for tribal transportation facilities
3 to pay for the costs of programs, services, func-
4 tions, and activities, or portions of programs,
5 services, functions, or activities, that are specifi-
6 cally or functionally related to the cost of plan-
7 ning, research, engineering, and construction of
8 any tribal transportation facility shall be made
9 available, upon request of the Indian tribal gov-
10 ernment, to the Indian tribal government for
11 contracts and agreements for such planning, re-
12 search, engineering, and construction in accord-
13 ance with Indian Self-Determination and Edu-
14 cation Assistance Act (25 U.S.C. 450 et seq.).

15 “(B) EXCLUSION OF AGENCY PARTICIPA-
16 TION.—All funds, including contract support
17 costs, for programs, functions, services, or ac-
18 tivities, or portions of programs, services, func-
19 tions, or activities, including supportive admin-
20 istrative functions that are otherwise
21 contractible to which subparagraph (A) applies,
22 shall be paid in accordance with subparagraph
23 (A), without regard to the organizational level
24 at which the Department of the Interior has

1 previously carried out such programs, functions,
2 services, or activities.

3 “(7) CONTRACTS AND AGREEMENTS WITH IN-
4 DIAN TRIBES.—

5 “(A) IN GENERAL.—Notwithstanding any
6 other provision of law or any interagency agree-
7 ment, program guideline, manual, or policy di-
8 rective, all funds made available through the
9 Secretary of the Interior to an Indian tribal
10 government under this chapter for a tribal
11 transportation facility program or project shall
12 be made available, on the request of the Indian
13 tribal government, to the Indian tribal govern-
14 ment for use in carrying out, in accordance
15 with the Indian Self-Determination and Edu-
16 cation Assistance Act (25 U.S.C. 450 et seq.),
17 contracts and agreements for the planning, re-
18 search, design, engineering, construction, and
19 maintenance relating to the program or project.

20 “(B) EXCLUSION OF AGENCY PARTICIPA-
21 TION.—In accordance with subparagraph (A),
22 all funds, including contract support costs, for
23 a program or project to which subparagraph
24 (A) applies shall be paid to the Indian tribal
25 government without regard to the organiza-

1 tional level at which the Department of the In-
2 terior has previously carried out, or the Depart-
3 ment of Transportation has previously carried
4 out under the tribal transportation program,
5 the programs, functions, services, or activities
6 involved.

7 “(C) CONSORTIA.—Two or more Indian
8 tribes that are otherwise eligible to participate
9 in a program or project to which this chapter
10 applies may form a consortium to be considered
11 as a single Indian tribe for the purpose of par-
12 ticipating in the project under this section.

13 “(D) SECRETARY AS SIGNATORY.—Not-
14 withstanding any other provision of law, the
15 Secretary is authorized to enter into a funding
16 agreement with an Indian tribal government to
17 carry out a tribal transportation facility pro-
18 gram or project under subparagraph (A) that is
19 located on an Indian reservation or provides ac-
20 cess to the reservation or a community of the
21 Indian tribe.

22 “(E) FUNDING.—The amount an Indian
23 tribal government receives for a program or
24 project under subparagraph (A) shall equal the
25 sum of the funding that the Indian tribal gov-

1 ernment would otherwise receive for the pro-
2 gram or project in accordance with the funding
3 formula established under this subsection and
4 such additional amounts as the Secretary deter-
5 mines equal the amounts that would have been
6 withheld for the costs of the Bureau of Indian
7 Affairs for administration of the program or
8 project.

9 “(F) ELIGIBILITY.—

10 “(i) IN GENERAL.—Subject to clause
11 (ii) and the approval of the Secretary,
12 funds may be made available under sub-
13 paragraph (A) to an Indian tribal govern-
14 ment for a program or project in a fiscal
15 year only if the Indian tribal government
16 requesting such funds demonstrates to the
17 satisfaction of the Secretary financial sta-
18 bility and financial management capability
19 during the 3 fiscal years immediately pre-
20 ceding the fiscal year for which the request
21 is being made.

22 “(ii) CONSIDERATIONS.—An Indian
23 tribal government that had no uncorrected
24 significant and material audit exceptions in
25 the required annual audit of the contracts

1 or self-governance funding agreements
2 made by the Indian tribe with any Federal
3 agency under the Indian Self-Determina-
4 tion and Education Assistance Act (25
5 U.S.C. 450 et seq.) during the 3-fiscal year
6 period referred in clause (i) shall be con-
7 clusive evidence of the financial stability
8 and financial management capability of the
9 Indian tribe for purposes of clause (i).

10 “(G) ASSUMPTION OF FUNCTIONS AND DU-
11 TIES.—An Indian tribal government receiving
12 funding under subparagraph (A) for a program
13 or project shall assume all functions and duties
14 that the Secretary of the Interior would have
15 performed with respect to a program or project
16 under this chapter, other than those functions
17 and duties that inherently cannot be legally
18 transferred under the Indian Self-Determina-
19 tion and Education Assistance Act (25 U.S.C.
20 450 et seq.).

21 “(H) POWERS.—An Indian tribal govern-
22 ment receiving funding under subparagraph (A)
23 for a program or project shall have all powers
24 that the Secretary of the Interior would have
25 exercised in administering the funds transferred

1 to the Indian tribal government for such pro-
2 gram or project under this section if the funds
3 had not been transferred, except to the extent
4 that such powers are powers that inherently
5 cannot be legally transferred under the Indian
6 Self-Determination and Education Assistance
7 Act (25 U.S.C. 450 et seq.).

8 “(I) DISPUTE RESOLUTION.—In the event
9 of a disagreement between the Secretary or the
10 Secretary of the Interior and an Indian tribe
11 over whether a particular function, duty, or
12 power may be lawfully transferred to the Indian
13 tribe under the Indian Self-Determination and
14 Education Assistance Act (25 U.S.C. 450 et
15 seq.), the Indian tribe shall have the right to
16 pursue all alternative dispute resolution and ap-
17 peal procedures authorized by that Act, includ-
18 ing regulations issued to carry out the Act.

19 “(J) TERMINATION OF CONTRACT OR
20 AGREEMENT.—On the date of the termination
21 of a contract or agreement under this section
22 by an Indian tribal government, the Secretary
23 shall transfer all funds that would have been al-
24 located to the Indian tribal government under
25 the contract or agreement to the Secretary of

1 the Interior to provide continued transportation
2 services in accordance with applicable law.

3 “(c) PLANNING.—

4 “(1) IN GENERAL.—For each fiscal year, not
5 more than 2 percent of the funds made available for
6 the tribal transportation program shall be allocated
7 among Indian tribal governments that apply for
8 transportation planning pursuant to the Indian Self-
9 Determination and Education Assistance Act (25
10 U.S.C. 450 et seq.).

11 “(2) REQUIREMENT.—An Indian tribal govern-
12 ment, in cooperation with the Secretary of the Inte-
13 rior and, as appropriate, with a State, local govern-
14 ment, or metropolitan planning organization, shall
15 carry out a transportation planning process in ac-
16 cordance with section 201(c).

17 “(3) SELECTION AND APPROVAL OF
18 PROJECTS.—A project funded under this section
19 shall be—

20 “(A) selected by the Indian tribal govern-
21 ment from the transportation improvement pro-
22 gram; and

23 “(B) subject to the approval of the Sec-
24 retary of the Interior and the Secretary.

1 “(d) TRIBAL TRANSPORTATION FACILITY
2 BRIDGES.—

3 “(1) NATIONWIDE PRIORITY PROGRAM.—The
4 Secretary shall maintain a nationwide priority pro-
5 gram for improving deficient bridges eligible for the
6 tribal transportation program.

7 “(2) FUNDING.—Before making any distribu-
8 tion under subsection (b), the Secretary shall set
9 aside not more than 2 percent of the funds made
10 available under the tribal transportation program for
11 each fiscal year to be allocated—

12 “(A) to carry out any planning, design, en-
13 gineering, preconstruction, construction, and in-
14 spection of a project to replace, rehabilitate,
15 seismically retrofit, paint, apply calcium magne-
16 sium acetate, sodium acetate/formate, or other
17 environmentally acceptable, minimally corrosive
18 anti-icing and deicing composition; or

19 “(B) to implement any countermeasure for
20 deficient tribal transportation facility bridges,
21 including multiple-pipe culverts.

22 “(3) ELIGIBLE BRIDGES.—To be eligible to re-
23 ceive funding under this subsection, a bridge de-
24 scribed in paragraph (1) shall—

1 “(A) have an opening of not less than 20
2 feet;

3 “(B) be classified as a tribal transpor-
4 tation facility; and

5 “(C) be structurally deficient or function-
6 ally obsolete.

7 “(4) APPROVAL REQUIREMENT.—The Secretary
8 may make funds available under this subsection for
9 preliminary engineering, construction, and construc-
10 tion engineering activities after approval of required
11 documentation and verification of eligibility in ac-
12 cordance with this title.

13 “(e) SAFETY.—

14 “(1) FUNDING.—Before making any distribu-
15 tion under subsection (b), the Secretary shall set
16 aside not more than 2 percent of the funds made
17 available under the tribal transportation program for
18 each fiscal year to be allocated based on an identi-
19 fication and analysis of highway safety issues and
20 opportunities on tribal land, as determined by the
21 Secretary, on application of the Indian tribal govern-
22 ments for eligible projects described in section
23 148(a)(4).

24 “(2) PROJECT SELECTION.—An Indian tribal
25 government, in cooperation with the Secretary of the

1 Interior and, as appropriate, with a State, local gov-
2 ernment, or metropolitan planning organization,
3 shall select projects from the transportation im-
4 provement program, subject to the approval of the
5 Secretary and the Secretary of the Interior.

6 “(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before ap-
7 proving as a project on a tribal transportation facility any
8 project eligible for funds apportioned under section 104
9 in a State, the Secretary shall, for projects on tribal trans-
10 portation facilities, determine that the obligation of funds
11 for the project is supplementary to and not in lieu of the
12 obligation of a fair and equitable share of funds appor-
13 tioned to the State under section 104.

14 **“§ 203. Federal lands transportation program**

15 “(a) USE OF FUNDS.—

16 “(1) IN GENERAL.—Funds made available
17 under the Federal lands transportation program
18 shall be used by the Secretary of Transportation and
19 the Secretary of the appropriate Federal land man-
20 agement agency to pay the costs of—

21 “(A) program administration, transpor-
22 tation planning, research, preventive mainte-
23 nance, engineering, rehabilitation, restoration,
24 construction, and reconstruction of Federal
25 lands transportation facilities, and—

1 “(i) adjacent vehicular parking areas;

2 “(ii) acquisition of necessary scenic

3 easements and scenic or historic sites;

4 “(iii) provision for pedestrians and bi-
5 cycles;

6 “(iv) environmental mitigation in or
7 adjacent to Federal land open to the pub-
8 lic—

9 “(I) to improve public safety and
10 reduce vehicle-caused wildlife mor-
11 tality while maintaining habitat
12 connectivity; and

13 “(II) to mitigate the damage to
14 wildlife, aquatic organism passage,
15 habitat, and ecosystem connectivity,
16 including the costs of constructing,
17 maintaining, replacing, or removing
18 culverts and bridges, as appropriate;

19 “(v) construction and reconstruction
20 of roadside rest areas, including sanitary
21 and water facilities;

22 “(vi) congestion mitigation; and

23 “(vii) other appropriate public road
24 facilities, as determined by the Secretary;

1 “(B) operation and maintenance of transit
2 facilities; and

3 “(C) any transportation project eligible for
4 assistance under this title that is on a public
5 road within or adjacent to, or that provides ac-
6 cess to, Federal lands open to the public.

7 “(2) CONTRACT.—In connection with an activ-
8 ity described in paragraph (1), the Secretary and the
9 Secretary of the appropriate Federal land manage-
10 ment agency may enter into a contract or other ap-
11 propriate agreement with respect to the activity
12 with—

13 “(A) a State (including a political subdivi-
14 sion of a State); or

15 “(B) an Indian tribe.

16 “(3) ADMINISTRATION.—All appropriations for
17 the construction and improvement of Federal lands
18 transportation facilities shall be administered in con-
19 formity with regulations and agreements jointly ap-
20 proved by the Secretary and the Secretary of the ap-
21 propriate Federal land managing agency.

22 “(4) COOPERATION.—

23 “(A) IN GENERAL.—The cooperation of
24 States, counties, or other local subdivisions may
25 be accepted in construction and improvement.

1 “(B) FUNDS RECEIVED.—Any funds re-
2 ceived from a State, county, or local subdivision
3 shall be credited to appropriations available for
4 the class of Federal lands transportation facili-
5 ties to which the funds were contributed.

6 “(5) COMPETITIVE BIDDING.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), construction of each project shall be
9 performed by contract awarded by competitive
10 bidding.

11 “(B) EXCEPTION.—Subparagraph (A)
12 shall not apply if the Secretary or the Secretary
13 of the appropriate Federal land management
14 agency affirmatively finds that, under the cir-
15 cumstances relating to the project, a different
16 method is in the public interest.

17 “(b) AGENCY PROGRAM DISTRIBUTIONS.—

18 “(1) IN GENERAL.—On October 1, 2011, and
19 on October 1 of each fiscal year thereafter, the Sec-
20 retary shall allocate the sums authorized to be ap-
21 propriated for the fiscal year for the Federal lands
22 transportation program on the basis of applications
23 of need, as determined by the Secretary—

1 “(A) in consultation with the Secretaries of
2 the applicable Federal land management agen-
3 cies; and

4 “(B) in coordination with the transpor-
5 tation plans required under section 201 of the
6 respective transportation systems of—

7 “(i) the National Park Service;

8 “(ii) the Forest Service;

9 “(iii) the United States Fish and
10 Wildlife Service;

11 “(iv) the Corps of Engineers; and

12 “(v) the Bureau of Land Manage-
13 ment.

14 “(2) APPLICATIONS.—

15 “(A) REQUIREMENTS.—Each application
16 submitted by a Federal land management agen-
17 cy shall include proposed programs at various
18 potential funding levels, as defined by the Sec-
19 retary following collaborative discussions with
20 applicable Federal land management agencies.

21 “(B) CONSIDERATION BY SECRETARY.—In
22 evaluating an application submitted under sub-
23 paragraph (A), the Secretary shall consider the
24 extent to which the programs support—

25 “(i) the transportation goals of—

1 “(I) a state of good repair of
2 transportation facilities;

3 “(II) a reduction of bridge defi-
4 ciencies, and

5 “(III) an improvement of safety;

6 “(ii) high-use Federal recreational
7 sites or Federal economic generators; and

8 “(iii) the resource and asset manage-
9 ment goals of the Secretary of the respec-
10 tive Federal land management agency.

11 “(C) PERMISSIVE CONTENTS.—Applica-
12 tions may include proposed programs the dura-
13 tion of which extend over a multiple-year period
14 to support long-term transportation planning
15 and resource management initiatives.

16 “(c) NATIONAL FEDERAL LANDS TRANSPORTATION
17 FACILITY INVENTORY.—

18 “(1) IN GENERAL.—The Secretaries of the ap-
19 propriate Federal land management agencies, in co-
20 operation with the Secretary, shall maintain a com-
21 prehensive national inventory of public Federal lands
22 transportation facilities.

23 “(2) TRANSPORTATION FACILITIES INCLUDED
24 IN THE INVENTORIES.—To identify the Federal
25 lands transportation system and determine the rel-

1 ative transportation needs among Federal land man-
2 agement agencies, the inventories shall include, at a
3 minimum, facilities that—

4 “(A) provide access to high-use Federal
5 recreation sites or Federal economic generators,
6 as determined by the Secretary in coordination
7 with the respective Secretaries of the appro-
8 priate Federal land management agencies; and

9 “(B) are owned by 1 of the following agen-
10 cies:

11 “(i) The National Park Service.

12 “(ii) The Forest Service.

13 “(iii) The United States Fish and
14 Wildlife Service.

15 “(iv) The Bureau of Land Manage-
16 ment.

17 “(v) The Corps of Engineers.

18 “(3) AVAILABILITY.—The inventories shall be
19 made available to the Secretary.

20 “(4) UPDATES.—The Secretaries of the appro-
21 priate Federal land management agencies shall up-
22 date the inventories of the appropriate Federal land
23 management agencies, as determined by the Sec-
24 retary after collaborative discussions with the Secre-

1 taries of the appropriate Federal land management
2 agencies.

3 “(5) REVIEW.—A decision to add or remove a
4 facility from the inventory shall not be considered a
5 Federal action for purposes of review under the Na-
6 tional Environmental Policy Act of 1969 (42 U.S.C.
7 4321 et seq.).

8 “(d) BICYCLE SAFETY.—The Secretary of the appro-
9 priate Federal land management agency shall prohibit the
10 use of bicycles on each federally owned road that has a
11 speed limit of 30 miles per hour or greater and an adja-
12 cent paved path for use by bicycles within 100 yards of
13 the road.

14 **“§ 204. Federal lands access program**

15 “(a) USE OF FUNDS.—

16 “(1) IN GENERAL.—Funds made available
17 under the Federal lands access program shall be
18 used by the Secretary of Transportation and the
19 Secretary of the appropriate Federal land manage-
20 ment agency to pay the cost of—

21 “(A) transportation planning, research, en-
22 gineering, preventive maintenance, rehabilita-
23 tion, restoration, construction, and reconstruc-
24 tion of Federal lands access transportation fa-

1 facilities located on or adjacent to, or that provide
2 access to, Federal land, and—

3 “(i) adjacent vehicular parking areas;

4 “(ii) acquisition of necessary scenic
5 easements and scenic or historic sites;

6 “(iii) provisions for pedestrians and
7 bicycles;

8 “(iv) environmental mitigation in or
9 adjacent to Federal land—

10 “(I) to improve public safety and
11 reduce vehicle-caused wildlife mor-
12 tality while maintaining habitat
13 connectivity; and

14 “(II) to mitigate the damage to
15 wildlife, aquatic organism passage,
16 habitat, and ecosystem connectivity,
17 including the costs of constructing,
18 maintaining, replacing, or removing
19 culverts and bridges, as appropriate;

20 “(v) construction and reconstruction
21 of roadside rest areas, including sanitary
22 and water facilities; and

23 “(vi) other appropriate public road fa-
24 cilities, as determined by the Secretary;

1 “(B) operation and maintenance of transit
2 facilities; and

3 “(C) any transportation project eligible for
4 assistance under this title that is within or ad-
5 jacent to, or that provides access to, Federal
6 land.

7 “(2) CONTRACT.—In connection with an activ-
8 ity described in paragraph (1), the Secretary and the
9 Secretary of the appropriate Federal land manage-
10 ment agency may enter into a contract or other ap-
11 propriate agreement with respect to the activity
12 with—

13 “(A) a State (including a political subdivi-
14 sion of a State); or

15 “(B) an Indian tribe.

16 “(3) ADMINISTRATION.—All appropriations for
17 the construction and improvement of Federal lands
18 access transportation facilities shall be administered
19 in conformity with regulations and agreements ap-
20 proved by the Secretary.

21 “(4) COOPERATION.—

22 “(A) IN GENERAL.—The cooperation of
23 States, counties, or other local subdivisions may
24 be accepted in construction and improvement.

1 “(B) FUNDS RECEIVED.—Any funds re-
2 ceived from a State, county, or local subdivision
3 for a Federal lands access transportation facil-
4 ity project shall be credited to appropriations
5 available under the Federal lands access pro-
6 gram.

7 “(5) COMPETITIVE BIDDING.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), construction of each project shall be
10 performed by contract awarded by competitive
11 bidding.

12 “(B) EXCEPTION.—Subparagraph (A)
13 shall not apply if the Secretary or the Secretary
14 of the appropriate Federal land management
15 agency affirmatively finds that, under the cir-
16 cumstances relating to the project, a different
17 method is in the public interest.

18 “(b) PROGRAM DISTRIBUTIONS.—

19 “(1) IN GENERAL.—Funding made available to
20 carry out the Federal lands access program shall be
21 allocated among those States that have Federal
22 land, in accordance with the following formula:

23 “(A) 80 percent of the available funding
24 for use in those States that contain at least 1
25 ½ percent of the total public land in the United

1 States managed by the agencies described in
2 paragraph (2), to be distributed as follows:

3 “(i) 30 percent in the ratio that—

4 “(I) recreational visitation within
5 each such State; bears to

6 “(II) the recreational visitation
7 within all such States.

8 “(ii) 5 percent in the ratio that—

9 “(I) the Federal land area within
10 each such State; bears to

11 “(II) the Federal land area in all
12 such States.

13 “(iii) 55 percent in the ratio that—

14 “(I) the Federal public road
15 miles within each such State; bears to

16 “(II) the Federal public road
17 miles in all such States.

18 “(iv) 10 percent in the ratio that—

19 “(I) the number of Federal pub-
20 lic bridges within each such State;
21 bears to

22 “(II) the number of Federal pub-
23 lic bridges in all such States.

24 “(B) 20 percent of the available funding
25 for use in those States that do not contain at

1 “(2) DATA SOURCE.—Data necessary to dis-
2 tribute funding under paragraph (1) shall be pro-
3 vided by the following Federal land management
4 agencies:

5 “(A) The National Park Service.

6 “(B) The Forest Service.

7 “(C) The United States Fish and Wildlife
8 Service.

9 “(D) The Bureau of Land Management.

10 “(E) The Corps of Engineers.

11 “(c) PROGRAMMING DECISIONS COMMITTEE.—

12 “(1) IN GENERAL.—Programming decisions
13 shall be made within each State by a committee
14 comprised of—

15 “(A) a representative of the Federal High-
16 way Administration;

17 “(B) a representative of the State Depart-
18 ment of Transportation; and

19 “(C) a representative of any appropriate
20 political subdivision of the State.

21 “(2) CONSULTATION REQUIREMENT.—The com-
22 mittee described in paragraph (1) shall consult with
23 each applicable Federal agency in each State before
24 any joint discussion or final programming decision.

1 “(3) PROJECT PREFERENCE.—In making a
2 programming decision under paragraph (1), the
3 committee shall give preference to projects that pro-
4 vide access to, are adjacent to, or are located within
5 high-use Federal recreation sites or Federal eco-
6 nomic generators, as identified by the Secretaries of
7 the appropriate Federal land management agen-
8 cies.”.

9 (b) PUBLIC LANDS DEVELOPMENT ROADS AND
10 TRAILS.—Section 214 of title 23, United States Code, is
11 repealed.

12 (c) CONFORMING AMENDMENTS.—

13 (1) CHAPTER 2 ANALYSIS.—The analysis for
14 chapter 2 of title 23, United States Code, is amend-
15 ed:

16 (A) By striking the items relating to sec-
17 tions 201 through 204 and inserting the fol-
18 lowing:

“201. Federal lands and tribal transportation programs.

“202. Tribal transportation program.

“203. Federal lands transportation program.

“204. Federal lands access program.”.

19 (B) By striking the item relating to section
20 214.

21 (2) DEFINITION.—Section 138(a) of title 23,
22 United States Code, is amended in the third sen-
23 tence by striking “park road or parkway under sec-

1 tion 204 of this title” and inserting “Federal lands
2 transportation facility”.

3 (3) RULES, REGULATIONS, AND RECOMMENDA-
4 TIONS.—Section 315 of title 23, United States Code,
5 is amended by striking “204(f)” and inserting
6 “202(a)(5), 203(a)(3),”.

7 **SEC. 1117. ALASKA HIGHWAY.**

8 Section 218 of title 23, United States Code, is
9 amended to read as follows:

10 **“§ 218. Alaska Highway**

11 “(a) DEFINITION OF ALASKA MARINE HIGHWAY
12 SYSTEM.—In this section, the term ‘Alaska Marine High-
13 way System’ includes each existing or planned transpor-
14 tation facility and equipment in the State of Alaska relat-
15 ing to the ferry system of the State, including the lease,
16 purchase, or construction of vessels, terminals, docks,
17 floats, ramps, staging areas, parking lots, bridges, and ap-
18 proaches thereto, and necessary roads.

19 “(b) AUTHORIZATION OF SECRETARY.—

20 “(1) IN GENERAL.—Recognizing the benefits
21 that will accrue to the State of Alaska and to the
22 United States from the reconstruction of the Alaska
23 Highway from the Alaskan border to Haines Junc-
24 tion in Canada and the Haines Cutoff Highway from
25 Haines Junction in Canada to Haines, the Secretary

1 is authorized, upon agreement with the State of
2 Alaska, to expend on such highway or the Alaska
3 Marine Highway System any Federal-aid highway
4 funds apportioned to the State of Alaska under this
5 title to provide for necessary reconstruction of such
6 highway.

7 “(2) LIMITATION.—No expenditures shall be
8 made for the construction of the portion of the high-
9 ways that are in located in Canada until the date on
10 which an agreement has been reached by the Gov-
11 ernment of Canada and the Government of the
12 United States, which shall provide in part, that the
13 Canadian Government—

14 “(A) will provide, without participation of
15 funds authorized under this title, all necessary
16 right-of-way for the construction of the high-
17 ways;

18 “(B) will not impose any highway toll, or
19 permit any toll to be charged for the use of the
20 highways by vehicles or persons;

21 “(C) will not levy or assess, directly or in-
22 directly, any fee, tax, or other charge for the
23 use of the highways by vehicles or persons from
24 the United States that does not apply equally to
25 vehicles or persons of Canada;

1 (1) generate national and regional economic
2 benefits and increase global economic competitive-
3 ness;

4 (2) reduce congestion and its impacts;

5 (3) improve roadways vital to national energy
6 security;

7 (4) improve movement of freight and people;
8 and

9 (5) improve transportation safety.

10 (c) DEFINITIONS.—In this section:

11 (1) ELIGIBLE APPLICANT.—The term “eligible
12 applicant” means a State department of transpor-
13 tation or a group of State departments of transpor-
14 tation, a local government, a tribal government or
15 consortium of tribal governments, a transit agency,
16 a port authority, a metropolitan planning organiza-
17 tion, other political subdivisions of State or local
18 governments, or a multi-State or multi-jurisdictional
19 group of the aforementioned entities.

20 (2) ELIGIBLE PROJECT.—The term “eligible
21 project” means a surface transportation project or a
22 program of integrated surface transportation
23 projects closely related in the function they perform
24 that—

25 (A) is a capital project or projects—

1 (i) eligible for Federal financial assist-
2 ance under title 23, United States Code, or
3 under chapter 53 of title 49, United States
4 Code; or

5 (ii) for surface transportation infra-
6 structure to facilitate intermodal inter-
7 change, transfer, and access into and out
8 of intermodal facilities, including ports;
9 and

10 (B) has eligible project costs that are rea-
11 sonably anticipated to equal or exceed the lesser
12 of—

13 (i) \$500,000,000;

14 (ii) for a project located in a single
15 State, 60 percent of the amount of Fed-
16 eral-aid highway funds apportioned for the
17 most recently completed fiscal year to the
18 State; or

19 (iii) for a project located in more than
20 1 State, 75 percent of the amount of Fed-
21 eral-aid highway funds apportioned for the
22 most recently completed fiscal year to the
23 State that has the largest apportionment.

24 (3) ELIGIBLE PROJECT COSTS.—The term “eli-
25 gible project costs” means the costs of—

1 (A) development phase activities, including
2 planning, feasibility analysis, revenue fore-
3 casting, environmental review, preliminary engi-
4 neering and design work, and other
5 preconstruction activities;

6 (B) construction, reconstruction, rehabili-
7 tation, and acquisition of real property (includ-
8 ing land related to the project and improve-
9 ments to land), environmental mitigation, con-
10 struction contingencies, acquisition of equip-
11 ment directly related to improving system per-
12 formance, and operational improvements; and

13 (C) all financing costs, including subsidy
14 costs under the Transportation Infrastructure
15 Finance and Innovation Act program.

16 (d) SOLICITATIONS AND APPLICATIONS.—

17 (1) GRANT SOLICITATIONS.—The Secretary
18 shall establish criteria for project evaluation and
19 conduct a transparent and competitive national solie-
20 itation process to select projects for funding to carry
21 out the purposes of this section.

22 (2) APPLICATIONS.—

23 (A) IN GENERAL.—An eligible applicant
24 seeking a grant under this section for an eligi-
25 ble project shall submit an application to the

1 Secretary in such form and in accordance with
2 such requirements as the Secretary shall estab-
3 lish.

4 (B) CONTENTS.—An application under
5 this subsection shall, at a minimum, include
6 data on current system performance and esti-
7 mated system improvements that will result
8 from completion of the eligible project, includ-
9 ing projections for 2, 7, and 15 years after
10 completion.

11 (C) RESUBMISSION OF APPLICATIONS.—An
12 eligible applicant whose project is not selected
13 by the Secretary may resubmit an application
14 in any subsequent solicitation.

15 (e) CRITERIA FOR PROJECT EVALUATION AND SE-
16 LECTION.—

17 (1) IN GENERAL.—The Secretary may select a
18 project only if the Secretary determines that the
19 project—

20 (A) will significantly improve the perform-
21 ance of the national surface transportation net-
22 work, nationally or regionally;

23 (B) is based on the results of preliminary
24 engineering;

1 (C) cannot be readily and efficiently com-
2 pleted without Federal support from this pro-
3 gram;

4 (D) is justified based on the ability of the
5 project—

6 (i) to generate national economic ben-
7 efits that reasonably exceed its costs, in-
8 cluding increased access to jobs, labor, and
9 other critical economic inputs;

10 (ii) to reduce long-term congestion, in-
11 cluding impacts in the State, region, and
12 Nation, and increase speed, reliability, and
13 accessibility of the movement of people or
14 freight; and

15 (iii) to improve transportation safety,
16 including reducing transportation acci-
17 dents, injuries, and fatalities; and

18 (E) is supported by an acceptable degree
19 of non-Federal financial commitments, includ-
20 ing evidence of stable and dependable financing
21 sources to construct, maintain, and operate the
22 infrastructure facility.

23 (2) ADDITIONAL CONSIDERATIONS.—In evalu-
24 ating a project under this section, in addition to the

1 criteria in paragraph (1), the Secretary shall con-
2 sider the extent to which the project—

3 (A) leverages Federal investment by en-
4 couraging non-Federal contributions to the
5 project, including contributions from public-pri-
6 vate partnerships;

7 (B) is able to begin construction within 18
8 months of being selected;

9 (C) incorporates innovative project delivery
10 and financing where practical;

11 (D) stimulates collaboration between
12 States and among State and local governments;

13 (E) helps maintain or protect the environ-
14 ment;

15 (F) improves roadways vital to national en-
16 ergy security;

17 (G) uses innovative technologies, including
18 intelligent transportation systems, that enhance
19 the efficiency of the project; and

20 (H) contributes to an equitable geographic
21 distribution of funds and an appropriate bal-
22 ance in addressing the needs of urban and rural
23 communities.

24 (f) GRANT REQUIREMENTS.—

1 (1) IN GENERAL.—A grant for a project under
2 this section shall be subject to the following require-
3 ments:

4 (A) A qualifying highway project eligible
5 for funding under title 23, United States Code,
6 or public transportation project eligible under
7 chapter 53 of title 49, United States Code, shall
8 comply with all applicable requirements of such
9 title or chapter except that, if the project con-
10 tains elements or activities that are not eligible
11 for funding under such title or chapter but are
12 eligible for funding under this section, the ele-
13 ments or activities shall comply with the re-
14 quirements described in subparagraph (B).

15 (B) A qualifying surface transportation
16 project not eligible under title 23, United States
17 Code, or chapter 53 of title 49, United States
18 Code, shall comply with the requirements of
19 subchapter IV of chapter 31 of title 40, United
20 States Code, [section 10a-d of title 41, United
21 States Code], and such other terms, conditions,
22 and requirements as the Secretary determines
23 are necessary and appropriate for the type of
24 project.

1 (2) DETERMINATION OF APPLICABLE MODAL
2 REQUIREMENTS.—In the event that a project has
3 cross-modal components, the Secretary shall have
4 the discretion to designate the requirements that
5 shall apply to the project based on predominant
6 components.

7 (3) OTHER TERMS AND CONDITIONS.—The Sec-
8 retary shall require that all grants under this section
9 be subject to all terms, conditions, and requirements
10 that the Secretary decides are necessary or appro-
11 priate for purposes of this section, including require-
12 ments for the disposition of net increases in value of
13 real property resulting from the project assisted
14 under this section.

15 (g) FEDERAL SHARE OF PROJECT COST.—The Fed-
16 eral share of funds under this section for the project shall
17 be up to 50 percent of the project cost. Other eligible Fed-
18 eral transportation funds may be used by the project spon-
19 sor up to an additional 30 percent of the project costs.
20 If a project is to construct or improve a privately owned
21 facility or would primarily benefit a private entity, the
22 Federal share shall be the lesser of 50 percent of the total
23 project cost or the quantified public benefit of the project.
24 The Secretary may allow costs incurred prior to project
25 approval to be used as a credit toward the non-Federal

1 share of the cost of the project. Such costs must be ade-
2 quately documented, necessary, reasonable and allocable
3 to the current phase of the project and such costs may
4 not be included as a cost or used to meet cost sharing
5 or matching requirements of any other federally financed
6 project.

7 (h) REPORT TO THE SECRETARY.—For each project
8 funded under this section, the project sponsor shall reas-
9 sess system performance and report to the Secretary 2,
10 7, and 15 years after completion of the project to assess
11 if the project outcomes have met pre-construction projec-
12 tions.

13 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to carry out this section,
15 to remain available until expended, \$1,000,000,000 for fis-
16 cal year 2013.

17 (j) TREATMENT OF PROJECTS.—Notwithstanding
18 any other provision of law, projects funded under this sec-
19 tion shall be treated as projects on a Federal-aid system
20 under chapter 1 of title 23, United States Code.

21 **Subtitle B—Performance**

22 **Management**

23 **SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.**

24 Section 134 of title 23, United States Code, is
25 amended to read as follows:

1 **“§ 134. Metropolitan transportation planning**

2 “(a) POLICY.—It is in the national interest—

3 “(1) to encourage and promote the safe, cost-
4 effective, and efficient management, operation, and
5 development of surface transportation systems that
6 will serve efficiently the mobility needs of individuals
7 and freight, reduce transportation-related fatalities
8 and injuries, and foster economic growth and devel-
9 opment within and between States and urbanized
10 areas, while fitting the needs and complexity of indi-
11 vidual communities, maximizing value for taxpayers,
12 leveraging cooperative investments, and minimizing
13 transportation-related fuel consumption and air pol-
14 lution through the metropolitan and statewide trans-
15 portation planning processes identified in this title;

16 “(2) to encourage the continued improvement,
17 evolution, and coordination of the metropolitan and
18 statewide transportation planning processes by and
19 among metropolitan planning organizations, State
20 departments of transportation, regional planning or-
21 ganizations, interstate partnerships, and public tran-
22 sit and intercity service operators as guided by the
23 planning factors identified in subsection (h) of this
24 section and section 135(d);

1 “(3) to encourage and promote transportation
2 needs and decisions that are integrated with other
3 planning needs and priorities; and

4 “(4) to maximize the effectiveness of transpor-
5 tation investments.

6 “(b) DEFINITIONS.—In this section and section 135,
7 the following definitions apply:

8 “(1) EXISTING MPO.—The term ‘existing MPO’
9 means a metropolitan planning organization that was
10 designated as a metropolitan planning organization
11 on the day before the date of enactment of the
12 MAP-21.

13 “(2) LOCAL OFFICIAL.—The term ‘local official’
14 means any elected or appointed official of general
15 purpose local government with responsibility for
16 transportation in a designated area.

17 “(3) MAINTENANCE AREA.—The term ‘mainte-
18 nance area’ means an area that was designated as
19 an air quality nonattainment area, but was later re-
20 designated by the Administrator of the Environ-
21 mental Protection Agency as an air quality attain-
22 ment area, under section 107(d) of the Clean Air
23 Act (42 U.S.C. 7407(d)).

24 “(4) METROPOLITAN PLANNING AREA.—The
25 term ‘metropolitan planning area’ means a geo-

1 graphical area determined by agreement between the
2 metropolitan planning organization for the area and
3 the applicable Governor under subsection (c).

4 “(5) METROPOLITAN PLANNING ORGANIZA-
5 TION.—The term ‘metropolitan planning organiza-
6 tion’ means the policy board of an organization es-
7 tablished pursuant to subsection (c).

8 “(6) METROPOLITAN TRANSPORTATION
9 PLAN.—The term ‘metropolitan transportation plan’
10 means a plan developed by a metropolitan planning
11 organization under subsection (i).

12 “(7) NONATTAINMENT AREA.—The term ‘non-
13 attainment area’ has the meaning given the term in
14 section 171 of the Clean Air Act (42 U.S.C. 7501).

15 “(8) NONMETROPOLITAN AREA.—

16 “(A) IN GENERAL.—The term ‘nonmetro-
17 politan area’ means a geographical area outside
18 the boundaries of a designated metropolitan
19 planning area.

20 “(B) INCLUSIONS.—The term ‘nonmetro-
21 politan area’ includes small urbanized and non-
22 urbanized areas.

23 “(9) NONMETROPOLITAN PLANNING ORGANIZA-
24 TION.—

1 “(A) IN GENERAL.—The term ‘nonmetro-

2 politan planning organization’ means an organi-

3 zation designated by a State to enhance the

4 planning, coordination, and implementation of

5 statewide transportation plans and programs in

6 a nonmetropolitan area, with an emphasis on

7 addressing the needs of nonmetropolitan areas

8 of the State.

9 “(B) INCLUSION.—The term ‘nonmetro-

10 politan planning organization’ includes a rural

11 planning organization.

12 “(10) REGIONALLY SIGNIFICANT.—The term

13 ‘regionally significant’, with respect to a transpor-

14 tation project, program, service, or strategy, means

15 a project, program, service, or strategy that—

16 “(A) serves regional transportation needs

17 (such as access to and from the area outside of

18 the region, major activity centers in the region,

19 and major planned developments); and

20 “(B) would normally be included in the

21 modeling of a transportation network of a met-

22 ropolitan area.

23 “(11) STATEWIDE TRANSPORTATION IMPROVE-

24 MENT PROGRAM.—The term ‘statewide transpor-

25 tation improvement program’ means a statewide

1 transportation improvement program developed by a
2 State under section 135(g).

3 “(12) STATEWIDE TRANSPORTATION PLAN.—
4 The term ‘statewide transportation plan’ means a
5 plan developed by a State under section 135(f).

6 “(13) TRANSPORTATION IMPROVEMENT PRO-
7 GRAM.—The term ‘transportation improvement pro-
8 gram’ means a program developed by a metropolitan
9 planning organization under subsection (j).

10 “(14) URBANIZED AREA.—The term ‘urbanized
11 area’ means a geographical area with a population
12 of 50,000 or more individuals, as determined by the
13 Bureau of the Census.

14 “(c) DESIGNATION OF METROPOLITAN PLANNING
15 ORGANIZATIONS.—

16 “(1) IN GENERAL.—To carry out the metropoli-
17 tan transportation planning process under this sec-
18 tion, a metropolitan planning organization shall be
19 designated for each urbanized area with a population
20 of more than 200,000 individuals—

21 “(A) by agreement between the applicable
22 Governor and local officials that, in the aggre-
23 gate, represent at least 75 percent of the af-
24 fected population (including the largest incor-

1 porated city (based on population), as deter-
2 mined by the Bureau of the Census); or

3 “(B) in accordance with procedures estab-
4 lished by applicable State or local law.

5 “(2) SMALL URBANIZED AREAS.—To carry out
6 the metropolitan transportation planning process
7 under this section, a metropolitan planning organiza-
8 tion may be designated for any urbanized area with
9 a population of more than 50,000, but less than
10 200,000, individuals—

11 “(A) by agreement between the applicable
12 Governor and local officials that, in the aggre-
13 gate, represent at least 75 percent of the af-
14 fected population (including the largest incor-
15 porated city (based on population), as deter-
16 mined by the Bureau of the Census); and

17 “(B) with the consent of the Secretary,
18 based on a finding that the resulting metropoli-
19 tan planning organization has met the min-
20 imum requirements under subsection (e)(4)(B).

21 “(3) STRUCTURE.—Effective beginning on the
22 date of designation or redesignation under this sub-
23 section, a metropolitan planning organization shall
24 consist of—

1 “(A) elected local officials in the relevant
2 metropolitan area;

3 “(B) officials of public agencies that ad-
4 minister or operate major modes of transpor-
5 tation in the relevant metropolitan area; and

6 “(C) appropriate State officials.

7 “(4) EFFECT OF SUBSECTION.—Nothing in this
8 subsection interferes with any authority under any
9 State law in effect on December 18, 1991, of a pub-
10 lic agency with multimodal transportation respon-
11 sibilities—

12 “(A) to develop the metropolitan transpor-
13 tation plans and transportation improvement
14 programs for adoption by a metropolitan plan-
15 ning organization; or

16 “(B) to develop capital plans, coordinate
17 transit services and projects, or carry out other
18 activities pursuant to State law.

19 “(5) CONTINUING DESIGNATION.—A designa-
20 tion of a metropolitan planning organization under
21 this subsection or any other provision of law—

22 “(A) for an urbanized area with a popu-
23 lation of 200,000 or more individuals shall re-
24 main in effect—

1 “(i) for the period during which the
2 structure of the existing MPO complies
3 with the requirements of paragraph (1); or

4 “(ii) until the date on which the exist-
5 ing MPO is redesignated under paragraph
6 (7); and

7 “(B) for an urbanized area with a popu-
8 lation of less than 200,000 individuals, shall be
9 terminated on the date that is 3 years after the
10 date on which the Secretary promulgates a reg-
11 ulation pursuant to subsection (e)(4)(B)(i), un-
12 less reaffirmed by the existing MPO and the
13 applicable Governor and approved by the Sec-
14 retary, on the basis of meeting the minimum re-
15 quirements established by the regulation.

16 “(6) EXTENSION.—

17 “(A) IN GENERAL.—If the applicable Gov-
18 ernor, acting on behalf of a metropolitan plan-
19 ning organization for an urbanized area with a
20 population of less than 200,000 that would oth-
21 erwise be terminated under paragraph (5)(B),
22 requests a probationary continuation before the
23 termination of the metropolitan planning orga-
24 nization, the Secretary shall—

1 “(i) delay the termination of the met-
2 ropolitan planning organization under
3 paragraph (5)(B) for a period of 1 year;
4 and

5 “(ii) provide additional technical as-
6 sistance to all metropolitan planning orga-
7 nizations provided an extension under this
8 paragraph to assist the metropolitan plan-
9 ning organization in meeting the minimum
10 requirements under subsection (e)(4)(B)(i).

11 “(B) DESIGNATION AS TIER II MPO.—If
12 the Secretary determines the metropolitan plan-
13 ning organization has met the minimum re-
14 quirements under subsection (e)(4)(B)(i) before
15 the final termination date, the metropolitan
16 planning organization shall be designated as a
17 tier II MPO.

18 “(7) REDESIGNATION.—The designation of a
19 metropolitan planning organization under this sub-
20 section shall remain in effect until the date on which
21 the metropolitan planning organization is redesi-
22 gnated, as appropriate, in accordance with the re-
23 quirements of this subsection pursuant to an agree-
24 ment between—

25 “(A) the applicable Governor; and

1 “(B) affected local officials who, in the ag-
2 gregate, represent at least 75 percent of the ex-
3 isting metropolitan planning area population
4 (including the largest incorporated city (based
5 on population), as determined by the Bureau of
6 the Census).

7 “(8) DESIGNATION OF MULTIPLE MPOS.—

8 “(A) IN GENERAL.—More than 1 metro-
9 politan planning organization may be des-
10 ignated within an existing metropolitan plan-
11 ning area only if the applicable Governor and
12 an existing MPO determine that the size and
13 complexity of the existing metropolitan planning
14 area make the designation of more than 1 met-
15 ropolitan planning organization for the metro-
16 politan planning area appropriate.

17 “(B) SERVICE JURISDICTIONS.—If more
18 than 1 metropolitan planning organization is
19 designated for an existing metropolitan plan-
20 ning area under subparagraph (A), the existing
21 metropolitan planning area shall be split into
22 multiple metropolitan planning areas, each of
23 which shall be served by the existing MPO or
24 a new metropolitan planning organization.

1 “(C) TIER DESIGNATION.—The tier des-
2 ignation of each metropolitan planning organi-
3 zation subject to a designation under this para-
4 graph shall be determined based on the size of
5 each respective metropolitan planning area, in
6 accordance with subsection (e)(4).

7 “(d) METROPOLITAN PLANNING AREA BOUND-
8 ARIES.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the boundaries of a metropolitan planning area
11 shall be determined by agreement between the appli-
12 cable metropolitan planning organization and the
13 Governor of the State in which the metropolitan
14 planning area is located.

15 “(2) INCLUDED AREA.—Each metropolitan
16 planning area—

17 “(A) shall encompass at least the relevant
18 existing urbanized area and any contiguous
19 area expected to become urbanized within a 20-
20 year forecast period under the applicable metro-
21 politan transportation plan; and

22 “(B) may encompass the entire relevant
23 metropolitan statistical area, as defined by the
24 Office of Management and Budget.

1 “(3) IDENTIFICATION OF NEW URBANIZED
2 AREAS.—The designation by the Bureau of the Cen-
3 sus of a new urbanized area within the boundaries
4 of an existing metropolitan planning area shall not
5 require the redesignation of the relevant existing
6 MPO.

7 “(4) NONATTAINMENT AND MAINTENANCE
8 AREAS.—

9 “(A) EXISTING METROPOLITAN PLANNING
10 AREAS.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), notwithstanding para-
13 graph (2), in the case of an urbanized area
14 designated as a nonattainment area or
15 maintenance area as of the date of enact-
16 ment of the MAP-21, the boundaries of
17 the existing metropolitan planning area as
18 of that date of enactment shall remain in
19 force and effect.

20 “(ii) EXCEPTION.—Notwithstanding
21 clause (i), the boundaries of an existing
22 metropolitan planning area described in
23 that clause may be adjusted by agreement
24 of the applicable Governor and the affected

1 metropolitan planning organizations in ac-
2 cordance with subsection (c)(5).

3 “(B) NEW METROPOLITAN PLANNING
4 AREAS.—In the case of an urbanized area des-
5 igned as a nonattainment area or mainte-
6 nance area after the date of enactment of the
7 MAP–21, the boundaries of the applicable met-
8 ropolitan planning area—

9 “(i) shall be established in accordance
10 with subsection (c)(1);

11 “(ii) shall encompass the areas de-
12 scribed in paragraph (2)(A);

13 “(iii) may encompass the areas de-
14 scribed in paragraph (2)(B); and

15 “(iv) may address any appropriate
16 nonattainment area or maintenance area.

17 “(e) REQUIREMENTS.—

18 “(1) DEVELOPMENT OF PLANS AND TIPS.—To
19 accomplish the policy objectives described in sub-
20 section (a), each metropolitan planning organization,
21 in cooperation with the applicable State and public
22 transportation operators, shall develop metropolitan
23 transportation plans and transportation improve-
24 ment programs for metropolitan planning areas of
25 the State through a performance-driven, outcome-

1 based approach to metropolitan transportation plan-
2 ning consistent with subsection (h)(2).

3 “(2) CONTENTS.—The metropolitan transpor-
4 tation plans and transportation improvement pro-
5 grams for each metropolitan area shall provide for
6 the development and integrated management and
7 operation of transportation systems and facilities
8 (including accessible pedestrian walkways, bicycle
9 transportation facilities, and intermodal facilities
10 that support intercity transportation) that will func-
11 tion as—

12 “(A) an intermodal transportation system
13 for the metropolitan planning area; and

14 “(B) an integral part of an intermodal
15 transportation system for the applicable State
16 and the United States.

17 “(3) PROCESS OF DEVELOPMENT.—The process
18 for developing metropolitan transportation plans and
19 transportation improvement programs shall—

20 “(A) provide for consideration of all modes
21 of transportation; and

22 “(B) be continuing, cooperative, and com-
23 prehensive to the degree appropriate, based on
24 the complexity of the transportation needs to be
25 addressed.

1 “(4) TIERING.—

2 “(A) TIER I MPOS.—

3 “(i) IN GENERAL.—A metropolitan
4 planning organization shall be designated
5 as a tier I MPO if—

6 “(I) as certified by the Governor
7 of each applicable State, the metro-
8 politan planning organization operates
9 within, and primarily serves, a metro-
10 politan planning area with a popu-
11 lation of 1,000,000 or more individ-
12 uals, as calculated according to the
13 most recent decennial census; and

14 “(II) the Secretary determines
15 the metropolitan planning organiza-
16 tion—

17 “(aa) meets the minimum
18 technical requirements under
19 clause (iv); and

20 “(bb) not later than 2 years
21 after the date of enactment of
22 the MAP-21, will fully imple-
23 ment the processes described in
24 subsections (h) through (j).

1 “(ii) ABSENCE OF DESIGNATION.—In
2 the absence of designation as a tier I MPO
3 under clause (i), a metropolitan planning
4 organization shall operate as a tier II
5 MPO until the date on which the Secretary
6 determines the metropolitan planning orga-
7 nization can meet the minimum technical
8 requirements under clause (iv).

9 “(iii) REDESIGNATION AS TIER I.—A
10 metropolitan planning organization oper-
11 ating within a metropolitan planning area
12 with a population of less than 1,000,000,
13 but more than 200,000, individuals and
14 primarily within urbanized areas with pop-
15 ulations of more than 200,000 individuals,
16 as calculated according to the most recent
17 decennial census, that is designated as a
18 tier II MPO under subparagraph (B) may
19 request, with the support of the applicable
20 Governor, a redesignation as a tier I MPO
21 on a determination by the Secretary that
22 the metropolitan planning organization has
23 met the minimum technical requirements
24 under clause (iv).

1 “(iv) MINIMUM TECHNICAL REQUIRE-
2 MENTS.—Not later than 1 year after the
3 date of enactment of the MAP–21, the
4 Secretary shall publish a regulation that
5 establishes the minimum technical require-
6 ments necessary for a metropolitan plan-
7 ning organization to be designated as a
8 tier I MPO, including, at a minimum,
9 modeling, data, staffing, and other tech-
10 nical requirements.

11 “(B) TIER II MPOS.—

12 “(i) IN GENERAL.—Not later than 1
13 year after the date of enactment of the
14 MAP–21, the Secretary shall publish a
15 regulation that establishes minimum re-
16 quirements necessary for a metropolitan
17 planning organization to be designated as
18 a tier II MPO.

19 “(ii) REQUIREMENTS.—The minimum
20 requirements established under clause (i)
21 shall—

22 “(I) ensure that each metropoli-
23 tan planning organization has the ca-
24 pabilities necessary to develop the
25 metropolitan transportation plan and

1 transportation improvement program
2 under this section; and

3 “(II) include—

4 “(aa) only the staff re-
5 sources necessary to operate the
6 metropolitan planning organiza-
7 tion; and

8 “(bb) a requirement that the
9 metropolitan planning organiza-
10 tion has the technical capacity to
11 conduct the modeling necessary
12 to fulfill the requirements of this
13 section, except that in cases in
14 which a metropolitan planning
15 organization has a formal agree-
16 ment with a State to conduct the
17 modeling on behalf of the metro-
18 politan planning organization, the
19 metropolitan planning organiza-
20 tion shall be exempt from the
21 technical capacity requirement.

22 “(iii) INCLUSION.—A metropolitan
23 planning organization operating primarily
24 within an urbanized area with a population
25 of more than 200,000 individuals, as cal-

1 culated according to the most recent de-
2 cennial census, and that does not qualify
3 as a tier I MPO under subparagraph
4 (A)(i), shall—

5 “(I) be designated as a tier II
6 MPO; and

7 “(II) follow the processes under
8 subsection (k).

9 “(C) SMALL URBANIZED AREAS.—

10 “(i) IN GENERAL.—Not later than 2
11 years after the date of publication of the
12 regulation under subparagraph (B)(i), any
13 existing MPO operating primarily within
14 an urbanized area with a population of
15 fewer than 200,000, but more than
16 50,000, individuals (as determined before
17 the date of enactment of the MAP–21),
18 with the support of the applicable Gov-
19 ernor, may request designation as a tier II
20 MPO on a determination by the Secretary
21 that the metropolitan planning organiza-
22 tion has met the minimum requirements
23 under subparagraph (B)(i).

24 “(ii) ABSENCE OF DESIGNATION.—A
25 metropolitan planning organization that is

1 the subject of a negative determination of
2 the Secretary under clause (i) shall submit
3 to the State in which the metropolitan
4 planning organization is located, or to a
5 planning organization designated by the
6 State, by not later than 180 days after the
7 date on which a notice of the negative de-
8 termination is received, a 6-month plan
9 that includes a description of a method—

10 “(I) to transfer the responsibil-
11 ities of the metropolitan planning or-
12 ganization to the State; and

13 “(II) to dissolve the metropolitan
14 planning organization.

15 “(iii) ACTION ON DISSOLUTION.—On
16 submission of a plan under clause (ii), the
17 metropolitan planning area served by the
18 applicable metropolitan planning organiza-
19 tion shall—

20 “(I) continue to receive metro-
21 politan transportation planning funds
22 until the earlier of—

23 “(aa) the date of dissolution
24 of the metropolitan planning or-
25 ganization; and

1 “(bb) the date that is 4
2 years after the date of enactment
3 of the MAP-21; and

4 “(II) be treated by the State as
5 a nonmetropolitan area for purposes
6 of this title.

7 “(D) CONSOLIDATION.—

8 “(i) IN GENERAL.—Metropolitan plan-
9 ning organizations operating within contig-
10 uous or adjacent urbanized areas may elect
11 to consolidate in order to meet the popu-
12 lation thresholds required to achieve des-
13 ignation as a tier I or tier II MPO under
14 this paragraph.

15 “(ii) EFFECT OF SUBSECTION.—
16 Nothing in this subsection requires or pre-
17 vents consolidation among multiple metro-
18 politan planning organizations located
19 within a single urbanized area.

20 “(f) COORDINATION IN MULTISTATE AREAS.—

21 “(1) IN GENERAL.—The Secretary shall encour-
22 age each Governor with responsibility for a portion
23 of a multistate metropolitan area and the appro-
24 priate metropolitan planning organizations to pro-

1 vide coordinated transportation planning for the en-
2 tire metropolitan area.

3 “(2) COORDINATION ALONG DESIGNATED
4 TRANSPORTATION CORRIDORS.—The Secretary shall
5 encourage each Governor with responsibility for a
6 portion of a multistate metropolitan area and the
7 appropriate metropolitan planning organizations to
8 provide coordinated transportation planning for the
9 entire designated transportation corridor.

10 “(3) COORDINATION WITH INTERSTATE COM-
11 PACTS.—The Secretary shall encourage metropolitan
12 planning organizations to take into consideration,
13 during the development of metropolitan transpor-
14 tation plans and transportation improvement pro-
15 grams, any relevant transportation studies con-
16 cerning planning for regional transportation (includ-
17 ing high-speed and intercity rail corridor studies,
18 commuter rail corridor studies, intermodal termi-
19 nals, and interstate highways) in support of freight,
20 intercity, or multistate area projects and services
21 that have been developed pursuant to interstate com-
22 pacts or agreements, or by organizations established
23 under section 135.

24 “(g) ENGAGEMENT IN METROPOLITAN TRANSPOR-
25 TATION PLAN AND TIP DEVELOPMENT.—

1 “(1) NONATTAINMENT AND MAINTENANCE
2 AREAS.—If more than 1 metropolitan planning orga-
3 nization has authority within a metropolitan area,
4 nonattainment area, or maintenance area, each met-
5 ropolitan planning organization shall consult with
6 each other metropolitan planning organization des-
7 igned for the metropolitan area, nonattainment
8 area, or maintenance area and the State in the de-
9 velopment of metropolitan transportation plans and
10 transportation improvement programs under this
11 section.

12 “(2) TRANSPORTATION IMPROVEMENTS LO-
13 CATED IN MULTIPLE METROPOLITAN PLANNING
14 AREAS.—If a transportation improvement project
15 funded under this title or chapter 53 of title 49 is
16 located within the boundaries of more than 1 metro-
17 politan planning area, the affected metropolitan
18 planning organizations shall coordinate metropolitan
19 transportation plans and transportation improve-
20 ment programs regarding the project.

21 “(3) COORDINATION OF ADJACENT PLANNING
22 ORGANIZATIONS.—

23 “(A) IN GENERAL.—A metropolitan plan-
24 ning organization that is adjacent or located in
25 reasonably close proximity to another metropoli-

1 tan planning organization shall coordinate with
2 that metropolitan planning organization with
3 respect to planning processes, including prepa-
4 ration of metropolitan transportation plans and
5 transportation improvement programs, to the
6 maximum extent practicable.

7 “(B) NONMETROPOLITAN PLANNING ORGA-
8 NIZATIONS.—A metropolitan planning organiza-
9 tion that is adjacent or located in reasonably
10 close proximity to a nonmetropolitan planning
11 organization shall consult with that nonmetro-
12 politan planning organization with respect to
13 planning processes, to the maximum extent
14 practicable.

15 “(4) RELATIONSHIP WITH OTHER PLANNING
16 OFFICIALS.—

17 “(A) IN GENERAL.—The Secretary shall
18 encourage each metropolitan planning organiza-
19 tion to cooperate with Federal, tribal, State,
20 and local officers and entities responsible for
21 other types of planning activities that are af-
22 fected by transportation in the relevant area
23 (including planned growth, economic develop-
24 ment, infrastructure services, housing, other
25 public services, environmental protection, air-

1 port operations, high-speed and intercity pas-
2 senger rail, freight rail, port access, and freight
3 movements), to the maximum extent prac-
4 ticable, to ensure that the metropolitan trans-
5 portation planning process, metropolitan trans-
6 portation plans, and transportation improve-
7 ment programs are developed in cooperation
8 with other related planning activities in the
9 area.

10 “(B) INCLUSION.—Cooperation under sub-
11 paragraph (A) shall include the design and de-
12 livery of transportation services within the met-
13 ropolitan area that are provided by—

14 “(i) recipients of assistance under sec-
15 tions 202, 203, and 204;

16 “(ii) recipients of assistance under
17 chapter 53 of title 49;

18 “(iii) government agencies and non-
19 profit organizations (including representa-
20 tives of the agencies and organizations)
21 that receive Federal assistance from a
22 source other than the Department of
23 Transportation to provide nonemergency
24 transportation services; and

1 “(iv) sponsors of regionally significant
2 programs, projects, and services that are
3 related to transportation and receive as-
4 sistance from any public or private source.

5 “(5) COORDINATION OF OTHER FEDERALLY RE-
6 QUIRED PLANNING PROGRAMS.—The Secretary shall
7 encourage each metropolitan planning organization
8 to coordinate, to the maximum extent practicable,
9 the development of metropolitan transportation
10 plans and transportation improvement programs
11 with other relevant federally required planning pro-
12 grams.

13 “(h) SCOPE OF PLANNING PROCESS.—

14 “(1) IN GENERAL.—The metropolitan transpor-
15 tation planning process for a metropolitan planning
16 area under this section shall provide for consider-
17 ation of projects and strategies that will—

18 “(A) support the economic vitality of the
19 metropolitan area, especially by enabling global
20 competitiveness, productivity, and efficiency;

21 “(B) increase the safety of the transpor-
22 tation system for motorized and nonmotorized
23 users;

1 “(C) increase the security of the transpor-
2 tation system for motorized and nonmotorized
3 users;

4 “(D) increase the accessibility and mobility
5 of individuals and freight;

6 “(E) protect and enhance the environment,
7 promote energy conservation, improve the qual-
8 ity of life, and promote consistency between
9 transportation improvements and State and
10 local planned growth and economic development
11 patterns;

12 “(F) enhance the integration and
13 connectivity of the transportation system,
14 across and between modes, for individuals and
15 freight;

16 “(G) increase efficient system management
17 and operation; and

18 “(H) emphasize the preservation of the ex-
19 isting transportation system.

20 “(2) PERFORMANCE-BASED APPROACH.—

21 “(A) IN GENERAL.—The metropolitan
22 transportation planning process shall provide
23 for the establishment and use of a performance-
24 based approach to transportation decision-

1 making to support the national goals described
2 in section 150(b).

3 “(B) PERFORMANCE TARGETS.—

4 “(i) IN GENERAL.—Each metropolitan
5 planning organization shall establish per-
6 formance targets that address the perform-
7 ance measures described in sections 119(f),
8 148(h), 149(k), and 167(i) to use in track-
9 ing attainment of critical outcomes for the
10 region of the metropolitan planning organi-
11 zation.

12 “(ii) COORDINATION.—Selection of
13 performance targets by a metropolitan
14 planning organization shall be coordinated
15 with the relevant State to ensure consist-
16 ency, to the maximum extent practicable.

17 “(C) TIMING.—Each metropolitan plan-
18 ning organization shall establish the perform-
19 ance targets under subparagraph (B) not later
20 than 90 days after the date of establishment by
21 the relevant State of performance targets pur-
22 suant to sections 119(f), 148(h), 149(k), and
23 167(i).

24 “(D) INTEGRATION OF OTHER PERFORM-
25 ANCE-BASED PLANS.—A metropolitan planning

1 organization shall integrate in the metropolitan
2 transportation planning process, directly or by
3 reference, the goals, objectives, performance
4 measures, and targets described in this para-
5 graph into other State plans and processes re-
6 quired as part of a performance-based program,
7 including plans such as—

8 “(i) the State National Highway Sys-
9 tem asset management plan;

10 “(ii) the State strategic highway safe-
11 ty plan;

12 “(iii) the congestion mitigation and
13 air quality performance plan;

14 “(iv) the national freight strategic
15 plan; and

16 “(v) the statewide transportation
17 plan.

18 “(E) USE OF PERFORMANCE MEASURES
19 AND TARGETS.—The performance measures
20 and targets established under this paragraph
21 shall be used, at a minimum, by the relevant
22 metropolitan planning organization as the basis
23 for development of policies, programs, and in-
24 vestment priorities reflected in the metropolitan

1 transportation plan and transportation improve-
2 ment program.

3 “(3) FAILURE TO CONSIDER FACTORS.—The
4 failure to take into consideration 1 or more of the
5 factors specified in paragraphs (1) and (2) shall not
6 be subject to review by any court under this title,
7 chapter 53 of title 49, subchapter II of chapter 5 of
8 title 5, or chapter 7 of title 5 in any matter affecting
9 a metropolitan transportation plan, a transportation
10 improvement program, a project or strategy, or the
11 certification of a planning process.

12 “(4) PARTICIPATION BY INTERESTED PAR-
13 TIES.—

14 “(A) IN GENERAL.—Each metropolitan
15 planning organization shall provide to affected
16 individuals, public agencies, and other inter-
17 ested parties notice and a reasonable oppor-
18 tunity to comment on the metropolitan trans-
19 portation plan and transportation improvement
20 program and any relevant scenarios.

21 “(B) METHODS.—In carrying out subpara-
22 graph (A), the metropolitan planning organiza-
23 tion shall, to the maximum extent practicable—

24 “(i) develop the metropolitan trans-
25 portation plan and transportation improve-

1 ment program in consultation with inter-
2 ested parties, as appropriate, including by
3 the formation of advisory groups represent-
4 ative of the community and interested par-
5 ties that participate in the development of
6 the metropolitan transportation plan and
7 transportation improvement program;

8 “(ii) hold any public meetings at
9 times and locations that are, as applica-
10 ble—

11 “(I) convenient; and

12 “(II) in compliance with the
13 Americans with Disabilities Act of
14 1990 (42 U.S.C. 12101 et seq.);

15 “(iii) employ visualization techniques
16 to describe metropolitan transportation
17 plans and transportation improvement pro-
18 grams; and

19 “(iv) make public information avail-
20 able in appropriate electronically accessible
21 formats and means, such as the Internet,
22 to afford reasonable opportunity for con-
23 sideration of public information under sub-
24 paragraph (A).

1 “(i) DEVELOPMENT OF METROPOLITAN TRANSPOR-
2 TATION PLAN.—

3 “(1) DEVELOPMENT.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), not later than 5 years after
6 the date of enactment of the MAP-21, and not
7 less frequently than once every 5 years there-
8 after, each metropolitan planning organization
9 shall prepare and update, respectively, a metro-
10 politan transportation plan for the relevant
11 metropolitan planning area in accordance with
12 this section.

13 “(B) EXCEPTIONS.—A metropolitan plan-
14 ning organization shall prepare or update, as
15 appropriate, the metropolitan transportation
16 plan not less frequently than once every 4 years
17 if the metropolitan planning organization is op-
18 erating within—

19 “(i) a nonattainment area; or

20 “(ii) a maintenance area.

21 “(2) OTHER REQUIREMENTS.—A metropolitan
22 transportation plan under this section shall—

23 “(A) be in a form that the Secretary deter-
24 mines to be appropriate;

1 cluding, to the extent practicable, an iden-
2 tification of existing or planned transpor-
3 tation rights-of-way, corridors, facilities,
4 and related real properties;

5 “(iv) a system performance report
6 evaluating the existing and future condi-
7 tion and performance of the transportation
8 system with respect to the performance
9 targets described in subsection (h)(2) and
10 updates in subsequent system performance
11 reports, including—

12 “(I) progress achieved by the
13 metropolitan planning organization in
14 meeting the performance targets in
15 comparison with system performance
16 recorded in previous reports;

17 “(II) an accounting of the per-
18 formance of the metropolitan planning
19 organization on outlay of obligated
20 project funds and delivery of projects
21 that have reached substantial comple-
22 tion in relation to—

23 “(aa) the projects included
24 in the transportation improve-
25 ment program; and

1 “(bb) the projects that have
2 been removed from the previous
3 transportation improvement pro-
4 gram; and

5 “(III) when appropriate, an anal-
6 ysis of how the preferred scenario has
7 improved the conditions and perform-
8 ance of the transportation system and
9 how changes in local policies, invest-
10 ments, and growth have impacted the
11 costs necessary to achieve the identi-
12 fied performance targets;

13 “(v) recommended strategies and in-
14 vestments for improving system perform-
15 ance over the planning horizon, including
16 transportation systems management and
17 operations strategies, maintenance strate-
18 gies, demand management strategies, asset
19 management strategies, capacity and en-
20 hancement investments, State and local
21 economic development and land use im-
22 provements, intelligent transportation sys-
23 tems deployment, and technology adoption
24 strategies, as determined by the projected

1 support of the performance targets de-
2 scribed in subsection (h)(2);

3 “(vi) recommended strategies and in-
4 vestments to improve and integrate dis-
5 ability-related access to transportation in-
6 frastructure, including strategies and in-
7 vestments based on a preferred scenario,
8 when appropriate;

9 “(vii) investment priorities for using
10 projected available and proposed revenues
11 over the short- and long-term stages of the
12 planning horizon, in accordance with the
13 financial plan required under paragraph
14 (4);

15 “(viii) a description of interstate com-
16 pacts entered into in order to promote co-
17 ordinated transportation planning in
18 multistate areas, if applicable;

19 “(ix) an optional illustrative list of
20 projects containing investments that—

21 “(I) are not included in the met-
22 ropolitan transportation plan; but

23 “(II) would be so included if re-
24 sources in addition to the resources

1 identified in the financial plan under
2 paragraph (4) were available;

3 “(x) a discussion (developed in con-
4 sultation with Federal, State, and tribal
5 wildlife, land management, and regulatory
6 agencies) of types of potential environ-
7 mental and stormwater mitigation activi-
8 ties and potential areas to carry out those
9 activities, including activities that may
10 have the greatest potential to restore and
11 maintain the environmental functions af-
12 fected by the metropolitan transportation
13 plan; and

14 “(xi) recommended strategies and in-
15 vestments, including those developed by
16 the State as part of interstate compacts,
17 agreements, or organizations, that support
18 intercity transportation.

19 “(3) SCENARIO DEVELOPMENT.—When pre-
20 paring the metropolitan transportation plan, the
21 metropolitan planning organization may, while fit-
22 ting the needs and complexity of their community,
23 develop multiple scenarios for consideration as a
24 part of the development of the metropolitan trans-
25 portation plan, in accordance with the following:

1 “(A) The scenarios—

2 “(i) shall include potential regional in-
3 vestment strategies for the planning hori-
4 zon;

5 “(ii) shall include assumed distribu-
6 tion of population and employment;

7 “(iii) may include a scenario that, to
8 the maximum extent practicable, maintains
9 baseline conditions for the performance
10 measures identified in subsection (h)(2);

11 “(iv) may include a scenario that im-
12 proves the baseline conditions for as many
13 of the performance measures under sub-
14 section (h)(2) as possible;

15 “(v) may include a revenue con-
16 strained scenario based on total revenues
17 reasonable expected to be available over
18 the 20-year planning period and assumed
19 population and employment; and

20 “(vi) may include estimated costs and
21 potential revenues available to support
22 each scenario.

23 “(B) In addition to the performance meas-
24 ures identified in subsection (h)(2), scenarios
25 developed under this paragraph may be evalu-

1 ated using locally developed metrics for the fol-
2 lowing categories:

3 “(i) Congestion and mobility, includ-
4 ing transportation use by mode.

5 “(ii) Freight movement.

6 “(iii) Safety.

7 “(iv) Efficiency and costs to tax-
8 payers.

9 “(4) FINANCIAL PLAN.—A financial plan re-
10 ferred to in paragraph (2)(C)(vii) shall—

11 “(A) be prepared by each metropolitan
12 planning organization to support the metropoli-
13 tan transportation plan; and

14 “(B) contain a description of each of the
15 following:

16 “(i) Projected resource requirements
17 for implementing projects, strategies, and
18 services recommended in the metropolitan
19 transportation plan, including existing and
20 projected system operating and mainte-
21 nance needs, proposed enhancement and
22 expansions to the system, projected avail-
23 able revenue from Federal, State, local,
24 and private sources, and innovative financ-

1 ing techniques to finance projects and pro-
2 grams.

3 “(ii) The projected difference between
4 costs and revenues, and strategies for se-
5 curing additional new revenue (such as by
6 capture of some of the economic value cre-
7 ated by any new investment).

8 “(iii) Estimates of future funds, to be
9 developed cooperatively by the metropolitan
10 planning organization, any public transpor-
11 tation agency, and the State, that are rea-
12 sonably expected to be available to support
13 the investment priorities recommended in
14 the metropolitan transportation plan.

15 “(iv) Each applicable project only if
16 full funding can reasonably be anticipated
17 to be available for the project within the
18 time period contemplated for completion of
19 the project.

20 “(5) COORDINATION WITH CLEAN AIR ACT
21 AGENCIES.—The metropolitan planning organization
22 for any metropolitan area that is a nonattainment
23 area or maintenance area shall coordinate the devel-
24 opment of a transportation plan with the process for
25 development of the transportation control measures

1 of the State implementation plan required by the
2 Clean Air Act (42 U.S.C. 7401 et seq.).

3 “(6) PUBLICATION.—On approval by the rel-
4 evant metropolitan planning organization, a metro-
5 politan transportation plan involving Federal partici-
6 pation shall be, at such times and in such manner
7 as the Secretary shall require—

8 “(A) published or otherwise made readily
9 available by the metropolitan planning organi-
10 zation for public review, including (to the max-
11 imum extent practicable) in electronically acces-
12 sible formats and means, such as the Internet;
13 and

14 “(B) submitted for informational purposes
15 to the applicable Governor.

16 “(7) CONSULTATION.—

17 “(A) IN GENERAL.—In each metropolitan
18 area, the metropolitan planning organization
19 shall consult, as appropriate, with Federal, trib-
20 al, State, and local agencies responsible for land
21 use management, natural resources, environ-
22 mental protection, conservation, and historic
23 preservation concerning the development of a
24 metropolitan transportation plan.

1 “(B) ISSUES.—The consultation under
2 subparagraph (A) shall involve, as available,
3 consideration of—

4 “(i) metropolitan transportation plans
5 with Federal, tribal, State, and local con-
6 servation plans or maps; and

7 “(ii) inventories of natural or historic
8 resources.

9 “(8) SELECTION OF PROJECTS FROM ILLUS-
10 TRATIVE LIST.—Notwithstanding paragraph (4), a
11 State or metropolitan planning organization shall
12 not be required to select any project from the illus-
13 trative list of additional projects included in the met-
14 ropolitan transportation plan under paragraph
15 (2)(C)(ix).

16 “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

17 “(1) DEVELOPMENT.—

18 “(A) IN GENERAL.—In cooperation with
19 the applicable State and any affected public
20 transportation operator, the metropolitan plan-
21 ning organization designated for a metropolitan
22 area shall develop a transportation improvement
23 program for the metropolitan planning area
24 that—

1 “(i) contains projects consistent with
2 the current metropolitan transportation
3 plan;

4 “(ii) reflects the investment priorities
5 established in the current metropolitan
6 transportation plan; and

7 “(iii) once implemented, will make sig-
8 nificant progress toward achieving the tar-
9 gets established under subsection (h)(2).

10 “(B) OPPORTUNITY FOR PARTICIPA-
11 TION.—In developing the transportation im-
12 provement program, the metropolitan planning
13 organization, in cooperation with the State and
14 any affected public transportation operator,
15 shall provide an opportunity for participation by
16 interested parties, in accordance with sub-
17 section (h)(4).

18 “(C) UPDATING AND APPROVAL.—The
19 transportation improvement program shall be—

20 “(i) updated not less frequently than
21 once every 4 years, on a cycle compatible
22 with the development of the relevant state-
23 wide transportation improvement program
24 under section 135; and

1 “(ii) approved by the applicable Gov-
2 ernor.

3 “(2) CONTENTS.—

4 “(A) PRIORITY LIST.—The transportation
5 improvement program shall include a priority
6 list of proposed federally supported projects and
7 strategies to be carried out during the 4-year
8 period beginning on the date of adoption of the
9 transportation improvement program, and each
10 4-year period thereafter, using existing and rea-
11 sonably available revenues in accordance with
12 the financial plan under paragraph (3).

13 “(B) DESCRIPTIONS.—Each project de-
14 scribed in the transportation improvement pro-
15 gram shall include sufficient descriptive mate-
16 rial (such as type of work, termini, length, and
17 other similar factors) to identify the project or
18 phase of the project and the effect that the
19 project or project phase will have in addressing
20 the targets described in subsection (h)(2).

21 “(C) PERFORMANCE TARGET ACHIEVE-
22 MENT.—The transportation improvement pro-
23 gram shall include, to the maximum extent
24 practicable, a description of the anticipated ef-
25 fect of the transportation improvement program

1 on attainment of the performance targets estab-
2 lished in the metropolitan transportation plan,
3 linking investment priorities to those perform-
4 ance targets.

5 “(D) ILLUSTRATIVE LIST OF PROJECTS.—
6 In developing a transportation improvement
7 program, an optional illustrative list of projects
8 may be prepared containing additional invest-
9 ment priorities that—

10 “(i) are not included in the transpor-
11 tation improvement program; but

12 “(ii) would be so included if resources
13 in addition to the resources identified in
14 the financial plan under paragraph (3)
15 were available.

16 “(3) FINANCIAL PLAN.—A financial plan re-
17 ferred to in paragraph (2)(D)(ii) shall—

18 “(A) be prepared by each metropolitan
19 planning organization to support the transpor-
20 tation improvement program; and

21 “(B) contain a description of each of the
22 following:

23 “(i) Projected resource requirements
24 for implementing projects, strategies, and
25 services recommended in the transpor-

1 tation improvement program, including ex-
2 isting and projected system operating and
3 maintenance needs, proposed enhancement
4 and expansions to the system, projected
5 available revenue from Federal, State,
6 local, and private sources, and innovative
7 financing techniques to finance projects
8 and programs.

9 “(ii) The projected difference between
10 costs and revenues, and strategies for se-
11 curing additional new revenue (such as by
12 capture of some of the economic value cre-
13 ated by any new investment).

14 “(iii) Estimates of future funds, to be
15 developed cooperatively by the metropolitan
16 planning organization, any public transpor-
17 tation agency, and the State, that are rea-
18 sonably expected to be available to support
19 the investment priorities recommended in
20 the transportation improvement program.

21 “(iv) Each applicable project, only if
22 full funding can reasonably be anticipated
23 to be available for the project within the
24 time period contemplated for completion of
25 the project.

1 “(4) INCLUDED PROJECTS.—

2 “(A) PROJECTS UNDER THIS TITLE AND
3 CHAPTER 53 OF TITLE 49.—A transportation
4 improvement program developed under this sub-
5 section for a metropolitan area shall include a
6 description of the projects within the area that
7 are proposed for funding under chapter 1 of
8 this title and chapter 53 of title 49.

9 “(B) PROJECTS UNDER CHAPTER 2.—

10 “(i) REGIONALLY SIGNIFICANT.—
11 Each regionally significant project pro-
12 posed for funding under chapter 2 shall be
13 identified individually in the transportation
14 improvement program.

15 “(ii) NONREGIONALLY SIGNIFI-
16 CANT.—A description of each project pro-
17 posed for funding under chapter 2 that is
18 not determined to be regionally significant
19 shall be contained in 1 line item or identi-
20 fied individually in the transportation im-
21 provement program.

22 “(5) OPPORTUNITY FOR PARTICIPATION.—Be-
23 fore approving a transportation improvement pro-
24 gram, a metropolitan planning organization, in co-
25 operation with the State and any affected public

1 transportation operator, shall provide an opportunity
2 for participation by interested parties in the develop-
3 ment of the transportation improvement program, in
4 accordance with subsection (h)(4).

5 “(6) SELECTION OF PROJECTS.—

6 “(A) IN GENERAL.—Each tier I MPO and
7 tier II MPO shall select projects carried out
8 within the boundaries of the applicable metro-
9 politan planning area from the transportation
10 improvement program, in consultation with the
11 relevant State and on concurrence of the af-
12 fected facility owner, for funds apportioned to
13 the State under section 104(b)(2) and suballo-
14 cated to the metropolitan planning area under
15 section 133(d).

16 “(B) CMAQ PROJECTS.—Each tier I MPO
17 shall select projects carried out within the
18 boundaries of the applicable metropolitan plan-
19 ning area from the transportation improvement
20 program, in consultation with the relevant State
21 and on concurrence of the affected facility
22 owner, for funds apportioned to the State under
23 section 104(b)(4) and suballocated to the met-
24 ropolitan planning area under section 149(j).

1 “(C) MODIFICATIONS TO PROJECT PRI-
2 ORITY.—Notwithstanding any other provision of
3 law, approval by the Secretary shall not be re-
4 quired to carry out a project included in a
5 transportation improvement program in place of
6 another project in the transportation improve-
7 ment program.

8 “(7) PUBLICATION.—

9 “(A) IN GENERAL.—A transportation im-
10 provement program shall be published or other-
11 wise made readily available by the applicable
12 metropolitan planning organization for public
13 review in electronically accessible formats and
14 means, such as the Internet.

15 “(B) ANNUAL LIST OF PROJECTS.—An an-
16 nual list of projects, including investments in
17 pedestrian walkways, bicycle transportation fa-
18 cilities, and intermodal facilities that support
19 intercity transportation, for which Federal
20 funds have been obligated during the preceding
21 fiscal year shall be published or otherwise made
22 available by the cooperative effort of the State,
23 transit operator, and metropolitan planning or-
24 ganization in electronically accessible formats
25 and means, such as the Internet, in a manner

1 that is consistent with the categories identified
2 in the relevant transportation improvement pro-
3 gram.

4 “(k) PLANNING REQUIREMENTS FOR TIER II
5 MPOs.—

6 “(1) IN GENERAL.—The Secretary may provide
7 for the performance-based development of a metro-
8 politan transportation plan and transportation im-
9 provement program for the metropolitan planning
10 area of a tier II MPO, as the Secretary determines
11 to be appropriate, taking into account—

12 “(A) the complexity of transportation
13 needs in the area; and

14 “(B) the technical capacity of the metro-
15 politan planning organization.

16 “(2) EVALUATION OF PERFORMANCE-BASED
17 PLANNING.—In reviewing a tier II MPO under sub-
18 section (m), the Secretary shall take into consider-
19 ation the effectiveness of the tier II MPO in imple-
20 menting and maintaining a performance-based plan-
21 ning process that—

22 “(A) addresses the targets described in
23 subsection (h)(2); and

24 “(B) demonstrates progress on the
25 achievement of those targets.

1 “(1) CERTIFICATION.—

2 “(1) IN GENERAL.—The Secretary shall—

3 “(A) ensure that the metropolitan trans-
4 portation planning process of a metropolitan
5 planning organization is being carried out in ac-
6 cordance with applicable Federal law; and

7 “(B) subject to paragraph (2), certify, not
8 less frequently than once every 4 years, that the
9 requirements of subparagraph (A) are met with
10 respect to the metropolitan transportation plan-
11 ning process.

12 “(2) REQUIREMENTS FOR CERTIFICATION.—

13 The Secretary may make a certification under para-
14 graph (1)(B) if—

15 “(A) the metropolitan transportation plan-
16 ning process complies with the requirements of
17 this section and other applicable Federal law;
18 and

19 “(B) a transportation improvement pro-
20 gram for the metropolitan planning area has
21 been approved by the relevant metropolitan
22 planning organization and Governor.

23 “(3) DELEGATION OF AUTHORITY.—The Sec-
24 retary may—

1 “(A) delegate to the appropriate State
2 fact-finding authority regarding the certification
3 of a tier II MPO under this subsection; and

4 “(B) make the certification under para-
5 graph (1) in consultation with the State.

6 “(4) EFFECT OF FAILURE TO CERTIFY.—

7 “(A) WITHHOLDING OF PROJECT
8 FUNDS.—If a metropolitan transportation plan-
9 ning process of a metropolitan planning organi-
10 zation is not certified under paragraph (1), the
11 Secretary may withhold up to 20 percent of the
12 funds attributable to the metropolitan planning
13 area of the metropolitan planning organization
14 for projects funded under this title and chapter
15 53 of title 49.

16 “(B) RESTORATION OF WITHHELD
17 FUNDS.—Any funds withheld under subpara-
18 graph (A) shall be restored to the metropolitan
19 planning area on the date of certification of the
20 metropolitan transportation planning process by
21 the Secretary.

22 “(5) PUBLIC INVOLVEMENT.—In making a de-
23 termination regarding certification under this sub-
24 section, the Secretary shall provide for public in-

1 volvement appropriate to the metropolitan planning
2 area under review.

3 “(m) PERFORMANCE-BASED PLANNING PROCESSES
4 EVALUATION.—

5 “(1) IN GENERAL.—The Secretary shall estab-
6 lish criteria to evaluate the effectiveness of the per-
7 formance-based planning processes of metropolitan
8 planning organizations under this section, taking
9 into consideration the following:

10 “(A) The extent to which the metropolitan
11 planning organization has achieved, or is cur-
12 rently making substantial progress toward
13 achieving, the targets specified in subsection
14 (h)(2), taking into account whether the metro-
15 politan planning organization developed mean-
16 ingful performance targets.

17 “(B) The extent to which the metropolitan
18 planning organization has used proven best
19 practices that help ensure transportation invest-
20 ment that is efficient and cost-effective.

21 “(C) The extent to which the metropolitan
22 planning organization—

23 “(i) has developed an investment proc-
24 ess that relies on public input and aware-

1 ness to ensure that investments are trans-
2 parent and accountable; and

3 “(ii) provides regular reports allowing
4 the public to access the information being
5 collected in a format that allows the public
6 to meaningfully assess the performance of
7 the metropolitan planning organization.

8 “(2) REPORT.—

9 “(A) IN GENERAL.—Not later than 5 years
10 after the date of enactment of the MAP-21, the
11 Secretary shall submit to Congress a report
12 evaluating—

13 “(i) the overall effectiveness of per-
14 formance-based planning as a tool for
15 guiding transportation investments; and

16 “(ii) the effectiveness of the perform-
17 ance-based planning process of each metro-
18 politan planning organization under this
19 section.

20 “(B) PUBLICATION.—The report under
21 subparagraph (A) shall be published or other-
22 wise made available in electronically accessible
23 formats and means, including on the Internet.

24 “(n) ADDITIONAL REQUIREMENTS FOR CERTAIN
25 NONATTAINMENT AREAS.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this title or chapter 53 of title 49, Fed-
3 eral funds may not be advanced in any metropolitan
4 planning area classified as a nonattainment area or
5 maintenance area for any highway project that will
6 result in a significant increase in the carrying capac-
7 ity for single-occupant vehicles, unless the owner or
8 operator of the project demonstrates that the project
9 will achieve or make substantial progress toward
10 achieving the targets described in subsection (h)(2).

11 “(2) APPLICABILITY.—This subsection applies
12 to any nonattainment area or maintenance area
13 within the boundaries of a metropolitan planning
14 area, as determined under subsection (c).

15 “(o) EFFECT OF SECTION.—Nothing in this section
16 provides to any metropolitan planning organization the
17 authority to impose any legal requirement on any trans-
18 portation facility, provider, or project not subject to the
19 requirements of this title or chapter 53 of title 49.

20 “(p) FUNDING.—Funds apportioned under section
21 104(b)(6) of this title and set aside under section 5305(g)
22 of title 49 shall be available to carry out this section.

23 “(q) CONTINUATION OF CURRENT REVIEW PRAC-
24 TICE.—

1 “(1) IN GENERAL.—In consideration of the fac-
2 tors described in paragraph (2), any decision by the
3 Secretary concerning a metropolitan transportation
4 plan or transportation improvement program shall
5 not be considered to be a Federal action subject to
6 review under the National Environmental Policy Act
7 of 1969 (42 U.S.C. 4321 et seq.).

8 “(2) DESCRIPTION OF FACTORS.—The factors
9 referred to in paragraph (1) are that—

10 “(A) metropolitan transportation plans and
11 transportation improvement programs are sub-
12 ject to a reasonable opportunity for public com-
13 ment;

14 “(B) the projects included in metropolitan
15 transportation plans and transportation im-
16 provement programs are subject to review
17 under the National Environmental Policy Act of
18 1969 (42 U.S.C. 4321 et seq.); and

19 “(C) decisions by the Secretary concerning
20 metropolitan transportation plans and transpor-
21 tation improvement programs have not been re-
22 viewed under the National Environmental Pol-
23 icy Act of 1969 (42 U.S.C. 4321 et seq.) as of
24 January 1, 1997.”.

1 **SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANS-**
2 **PORTATION PLANNING.**

3 (a) IN GENERAL.—Section 135 of title 23, United
4 States Code, is amended to read as follows:

5 **“§ 135. Statewide and nonmetropolitan transpor-**
6 **tation planning**

7 “(a) STATEWIDE TRANSPORTATION PLANS AND
8 STIPS.—

9 “(1) DEVELOPMENT.—

10 “(A) IN GENERAL.—To accomplish the
11 policy objectives described in section 134(a),
12 each State shall develop a statewide transpor-
13 tation plan and a statewide transportation im-
14 provement program for all areas of the State in
15 accordance with this section.

16 “(B) INCORPORATION OF METROPOLITAN
17 TRANSPORTATION PLANS AND TIPS.—Each
18 State shall incorporate in the statewide trans-
19 portation plan and statewide transportation im-
20 provement program, without change or by ref-
21 erence, the metropolitan transportation plans
22 and transportation improvement programs, re-
23 spectively, for each metropolitan planning area
24 in the State.

25 “(C) NONMETROPOLITAN AREAS.—Each
26 State shall coordinate with local officials in

1 small urbanized and nonurbanized areas of the
2 State in preparing the nonmetropolitan portions
3 of statewide transportation plans and statewide
4 transportation improvement programs.

5 “(2) CONTENTS.—The statewide transportation
6 plan and statewide transportation improvement pro-
7 gram developed for each State shall provide for the
8 development and integrated management and oper-
9 ation of transportation systems and facilities (includ-
10 ing accessible pedestrian walkways, bicycle transpor-
11 tation facilities, and intermodal facilities that sup-
12 port intercity transportation) that will function as—

13 “(A) an intermodal transportation system
14 for the State; and

15 “(B) an integral part of an intermodal
16 transportation system for the United States.

17 “(3) PROCESS.—The process for developing the
18 statewide transportation plan and statewide trans-
19 portation improvement program shall—

20 “(A) provide for consideration of all modes
21 of transportation; and

22 “(B) be continuing, cooperative, and com-
23 prehensive to the degree appropriate, based on
24 the complexity of the transportation needs to be
25 addressed.

1 “(b) COORDINATION.—

2 “(1) IN GENERAL.—Each State shall—

3 “(A) coordinate planning carried out under
4 this section with—

5 “(i) the transportation planning ac-
6 tivities carried out under section 134 for
7 metropolitan areas of the State; and

8 “(ii) statewide trade and economic de-
9 velopment planning activities and related
10 multistate planning efforts;

11 “(B) coordinate planning carried out under
12 this section with the transportation planning
13 activities carried out by each nonmetropolitan
14 planning organization in the State, as applica-
15 ble; and

16 “(C) develop the transportation portion of
17 the State implementation plan as required by
18 the Clean Air Act (42 U.S.C. 7401 et seq.).

19 “(2) MULTISTATE AREAS.—

20 “(A) IN GENERAL.—The Secretary shall
21 encourage each Governor with responsibility for
22 a portion of a multistate metropolitan planning
23 area and the appropriate metropolitan planning
24 organizations to provide coordinated transpor-

1 tation planning for the entire metropolitan
2 area.

3 “(B) COORDINATION ALONG DESIGNATED
4 TRANSPORTATION CORRIDORS.—The Secretary
5 shall encourage each Governor with responsi-
6 bility for a portion of a multistate transpor-
7 tation corridor to provide coordinated transpor-
8 tation planning for the entire designated cor-
9 ridor.

10 “(C) INTERSTATE COMPACTS.—For pur-
11 poses of this section, any 2 or more States—

12 “(i) may enter into compacts, agree-
13 ments, or organizations not in conflict with
14 any Federal law for cooperative efforts and
15 mutual assistance in support of activities
16 authorized under this section, as the activi-
17 ties relate to interstate areas and localities
18 within the States;

19 “(ii) may establish such agencies
20 (joint or otherwise) as the States deter-
21 mine to be appropriate for ensuring the ef-
22 fectiveness of the agreements and com-
23 pacts; and

24 “(iii) are encouraged to enter into
25 such compacts, agreements, or organiza-

1 tions as are appropriate to develop plan-
2 ning documents in support of intercity or
3 multistate area projects, facilities, and
4 services, the relevant components of which
5 shall be reflected in statewide transpor-
6 tation improvement programs and state-
7 wide transportation plans.

8 “(D) RESERVATION OF RIGHTS.—The
9 right to alter, amend, or repeal any interstate
10 compact or agreement entered into under this
11 subsection is expressly reserved.

12 “(c) RELATIONSHIP WITH OTHER PLANNING OFFI-
13 CIALS.—

14 “(1) IN GENERAL.—The Secretary shall encour-
15 age each State to cooperate with Federal, tribal,
16 State, and local officers and entities responsible for
17 other types of planning activities that are affected
18 by transportation in the relevant area (including
19 planned growth, economic development, infrastruc-
20 ture services, housing, other public services, environ-
21 mental protection, airport operations, high-speed and
22 intercity passenger rail, freight rail, port access, and
23 freight movements), to the maximum extent prac-
24 ticable, to ensure that the statewide and nonmetro-
25 politan planning process, statewide transportation

1 plans, and statewide transportation improvement
2 programs are developed with due consideration for
3 other related planning activities in the State.

4 “(2) INCLUSION.—Cooperation under para-
5 graph (1) shall include the design and delivery of
6 transportation services within the State that are pro-
7 vided by—

8 “(A) recipients of assistance under sections
9 202, 203, and 204;

10 “(B) recipients of assistance under chapter
11 53 of title 49;

12 “(C) government agencies and nonprofit
13 organizations (including representatives of the
14 agencies and organizations) that receive Federal
15 assistance from a source other than the Depart-
16 ment of Transportation to provide non-
17 emergency transportation services; and

18 “(D) sponsors of regionally significant pro-
19 grams, projects, and services that are related to
20 transportation and receive assistance from any
21 public or private source.

22 “(d) SCOPE OF PLANNING PROCESS.—

23 “(1) IN GENERAL.—The statewide transpor-
24 tation planning process for a State under this sec-

1 tion shall provide for consideration of projects, strat-
2 egies, and services that will—

3 “(A) support the economic vitality of the
4 United States, the State, nonmetropolitan
5 areas, and metropolitan areas, especially by en-
6 abling global competitiveness, productivity, and
7 efficiency;

8 “(B) increase the safety of the transpor-
9 tation system for motorized and nonmotorized
10 users;

11 “(C) increase the security of the transpor-
12 tation system for motorized and nonmotorized
13 users;

14 “(D) increase the accessibility and mobility
15 of individuals and freight;

16 “(E) protect and enhance the environment,
17 promote energy conservation, improve the qual-
18 ity of life, and promote consistency between
19 transportation improvements and State and
20 local planned growth and economic development
21 patterns;

22 “(F) enhance the integration and
23 connectivity of the transportation system,
24 across and between modes, for individuals and
25 freight;

1 “(G) increase efficient system management
2 and operation; and

3 “(H) emphasize the preservation of the ex-
4 isting transportation system.

5 “(2) PERFORMANCE-BASED APPROACH.—

6 “(A) IN GENERAL.—The statewide trans-
7 portation planning process shall provide for the
8 establishment and use of a performance-based
9 approach to transportation decisionmaking to
10 support the national goals described in section
11 150(b).

12 “(B) PERFORMANCE TARGETS.—

13 “(i) IN GENERAL.—Each State shall
14 establish performance targets that address
15 the performance measures described in sec-
16 tions 119(f), 148(h), 149(k), and 167(i) to
17 use in tracking attainment of critical out-
18 comes for the region of the State.

19 “(ii) COORDINATION.—Selection of
20 performance targets by a State shall be co-
21 ordinated with relevant metropolitan plan-
22 ning organizations to ensure consistency,
23 to the maximum extent practicable.

24 “(C) INTEGRATION OF OTHER PERFORM-
25 ANCE-BASED PLANS.—A State shall integrate

1 into the statewide transportation planning proc-
2 ess, directly or by reference, the goals, objec-
3 tives, performance measures, and targets de-
4 scribed in this paragraph in other State plans
5 and processes required as part of a perform-
6 ance-based program, including plans such as—

7 “(i) the State National Highway Sys-
8 tem asset management plan;

9 “(ii) the State strategic highway safe-
10 ty plan;

11 “(iii) the congestion mitigation and
12 air quality performance plan; and

13 “(iv) the national freight strategic
14 plan.

15 “(D) USE OF PERFORMANCE MEASURES
16 AND TARGETS.—The performance measures
17 and targets established under this paragraph
18 shall be used, at a minimum, by a State as the
19 basis for development of policies, programs, and
20 investment priorities reflected in the statewide
21 transportation plan and statewide transpor-
22 tation improvement program.

23 “(3) FAILURE TO CONSIDER FACTORS.—The
24 failure to take into consideration 1 or more of the
25 factors specified in paragraphs (1) and (2) shall not

1 be subject to review by any court under this title,
2 chapter 53 of title 49, subchapter II of chapter 5 of
3 title 5, or chapter 7 of title 5 in any matter affecting
4 a statewide transportation plan, a statewide trans-
5 portation improvement program, a project or strat-
6 egy, or the certification of a planning process.

7 “(4) PARTICIPATION BY INTERESTED PAR-
8 TIES.—

9 “(A) IN GENERAL.—Each State shall pro-
10 vide to affected individuals, public agencies, and
11 other interested parties notice and a reasonable
12 opportunity to comment on the statewide trans-
13 portation plan and statewide transportation im-
14 provement program.

15 “(B) METHODS.—In carrying out subpara-
16 graph (A), the State shall, to the maximum ex-
17 tent practicable—

18 “(i) develop the statewide transpor-
19 tation plan and statewide transportation
20 improvement program in consultation with
21 interested parties, as appropriate, includ-
22 ing by the formation of advisory groups
23 representative of the State and interested
24 parties that participate in the development
25 of the statewide transportation plan and

1 statewide transportation improvement pro-
2 gram;

3 “(ii) hold any public meetings at
4 times and locations that are, as applica-
5 ble—

6 “(I) convenient; and

7 “(II) in compliance with the
8 Americans with Disabilities Act of
9 1990 (42 U.S.C. 12101 et seq.);

10 “(iii) employ visualization techniques
11 to describe statewide transportation plans
12 and statewide transportation improvement
13 programs; and

14 “(iv) make public information avail-
15 able in appropriate electronically accessible
16 formats and means, such as the Internet,
17 to afford reasonable opportunity for con-
18 sideration of public information under sub-
19 paragraph (A).

20 “(e) COORDINATION AND CONSULTATION.—

21 “(1) METROPOLITAN AREAS.—

22 “(A) IN GENERAL.—Each State shall de-
23 velop a statewide transportation plan and state-
24 wide transportation improvement program for
25 each metropolitan area in the State by incor-

1 porating, without change or by reference, at a
2 minimum, as prepared by each metropolitan
3 planning organization designated for the metro-
4 politan area under section 134—

5 “(i) all regionally significant projects
6 to be carried out during the 10-year period
7 beginning on the effective date of the rel-
8 evant existing metropolitan transportation
9 plan; and

10 “(ii) all projects to be carried out dur-
11 ing the 4-year period beginning on the ef-
12 fective date of the relevant transportation
13 improvement program.

14 “(B) PROJECTED COSTS.—Each metropoli-
15 tan planning organization shall provide to each
16 applicable State a description of the projected
17 costs of implementing the projects included in
18 the metropolitan transportation plan of the
19 metropolitan planning organization for purposes
20 of long-range financial planning and fiscal con-
21 straint.

22 “(2) NONMETROPOLITAN AREAS.—With respect
23 to nonmetropolitan areas in a State, the statewide
24 transportation plan and statewide transportation im-
25 provement program of the State shall be developed

1 in coordination with affected nonmetropolitan local
2 officials with responsibility for transportation.

3 “(3) INDIAN TRIBAL AREAS.—With respect to
4 each area of a State under the jurisdiction of an In-
5 dian tribe, the statewide transportation plan and
6 statewide transportation improvement program of
7 the State shall be developed in consultation with—

8 “(A) the tribal government; and

9 “(B) the Secretary of the Interior.

10 “(4) FEDERAL LAND MANAGEMENT AGEN-
11 CIES.—With respect to each area of a State under
12 the jurisdiction of a Federal land management agen-
13 cy, the statewide transportation plan and statewide
14 transportation improvement program of the State
15 shall be developed in consultation with the relevant
16 Federal land management agency.

17 “(5) CONSULTATION, COMPARISON, AND CON-
18 sideration.—

19 “(A) IN GENERAL.—A statewide transpor-
20 tation plan shall be developed, as appropriate,
21 in consultation with Federal, tribal, State, and
22 local agencies responsible for land use manage-
23 ment, natural resources, infrastructure permit-
24 ting, environmental protection, conservation,
25 and historic preservation.

1 “(B) COMPARISON AND CONSIDERATION.—
2 Consultation under subparagraph (A) shall in-
3 volve the comparison of statewide transpor-
4 tation plans to, as available—

5 “ (i) Federal, tribal, State, and local
6 conservation plans or maps; and

7 “ (ii) inventories of natural or historic
8 resources.

9 “(f) STATEWIDE TRANSPORTATION PLAN.—

10 “(1) DEVELOPMENT.—

11 “(A) IN GENERAL.—Each State shall de-
12 velop a statewide transportation plan, the fore-
13 cast period of which shall be not less than 20
14 years for all areas of the State, that provides
15 for the development and implementation of the
16 intermodal transportation system of the State.

17 “(B) INITIAL PERIOD.—A statewide trans-
18 portation plan shall include, at a minimum, for
19 the first 10-year period of the statewide trans-
20 portation plan, the identification of existing and
21 future transportation facilities that will function
22 as an integrated statewide transportation sys-
23 tem, giving emphasis to those facilities that
24 serve important national, statewide, and re-
25 gional transportation functions.

1 “(C) SUBSEQUENT PERIOD.—For the sec-
2 ond 10-year period of the statewide transpor-
3 tation plan (referred to in this subsection as the
4 ‘outer years period’), a statewide transportation
5 plan—

6 “(i) may include identification of fu-
7 ture transportation facilities; and

8 “(ii) shall describe the policies and
9 strategies that provide for the development
10 and implementation of the intermodal
11 transportation system of the State.

12 “(D) OTHER REQUIREMENTS.—A state-
13 wide transportation plan shall—

14 “(i) include, for the 20-year period
15 covered by the statewide transportation
16 plan, a description of—

17 “(I) the projected aggregate cost
18 of projects anticipated by a State to
19 be implemented; and

20 “(II) the revenues necessary to
21 support the projects;

22 “(ii) include, in such form as the Sec-
23 retary determines to be appropriate, a de-
24 scription of—

1 “(I) the existing transportation
2 infrastructure, including an identifica-
3 tion of highways, local streets and
4 roads, bicycle and pedestrian facilities,
5 transit facilities and services, com-
6 muter rail facilities and services, high-
7 speed and intercity passenger rail fa-
8 cilities and services, freight facilities
9 (including freight railroad and port
10 facilities), multimodal and intermodal
11 facilities, and intermodal connectors
12 that, evaluated in the aggregate, func-
13 tion as an integrated transportation
14 system;

15 “(II) the performance measures
16 and performance targets used in as-
17 sessing the existing and future per-
18 formance of the transportation system
19 described in subsection (d)(2);

20 “(III) the current and projected
21 future usage of the transportation
22 system, including, to the maximum
23 extent practicable, an identification of
24 existing or planned transportation

1 rights-of-way, corridors, facilities, and
2 related real properties;

3 “(IV) a system performance re-
4 port evaluating the existing and fu-
5 ture condition and performance of the
6 transportation system with respect to
7 the performance targets described in
8 subsection (d)(2) and updates to sub-
9 sequent system performance reports,
10 including—

11 “(aa) progress achieved by
12 the State in meeting performance
13 targets, as compared to system
14 performance recorded in previous
15 reports; and

16 “(bb) an accounting of the
17 performance by the State on out-
18 lay of obligated project funds and
19 delivery of projects that have
20 reached substantial completion,
21 in relation to the projects cur-
22 rently on the statewide transpor-
23 tation improvement program and
24 those projects that have been re-
25 moved from the previous state-

1 wide transportation improvement
2 program;

3 “(V) recommended strategies and
4 investments for improving system per-
5 formance over the planning horizon,
6 including transportation systems man-
7 agement and operations strategies,
8 maintenance strategies, demand man-
9 agement strategies, asset management
10 strategies, capacity and enhancement
11 investments, land use improvements,
12 intelligent transportation systems de-
13 ployment and technology adoption
14 strategies as determined by the pro-
15 jected support of targets described in
16 subsection (d)(2);

17 “(VI) recommended strategies
18 and investments to improve and inte-
19 grate disability-related access to
20 transportation infrastructure;

21 “(VII) investment priorities for
22 using projected available and proposed
23 revenues over the short- and long-
24 term stages of the planning horizon,

1 in accordance with the financial plan
2 required under paragraph (2);

3 “(VIII) a description of inter-
4 state compacts entered into in order
5 to promote coordinated transportation
6 planning in multistate areas, if appli-
7 cable;

8 “(IX) an optional illustrative list
9 of projects containing investments
10 that—

11 “(aa) are not included in the
12 statewide transportation plan;
13 but

14 “(bb) would be so included if
15 resources in addition to the re-
16 sources identified in the financial
17 plan under paragraph (2) were
18 available;

19 “(X) a discussion (developed in
20 consultation with Federal, State, and
21 tribal wildlife, land management, and
22 regulatory agencies) of types of poten-
23 tial environmental and stormwater
24 mitigation activities and potential
25 areas to carry out those activities, in-

1 including activities that may have the
2 greatest potential to restore and
3 maintain the environmental functions
4 affected by the statewide transpor-
5 tation plan; and

6 “(XI) recommended strategies
7 and investments, including those de-
8 veloped by the State as part of inter-
9 state compacts, agreements, or orga-
10 nizations, that support intercity trans-
11 portation; and

12 “(iii) be updated by the State not less
13 frequently than once every 5 years.

14 “(2) FINANCIAL PLAN.—A financial plan re-
15 ferred to in paragraph (1)(D)(ii)(VII) shall—

16 “(A) be prepared by each State to support
17 the statewide transportation plan; and

18 “(B) contain a description of each of the
19 following:

20 “(i) Projected resource requirements
21 during the 20-year planning horizon for
22 implementing projects, strategies, and
23 services recommended in the statewide
24 transportation plan, including existing and
25 projected system operating and mainte-

1 nance needs, proposed enhancement and
2 expansions to the system, projected avail-
3 able revenue from Federal, State, local,
4 and private sources, and innovative financ-
5 ing techniques to finance projects and pro-
6 grams.

7 “(ii) The projected difference between
8 costs and revenues, and strategies for se-
9 curing additional new revenue (such as by
10 capture of some of the economic value cre-
11 ated by any new investment).

12 “(iii) Estimates of future funds, to be
13 developed cooperatively by the State, any
14 public transportation agency, and relevant
15 metropolitan planning organizations, that
16 are reasonably expected to be available to
17 support the investment priorities rec-
18 ommended in the statewide transportation
19 plan.

20 “(iv) Each applicable project, only if
21 full funding can reasonably be anticipated
22 to be available for the project within the
23 time period contemplated for completion of
24 the project.

1 “(v) For the outer years period of the
2 statewide transportation plan, a descrip-
3 tion of the aggregate cost ranges or bands,
4 subject to the condition that any future
5 funding source shall be reasonably ex-
6 pected to be available to support the pro-
7 jected cost ranges or bands.

8 “(3) COORDINATION WITH CLEAN AIR ACT
9 AGENCIES.—For any nonmetropolitan area that is a
10 nonattainment area or maintenance area, the State
11 shall coordinate the development of the statewide
12 transportation plan with the process for development
13 of the transportation control measures of the State
14 implementation plan required by the Clean Air Act
15 (42 U.S.C. 7401 et seq.).

16 “(4) PUBLICATION.—A statewide transpor-
17 tation plan involving Federal and non-Federal par-
18 ticipation programs, projects, and strategies shall be
19 published or otherwise made readily available by the
20 State for public review, including (to the maximum
21 extent practicable) in electronically accessible for-
22 mats and means, such as the Internet, in such man-
23 ner as the Secretary shall require.

24 “(5) SELECTION OF PROJECTS FROM ILLUS-
25 TRATIVE LIST.—Notwithstanding paragraph (2), a

1 State shall not be required to select any project from
2 the illustrative list of additional projects included in
3 the statewide transportation plan under paragraph
4 (1)(D)(ii)(IX).

5 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT
6 PROGRAMS.—

7 “(1) DEVELOPMENT.—

8 “(A) IN GENERAL.—In cooperation with
9 nonmetropolitan officials with responsibility for
10 transportation and affected public transpor-
11 tation operators, the State shall develop a state-
12 wide transportation improvement program for
13 the State that—

14 “(i) includes projects consistent with
15 the statewide transportation plan;

16 “(ii) reflects the investment priorities
17 established in the statewide transportation
18 plan; and

19 “(iii) once implemented, makes sig-
20 nificant progress toward achieving the tar-
21 gets described in subsection (d)(2).

22 “(B) OPPORTUNITY FOR PARTICIPA-
23 TION.—In developing a statewide transportation
24 improvement program, the State, in cooperation
25 with affected public transportation operators,

1 shall provide an opportunity for participation by
2 interested parties in the development of the
3 statewide transportation improvement program,
4 in accordance with subsection (e).

5 “(C) OTHER REQUIREMENTS.—

6 “(i) IN GENERAL.—A statewide trans-
7 portation improvement program shall—

8 “(I) cover a period of not less
9 than 4 years; and

10 “(II) be updated not less fre-
11 quently than once every 4 years, or
12 more frequently, as the Governor de-
13 termines to be appropriate.

14 “(ii) INCORPORATION OF TIPS.—A
15 statewide transportation improvement pro-
16 gram shall incorporate any relevant trans-
17 portation improvement program developed
18 by a metropolitan planning organization
19 under section 134, without change.

20 “(iii) PROJECTS.—Each project in-
21 cluded in a statewide transportation im-
22 provement program shall be—

23 “(I) consistent with the statewide
24 transportation plan developed under
25 this section for the State;

1 “(II) identical to a project or
2 phase of a project described in a rel-
3 evant transportation improvement
4 program; and

5 “(III) for any project located in a
6 nonattainment area or maintenance
7 area, carried out in accordance with
8 the applicable State air quality imple-
9 mentation plan developed under the
10 Clean Air Act (42 U.S.C. 7401 et
11 seq.).

12 “(2) CONTENTS.—

13 “(A) PRIORITY LIST.—A statewide trans-
14 portation improvement program shall include a
15 priority list of proposed federally supported
16 projects and strategies, to be carried out during
17 the 4-year period beginning on the date of
18 adoption of the statewide transportation im-
19 provement program, and during each 4-year pe-
20 riod thereafter, using existing and reasonably
21 available revenues in accordance with the finan-
22 cial plan under paragraph (3).

23 “(B) DESCRIPTIONS.—Each project or
24 phase of a project included in a statewide trans-
25 portation improvement program shall include

1 sufficient descriptive material (such as type of
2 work, termini, length, estimated completion
3 date, and other similar factors) to identify—

4 “(i) the project or project phase; and

5 “(ii) the effect that the project or
6 project phase will have in addressing the
7 targets described in subsection (d)(2).

8 “(C) PERFORMANCE TARGET ACHIEVE-
9 MENT.—A statewide transportation improve-
10 ment program shall include, to the maximum
11 extent practicable, a discussion of the antici-
12 pated effect of the statewide transportation im-
13 provement program toward achieving the per-
14 formance targets established in the statewide
15 transportation plan, linking investment prior-
16 ities to those performance targets.

17 “(D) ILLUSTRATIVE LIST OF PROJECTS.—
18 An optional illustrative list of projects may be
19 prepared containing additional investment pri-
20 orities that—

21 “(i) are not included in the statewide
22 transportation improvement program; but

23 “(ii) would be so included if resources
24 in addition to the resources identified in

1 the financial plan under paragraph (3)
2 were available.

3 “(3) FINANCIAL PLAN.—A financial plan re-
4 ferred to in paragraph (2)(A) shall—

5 “(A) be prepared by each State to support
6 the statewide transportation improvement pro-
7 gram; and

8 “(B) contain a description of each of the
9 following:

10 “(i) Projected resource requirements
11 for implementing projects, strategies, and
12 services recommended in the statewide
13 transportation improvement program, in-
14 cluding existing and projected system oper-
15 ating and maintenance needs, proposed en-
16 hancement and expansions to the system,
17 projected available revenue from Federal,
18 State, local, and private sources, and inno-
19 vative financing techniques to finance
20 projects and programs.

21 “(ii) The projected difference between
22 costs and revenues, and strategies for se-
23 curing additional new revenue (such as by
24 capture of some of the economic value cre-
25 ated by any new investment).

1 “(iii) Estimates of future funds, to be
2 developed cooperatively by the State and
3 relevant metropolitan planning organiza-
4 tions and public transportation agencies,
5 that are reasonably expected to be avail-
6 able to support the investment priorities
7 recommended in the statewide transpor-
8 tation improvement program.

9 “(iv) Each applicable project, only if
10 full funding can reasonably be anticipated
11 to be available for the project within the
12 time period contemplated for completion of
13 the project.

14 “(4) INCLUDED PROJECTS.—

15 “(A) PROJECTS UNDER THIS TITLE AND
16 CHAPTER 53 OF TITLE 49.—A statewide trans-
17 portation improvement program developed
18 under this subsection for a State shall include
19 the projects within the State that are proposed
20 for funding under chapter 1 of this title and
21 chapter 53 of title 49.

22 “(B) PROJECTS UNDER CHAPTER 2.—

23 “(i) REGIONALLY SIGNIFICANT.—
24 Each regionally significant project pro-
25 posed for funding under chapter 2 shall be

1 identified individually in the statewide
2 transportation improvement program.

3 “(ii) NONREGIONALLY SIGNIFI-
4 CANT.—A description of each project pro-
5 posed for funding under chapter 2 that is
6 not determined to be regionally significant
7 shall be contained in 1 line item or identi-
8 fied individually in the statewide transpor-
9 tation improvement program.

10 “(5) PUBLICATION.—

11 “(A) IN GENERAL.—A statewide transpor-
12 tation improvement program shall be published
13 or otherwise made readily available by the State
14 for public review in electronically accessible for-
15 mats and means, such as the Internet.

16 “(B) ANNUAL LIST OF PROJECTS.—An an-
17 nual list of projects, including investments in
18 pedestrian walkways, bicycle transportation fa-
19 cilities, and intermodal facilities that support
20 intercity transportation, for which Federal
21 funds have been obligated during the preceding
22 fiscal year shall be published or otherwise made
23 available by the cooperative effort of the State,
24 transit operator, and relevant metropolitan
25 planning organizations in electronically acces-

1 sible formats and means, such as the Internet,
2 in a manner that is consistent with the cat-
3 egories identified in the relevant statewide
4 transportation improvement program.

5 “(6) PROJECT SELECTION FOR URBANIZED
6 AREAS WITH POPULATIONS OF FEWER THAN 200,000
7 NOT REPRESENTED BY DESIGNATED MPOS.—
8 Projects carried out in urbanized areas with popu-
9 lations of fewer than 200,000 individuals, and that
10 are not represented by designated metropolitan plan-
11 ning organizations, shall be selected, from the ap-
12 proved statewide transportation improvement pro-
13 gram (including projects carried out on the National
14 Highway System and other projects carried out
15 under this title or under sections 5310 and 5311 of
16 title 49) by the State, in cooperation with the af-
17 fected nonmetropolitan planning organization, if any
18 exists, and in consultation with the affected non-
19 metropolitan area local officials with responsibility
20 for transportation.

21 “(7) APPROVAL BY SECRETARY.—

22 “(A) IN GENERAL.—Not less frequently
23 than once every 4 years, a statewide transpor-
24 tation improvement program developed under
25 this subsection shall be reviewed and approved

1 by the Secretary, based on the current planning
2 finding of the Secretary under subparagraph
3 (B).

4 “(B) PLANNING FINDING.—The Secretary
5 shall make a planning finding referred to in
6 subparagraph (A) not less frequently than once
7 every 5 years regarding whether the transpor-
8 tation planning process through which statewide
9 transportation plans and statewide transpor-
10 tation improvement programs are developed is
11 consistent with this section and section 134.

12 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
13 Notwithstanding any other provision of law, ap-
14 proval by the Secretary shall not be required to
15 carry out a project included in an approved state-
16 wide transportation improvement program in place
17 of another project in the statewide transportation
18 improvement program.

19 “(h) CERTIFICATION.—

20 “(1) IN GENERAL.—The Secretary shall—

21 “(A) ensure that the statewide transpor-
22 tation planning process of a State is being car-
23 ried out in accordance with applicable Federal
24 law; and

1 “(B) subject to paragraph (2), certify, not
2 less frequently than once every 5 years, that the
3 requirements of subparagraph (A) are met with
4 respect to the statewide transportation planning
5 process.

6 “(2) REQUIREMENTS FOR CERTIFICATION.—
7 The Secretary may make a certification under para-
8 graph (1)(B) if—

9 “(A) the statewide transportation planning
10 process complies with the requirements of this
11 section and other applicable Federal law; and

12 “(B) a statewide transportation improve-
13 ment program for the State has been approved
14 by the Governor of the State.

15 “(3) EFFECT OF FAILURE TO CERTIFY.—

16 “(A) WITHHOLDING OF PROJECT
17 FUNDS.—If a statewide transportation planning
18 process of a State is not certified under para-
19 graph (1), the Secretary may withhold up to 20
20 percent of the funds attributable to the State
21 for projects funded under this title and chapter
22 53 of title 49.

23 “(B) RESTORATION OF WITHHELD
24 FUNDS.—Any funds withheld under subpara-
25 graph (A) shall be restored to the State on the

1 date of certification of the statewide transpor-
2 tation planning process by the Secretary.

3 “(4) PUBLIC INVOLVEMENT.—In making a de-
4 termination regarding certification under this sub-
5 section, the Secretary shall provide for public in-
6 volvement appropriate to the State under review.

7 “(i) PERFORMANCE-BASED PLANNING PROCESSES
8 EVALUATION.—

9 “(1) IN GENERAL.—The Secretary shall estab-
10 lish criteria to evaluate the effectiveness of the per-
11 formance-based planning processes of States, taking
12 into consideration the following:

13 “(A) The extent to which the State has
14 achieved, or is currently making substantial
15 progress toward achieving, the targets described
16 in subsection (d)(2), taking into account wheth-
17 er the State developed meaningful performance
18 targets.

19 “(B) The extent to which the State has
20 used proven best practices that help ensure
21 transportation investment that is efficient and
22 cost-effective.

23 “(C) The extent to which the State—

24 “(i) has developed an investment proc-
25 ess that relies on public input and aware-

1 ness to ensure that investments are trans-
2 parent and accountable; and

3 “(ii) provides regular reports allowing
4 the public to access the information being
5 collected in a format that allows the public
6 to meaningfully assess the performance of
7 the State.

8 “(2) REPORT.—

9 “(A) IN GENERAL.—Not later than 5 years
10 after the date of enactment of the MAP-21, the
11 Secretary shall submit to Congress a report
12 evaluating—

13 “(i) the overall effectiveness of per-
14 formance-based planning as a tool for
15 guiding transportation investments; and

16 “(ii) the effectiveness of the perform-
17 ance-based planning process of each State.

18 “(B) PUBLICATION.—The report under
19 subparagraph (A) shall be published or other-
20 wise made available in electronically accessible
21 formats and means, including on the Internet.

22 “(j) FUNDING.—Funds apportioned under section
23 104(b)(6) of this title and set aside under section 5305(g)
24 of title 49 shall be available to carry out this section.

1 “(k) CONTINUATION OF CURRENT REVIEW PRAC-
2 TICE.—

3 “(1) IN GENERAL.—In consideration of the fac-
4 tors described in paragraph (2), any decision by the
5 Secretary concerning a statewide transportation plan
6 or statewide transportation improvement program
7 shall not be considered to be a Federal action sub-
8 ject to review under the National Environmental
9 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

10 “(2) DESCRIPTION OF FACTORS.—The factors
11 referred to in paragraph (1) are that—

12 “(A) statewide transportation plans and
13 statewide transportation improvement programs
14 are subject to a reasonable opportunity for pub-
15 lic comment;

16 “(B) the projects included in statewide
17 transportation plans and statewide transpor-
18 tation improvement programs are subject to re-
19 view under the National Environmental Policy
20 Act of 1969 (42 U.S.C. 4321 et seq.); and

21 “(C) decisions by the Secretary concerning
22 statewide transportation plans and statewide
23 transportation improvement programs have not
24 been reviewed under the National Environ-

1 mental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.) as of January 1, 1997.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 chapter 1 of title 23, United States Code, is amended by
5 striking the item relating to section 135 and inserting the
6 following:

“135. Statewide and nonmetropolitan transportation planning.”.

7 **SEC. 1203. NATIONAL GOALS.**

8 (a) IN GENERAL.—Section 150 of title 23, United
9 States Code, is amended to read as follows:

10 **“§ 150. National goals**

11 “(a) DECLARATION OF POLICY.—Performance man-
12 agement will transform the Federal-aid highway program
13 and provide a means to the most efficient investment of
14 Federal transportation funds by refocusing on national
15 transportation goals, increasing the accountability and
16 transparency of the Federal-aid highway program, and im-
17 proving project decisionmaking through performance-
18 based planning and programming.

19 “(b) NATIONAL GOALS.—It is in the interest of the
20 United States to focus the Federal-aid highway program
21 on the following national goals:

22 “(1) SAFETY.—To achieve a significant reduc-
23 tion in traffic fatalities and serious injuries on all
24 public roads.

1 agencies, and all other recipients of Federal trans-
2 portation funds—

3 (A) to accelerate project delivery and re-
4 duce costs; and

5 (B) to ensure that the planning, design,
6 engineering, construction, and financing of
7 transportation projects is done in an efficient
8 and effective manner, promoting accountability
9 for public investments and encouraging greater
10 private sector involvement in project financing
11 and delivery while enhancing safety and pro-
12 tecting the environment;

13 (2) delay in the delivery of transportation
14 projects increases project costs, harms the economy
15 of the United States, and impedes the travel of the
16 people of the United States and the shipment of
17 goods for the conduct of commerce; and

18 (3) the Secretary shall identify and promote the
19 deployment of innovation aimed at reducing the time
20 and money required to deliver transportation
21 projects while enhancing safety and protecting the
22 environment.

23 (b) ESTABLISHMENT OF INITIATIVE.—

1 (1) IN GENERAL.—To advance the policy de-
2 scribed in subsection (a), the Secretary shall carry
3 out a project delivery initiative under this section.

4 (2) PURPOSES.—The purposes of the project
5 delivery initiative shall be—

6 (A) to develop and advance the use of best
7 practices to accelerate project delivery and re-
8 duce costs across all modes of transportation
9 and expedite the deployment of technology and
10 innovation;

11 (B) to implement provisions of law de-
12 signed to accelerate project delivery; and

13 (C) to select eligible projects for applying
14 experimental features to test innovative project
15 delivery techniques.

16 (3) ADVANCING THE USE OF BEST PRAC-
17 TICES.—

18 (A) IN GENERAL.—In carrying out the ini-
19 tiative under this section, the Secretary shall
20 identify and advance best practices to reduce
21 delivery time and project costs, from planning
22 through construction, for transportation
23 projects and programs of projects regardless of
24 mode and project size.

1 (B) ADMINISTRATION.—To advance the
2 use of best practices, the Secretary shall—

3 (i) engage interested parties, affected
4 communities, resource agencies, and other
5 stakeholders to gather information regard-
6 ing opportunities for accelerating project
7 delivery and reducing costs;

8 (ii) establish a clearinghouse for the
9 collection, documentation, and advance-
10 ment of existing and new innovative ap-
11 proaches and best practices;

12 (iii) disseminate information through
13 a variety of means to transportation stake-
14 holders on new innovative approaches and
15 best practices; and

16 (iv) provide technical assistance to as-
17 sist transportation stakeholders in the use
18 of flexibility authority to resolve project
19 delays and accelerate project delivery if
20 feasible.

21 (4) IMPLEMENTATION OF ACCELERATED
22 PROJECT DELIVERY.—The Secretary shall ensure
23 that the provisions of this subtitle designed to accel-
24 erate project delivery are fully implemented, includ-
25 ing—

1 (A) expanding eligibility of early acquisi-
2 tion of property prior to completion of environ-
3 mental review under the National Environ-
4 mental Policy Act of 1969 (42 U.S.C. 4321 et
5 seq.);

6 (B) allowing the use of the construction
7 manager or general contractor method of con-
8 tracting in the Federal-aid highway system; and

9 (C) establishing a demonstration program
10 to streamline the relocation process by permit-
11 ting a lump-sum payment for acquisition and
12 relocation if elected by the displaced occupant.

13 **SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUISI-**
14 **TION ACTIVITIES PRIOR TO COMPLETION OF**
15 **NEPA REVIEW.**

16 (a) IN GENERAL.—The acquisition of real property
17 in anticipation of a federally assisted or approved surface
18 transportation project that may use the property shall not
19 be prohibited prior to the completion of reviews of the sur-
20 face transportation project under the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the
22 acquisition does not—

23 (1) have an adverse environmental effect; or

24 (2)(A) limit the choice of reasonable alter-
25 natives for the proposed project; or

1 (B) prevent the lead agency from making an
2 impartial decision as to whether to select an alter-
3 native that is being considered during the environ-
4 mental review process.

5 (b) EARLY ACQUISITION OF REAL PROPERTY INTER-
6 ESTS FOR HIGHWAYS.—Section 108 of title 23, United
7 States Code, is amended—

8 (1) in the section heading by inserting “**inter-**
9 **ests**” after “**real property**”;

10 (2) in subsection (a) by inserting “interests”
11 after “real property” each place it appears; and

12 (3) in subsection (c)—

13 (A) in the subsection heading by striking
14 “RIGHTS-OF-WAY” and inserting “REAL PROP-
15 erty INTERESTS”;

16 (B) in paragraph (1)—

17 (i) in the matter preceding subpara-
18 graph (A) by inserting “at any time” after
19 “may be used”; and

20 (ii) in subparagraph (A)—

21 (I) by striking “rights-of-way”
22 the first place it appears and inserting
23 “real property interests”; and

24 (II) by striking “, if the rights-
25 of-way are subsequently incorporated

1 or otherwise influence the decision of
2 the Secretary on any approval re-
3 quired for the project;

4 “(III) does not prevent the lead
5 agency from making an impartial de-
6 cision as to whether to accept an al-
7 ternative that is being considered in
8 the environmental review process;

9 “(IV) is consistent with the State
10 transportation planning process under
11 section 135;

12 “(V) complies with other applica-
13 ble Federal laws (including regula-
14 tions);

15 “(VI) will be acquired through
16 negotiation, without the threat of con-
17 demnation; and

18 “(VII) will not result in a reduc-
19 tion or elimination of benefits or as-
20 sistance to a displaced person re-
21 quired by the Uniform Relocation As-
22 sistance and Real Property Acquisi-
23 tion Policies Act of 1970 (42 U.S.C.
24 4601 et seq.) and title VI of the Civil

1 Rights Act of 1964 (42 U.S.C. 2000d
2 et seq.).

3 “(B) DEVELOPMENT.—Real property in-
4 terests acquired under this subsection may not
5 be developed in anticipation of a project until
6 all required environmental reviews for the
7 project have been completed.

8 “(C) REIMBURSEMENT.—If Federal-aid re-
9 imbursement is made for real property interests
10 acquired early under this section and the real
11 property interests are not subsequently incor-
12 porated into a project eligible for surface trans-
13 portation funds within the time allowed by sub-
14 section (a)(2), the Secretary shall offset the
15 amount reimbursed against funds apportioned
16 to the State.

17 “(D) OTHER CONDITIONS.—The Secretary
18 may establish such other conditions or restric-
19 tions on acquisitions as the Secretary deter-
20 mines to be appropriate.”.

21 **SEC. 1303. EFFICIENCIES IN CONTRACTING.**

22 (a) AUTHORITY.—Section 112(b) of title 23, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 “(4) CONSTRUCTION MANAGER; GENERAL CON-
2 TRACTOR.—

3 “(A) PROCEDURE.—

4 “(i) IN GENERAL.—A contracting
5 agency may award a 2-phase contract to a
6 construction manager or general contractor
7 for preconstruction and construction serv-
8 ices.

9 “(ii) PRECONSTRUCTION PHASE.—In
10 the preconstruction phase of a contract
11 under this subparagraph, the construction
12 manager shall provide the contracting
13 agency with advice relating to scheduling,
14 work sequencing, cost engineering,
15 constructability, cost estimating, and risk
16 identification.

17 “(iii) AGREEMENT TO PRICE.—

18 “(I) IN GENERAL.—Prior to the
19 start of the second phase of a contract
20 under this subparagraph, the owner
21 and the construction manager may
22 agree to a price for the construction
23 of the project or a portion of the
24 project.

1 “(II) RESULT.—If an agreement
2 is reached, the construction manager
3 shall become the general contractor
4 for the construction of the project at
5 the negotiated schedule and price.

6 “(B) SELECTION.—A contract shall be
7 awarded to a construction manager or general
8 contractor under this paragraph using a com-
9 petitive selection process under which the con-
10 tract is awarded on the basis of—

11 “(i) qualifications;

12 “(ii) experience;

13 “(iii) best value; or

14 “(iv) any other combination of factors
15 considered appropriate by the contracting
16 agency.

17 “(C) TIMING.—

18 “(i) IN GENERAL.—Prior to the com-
19 pletion of the environmental review process
20 required under section 102 of the National
21 Environmental Policy Act of 1969 (42
22 U.S.C. 4332), a contracting agency may
23 issue requests for proposals, proceed with
24 the award of the first phase of construc-
25 tion manager or general contractor con-

1 tract, and issue notices to proceed with
2 preliminary design, to the extent that those
3 actions do not limit any reasonable range
4 of alternatives.

5 “(ii) NEPA PROCESS.—

6 “(I) IN GENERAL.—A con-
7 tracting agency shall not proceed with
8 the award of the second phase, and
9 shall not proceed, or permit any con-
10 sultant or contractor to proceed, with
11 final design or construction until com-
12 pletion of the environmental review
13 process required under section 102 of
14 the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4332).

16 “(II) REQUIREMENT.—The Sec-
17 retary shall require that a contract in-
18 clude appropriate provisions to ensure
19 achievement of the objectives of sec-
20 tion 102 of the National Environ-
21 mental Policy Act of 1969 (42 U.S.C.
22 4332) and compliance with other ap-
23 plicable Federal laws and regulations
24 occurs.

1 “(iii) SECRETARIAL APPROVAL.—

2 Prior to authorizing construction activities,

3 the Secretary shall approve—

4 “(I) the estimate of the con-
5 tracting agency for the entire project;

6 and

7 “(II) any price agreement with
8 the general contractor for the project
9 or a portion of the project.

10 “(iv) TERMINATION PROVISION.—The
11 Secretary shall require a contract to in-
12 clude an appropriate termination provision
13 in the event that a no-build alternative is
14 selected.”.

15 (b) REGULATIONS.—The Secretary shall promulgate
16 such regulations as are necessary to carry out the amend-
17 ment made by subsection (a).

18 (c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing
19 in this section or the amendment made by this section af-
20 fects the authority to carry out, or any project carried out
21 under, any experimental program concerning construction
22 manager risk that is being carried out by the Secretary
23 as of the date of enactment of this Act.

24 **SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.**

25 (a) DECLARATION OF POLICY.—

1 (1) IN GENERAL.—Congress declares that it is
2 in the national interest to promote the use of inno-
3 vative technologies and practices that increase the
4 efficiency of construction of, improve the safety of,
5 and extend the service life of highways and bridges.

6 (2) INCLUSIONS.—The innovative technologies
7 and practices described in paragraph (1) include
8 state-of-the-art intelligent transportation system
9 technologies, elevated performance standards, and
10 new highway construction business practices that
11 improve highway safety and quality, accelerate
12 project delivery, and reduce congestion related to
13 highway construction.

14 (b) FEDERAL SHARE.—Section 120(c) of title 23,
15 United States Code, is amended by adding at the end the
16 following:

17 “(3) INNOVATIVE PROJECT DELIVERY.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (C), the Federal share payable on
20 account of a project or activity carried out with
21 funds apportioned under paragraph (1), (2), or
22 (5) of section 104(b) may, at the discretion of
23 the State, be up to 100 percent for any such
24 project, program, or activity that the Secretary
25 determines—

1 “(i) contains innovative project deliv-
2 ery methods that improve work zone safety
3 for motorists or workers and the quality of
4 the facility;

5 “(ii) contains innovative technologies,
6 manufacturing processes, financing, or
7 contracting methods that improve the qual-
8 ity, extend the service life, or decrease the
9 long-term costs of maintaining highways
10 and bridges;

11 “(iii) accelerates project delivery while
12 complying with other applicable Federal
13 laws (including regulations) and not caus-
14 ing any significant adverse environmental
15 impact; or

16 “(iv) reduces congestion related to
17 highway construction.

18 “(B) EXAMPLES.—Projects, programs, and
19 activities described in subparagraph (A) may
20 include the use of—

21 “(i) prefabricated bridge elements and
22 systems and other technologies to reduce
23 bridge construction time;

24 “(ii) innovative construction equip-
25 ment, materials, or techniques, including

1 the use of in-place recycling technology
2 and digital 3-dimensional modeling tech-
3 nologies;

4 “(iii) innovative contracting methods,
5 including the design-build and the con-
6 struction manager-general contractor con-
7 tracting methods;

8 “(iv) intelligent compaction equip-
9 ment; or

10 “(v) contractual provisions that offer
11 a contractor an incentive payment for early
12 completion of the project, program, or ac-
13 tivity, subject to the condition that the in-
14 centives are accounted for in the financial
15 plan of the project, when applicable.

16 “(C) LIMITATIONS.—

17 “(i) IN GENERAL.—In each fiscal
18 year, a State may use the authority under
19 subparagraph (A) for up to 10 percent of
20 the combined apportionments of the State
21 under paragraphs (1), (2), and (5) of sec-
22 tion 104(b).

23 “(ii) FEDERAL SHARE INCREASE.—
24 The Federal share payable on account of a
25 project or activity described in subpara-

1 graph (A) may be increased by up to 5
2 percent of the total project cost.”.

3 **SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL**
4 **AGENCIES.**

5 Section 139(j) of title 23, United States Code, is
6 amended by adding at the end the following:

7 “(6) MEMORANDUM OF UNDERSTANDING.—
8 Prior to providing funds approved by the Secretary
9 for dedicated staffing at an affected Federal agency
10 under paragraphs (1) and (2), the affected Federal
11 agency and the State agency shall enter into a
12 memorandum of understanding that establishes the
13 projects and priorities to be addressed by the use of
14 the funds.”.

15 **SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS**
16 **FOR MULTIMODAL PROJECTS.**

17 (a) IN GENERAL.—Section 304 of title 49, United
18 States Code, is amended to read as follows:

19 **“§ 304. Application of categorical exclusions for**
20 **multimodal projects**

21 “(a) DEFINITIONS.—In this section:

22 “(1) COOPERATING AUTHORITY.—The term ‘co-
23 operating authority’ means a Department of Trans-
24 portation operating authority that is not the lead au-
25 thority.

1 “(2) LEAD AUTHORITY.—The term ‘lead au-
2 thority’ means a Department of Transportation op-
3 erating administration or secretarial office that—

4 “(A) is the lead authority over a proposed
5 multimodal project; and

6 “(B) has determined that the components
7 of the project that fall under the modal exper-
8 tise of the lead authority—

9 “(i) satisfy the conditions for a cat-
10 egorical exclusion under the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C.
12 4321 et seq.) implementing regulations or
13 procedures of the lead authority; and

14 “(ii) do not require the preparation of
15 an environmental assessment or an envi-
16 ronmental impact statement under that
17 Act.

18 “(3) MULTIMODAL PROJECT.—The term
19 ‘multimodal project’ has the meaning given the term
20 in section 139(a) of title 23.

21 “(b) EXERCISE OF AUTHORITIES.—The authorities
22 granted in this section may be exercised for a multimodal
23 project, class of projects, or program of projects that are
24 carried out under this title.

1 “(c) APPLICATION OF CATEGORICAL EXCLUSIONS
2 FOR MULTIMODAL PROJECTS.—When considering the en-
3 vironmental impacts of a proposed multimodal project, a
4 lead authority may apply a categorical exclusion des-
5 ignated under the implementing regulations or procedures
6 of a cooperating authority for other components of the
7 project, on the conditions that—

8 “(1) the multimodal project is funded under 1
9 grant agreement administered by the lead authority;

10 “(2) the multimodal project has components
11 that require the expertise of a cooperating authority
12 to assess the environmental impacts of the compo-
13 nents;

14 “(3) the component of the project to be covered
15 by the categorical exclusion of the cooperating au-
16 thority has independent utility;

17 “(4) the cooperating authority, in consultation
18 with the lead authority, follows National Environ-
19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
20 implementing regulations or procedures and deter-
21 mines that a categorical exclusion under that Act
22 applies to the components; and

23 “(5) the lead authority has determined that—

24 “(A) the project, using the categorical ex-
25 clusions of the lead and cooperating authorities,

1 does not individually or cumulatively have a sig-
2 nificant impact on the environment; and

3 “(B) extraordinary circumstances do not
4 exist that merit further analysis and docu-
5 mentation in an environmental impact state-
6 ment or environmental assessment required
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.).

9 “(d) MODAL COOPERATION.—

10 “(1) IN GENERAL.—A cooperating authority
11 shall provide modal expertise to a lead authority
12 with administrative authority over a multimodal
13 project on such aspects of the project in which the
14 cooperating authority has expertise.

15 “(2) USE OF CATEGORICAL EXCLUSION.—In a
16 case described in paragraph (1), the 1 or more cat-
17 egorical exclusions of a cooperating authority may be
18 applied by the lead authority once the cooperating
19 authority reviews the project on behalf of the lead
20 authority and determines the project satisfies the
21 conditions for a categorical exclusion under the Na-
22 tional Environmental Policy Act of 1969 (42 U.S.C.
23 4321 et seq.) implementing regulations or proce-
24 dures of the cooperating authority and this sec-
25 tion.”.

1 (b) CONFORMING AMENDMENT.—The item relating
2 to section 304 in the analysis for title 49, United States
3 Code, is amended to read as follows:

“304. Application of categorical exclusions for multimodal projects.”.

4 **SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR**
5 **CATEGORICAL EXCLUSIONS.**

6 Section 326 of title 23, United States Code, is
7 amended—

8 (1) in subsection (c) by striking paragraph (3)
9 and inserting the following:

10 “(3) SOVEREIGN IMMUNITY.—By executing an
11 agreement with the Secretary and assuming the re-
12 sponsibilities of the Secretary under this section, the
13 State waives the sovereign immunity of the State
14 under the 11th Amendment of the Constitution from
15 suit in Federal court and expressly consents to ac-
16 cept the jurisdiction of the Federal courts with re-
17 spect to any action relating to the compliance, dis-
18 charge, and enforcement of any responsibility of the
19 Secretary that the State assumes.”;

20 (2) by striking subsection (d) and inserting the
21 following:

22 “(d) TERMINATION.—

23 “(1) TERMINATION BY THE SECRETARY.—The
24 Secretary may terminate any assumption of respon-
25 sibility under a memorandum of understanding on a

1 determination that the State is not adequately car-
2 rying out the responsibilities assigned to the State.

3 “(2) **TERMINATION BY THE STATE.**—The State
4 may terminate the participation of the State in the
5 program at any time by providing to the Secretary
6 a notice by not later than the date that is 90 days
7 before the date of termination, and subject to such
8 terms and conditions as the Secretary may pro-
9 vide.”; and

10 (3) by adding at the end the following:

11 “(f) **LEGAL FEES.**—A State assuming the respon-
12 sibilities of the Secretary under this section for a specific
13 project may use funds apportioned to the State under sec-
14 tion 104(b)(2) for attorneys fees directly attributable to
15 eligible activities associated with the project.”.

16 **SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIV-**
17 **ERY PROGRAM.**

18 (a) **IN GENERAL.**—Section 327 of title 23, United
19 States Code, is amended—

20 (1) in the section heading by striking “**PILOT**”;

21 (2) in subsection (a)—

22 (A) in paragraph (1) by striking “pilot”;

23 and

24 (B) in paragraph (2)—

1 (i) in subparagraph (B) by striking
2 clause (ii) and inserting the following:

3 “(ii) the Secretary may not assign—
4 “(I) any responsibility imposed
5 on the Secretary by section 134 or
6 135; or
7 “(II) responsibility for any con-
8 formity determination required under
9 section 176 of the Clean Air Act (42
10 U.S.C. 7506).”; and

11 (ii) by adding at the end the fol-
12 lowing:

13 “(F) SOVEREIGN IMMUNITY.—By exe-
14 cuting an agreement with the Secretary and as-
15 suming the responsibilities of the Secretary
16 under this section, the State waives the sov-
17 ereign immunity of the State under the 11th
18 Amendment of the Constitution from suit in
19 Federal court and expressly consents to accept
20 the jurisdiction of the Federal courts with re-
21 spect to any action relating to the compliance,
22 discharge, and enforcement of any responsibility
23 of the Secretary that the State assumes.

24 “(G) LEGAL FEES.—A State assuming the
25 responsibilities of the Secretary under this sec-

1 tion for a specific project may use funds appor-
2 tioned to the State under section 104(b)(2) for
3 attorneys fees directly attributable to eligible
4 activities associated with the project.”;

5 (3) in subsection (b)—

6 (A) by striking paragraph (1);

7 (B) by redesignating paragraphs (2)
8 through (5) as paragraphs (1) through (4), re-
9 spectively; and

10 (C) in subparagraph (A) of paragraph (3)
11 (as so redesignated) by striking “(2)” and in-
12 serting “(1)”;

13 (4) in subsection (c)—

14 (A) in paragraph (3)(D) by striking the
15 period at the end and inserting a semicolon;
16 and

17 (B) by adding at the end the following:

18 “(4) require the State to provide to the Sec-
19 retary any information the Secretary considers nec-
20 essary to ensure that the State is adequately car-
21 rying out the responsibilities assigned to the State;

22 “(5) require the Secretary—

23 “(A) after a period of 5 years, to evaluate
24 the ability of the State to carry out the respon-
25 sibility assumed under this section;

1 “(B) if the Secretary determines that the
2 State is not ready to effectively carry out the
3 responsibilities the State has assumed, to re-
4 evaluate the readiness of the State every 3
5 years, or at such other frequency as the Sec-
6 retary considers appropriate, after the initial 5-
7 year evaluation, until the State is ready to as-
8 sume the responsibilities on a permanent basis;
9 and

10 “(C) once the Secretary determines that
11 the State is ready to permanently assume the
12 responsibilities of the Secretary, not to require
13 any further evaluations; and

14 “(6) require the State to provide the Secretary
15 with any information, including regular written re-
16 ports, as the Secretary may require in conducting
17 evaluations under paragraph (5).”;

18 (5) by striking subsection (g);

19 (6) by redesignating subsections (h) and (i) as
20 subsections (g) and (h), respectively; and

21 (7) in subsection (h) (as so redesignated)—

22 (A) by striking paragraph (1);

23 (B) by redesignating paragraph (2) as
24 paragraph (1); and

1 (C) by inserting after paragraph (1) (as so
2 redesignated) the following:

3 “(2) **TERMINATION BY THE STATE.**—The State
4 may terminate the participation of the State in the
5 program at any time by providing to the Secretary
6 a notice by not later than the date that is 90 days
7 before the date of termination, and subject to such
8 terms and conditions as the Secretary may pro-
9 vide.”.

10 (b) **CONFORMING AMENDMENT.**—The item relating
11 to section 327 in the analysis of title 23, United States
12 Code, is amended to read as follows:

“327. Surface transportation project delivery program.”.

13 **SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITH-**
14 **IN THE RIGHT-OF-WAY.**

15 (a) **IN GENERAL.**—Not later than 30 days after the
16 date of enactment of this Act, the Secretary shall publish
17 a notice of proposed rulemaking for a categorical exclusion
18 that meets the definitions (as in effect on that date) of
19 section 1508.4 of title 40, Code of Federal Regulations,
20 and section 771.117 of title 23, Code of Federal Regula-
21 tions, for a project (as defined in section 101(a) of title
22 23, United States Code)—

23 (1) that is located solely within the right-of-way
24 of an existing highway, such as new turn lanes and
25 bus pull-offs;

1 (2) that does not include the addition of a
2 through lane or new interchange; and

3 (3) for which the project sponsor demonstrates
4 that the project—

5 (A) is intended to improve safety, alleviate
6 congestion, or improve air quality; or

7 (B) would improve or maintain pavement
8 or structural conditions or achieve a state of
9 good repair.

10 (b) NOTICE.—Not later than 60 days after the date
11 of enactment of this Act, the Secretary shall publish a no-
12 tice of proposed rulemaking to further define and imple-
13 ment subsection (a) within subsection (c) or (d) of section
14 771.117 of title 23, Code of Federal Regulations (as in
15 effect on the date of enactment of the MAP-21).

16 **SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDI-**
17 **TIONAL CATEGORICAL EXCLUSIONS.**

18 (a) IN GENERAL.—Not later than 60 days after the
19 date of enactment of this Act, the Secretary shall—

20 (1) survey the use by the Department of Trans-
21 portation of categorical exclusions in transportation
22 projects since 2005;

23 (2) publish a review of the survey that includes
24 a description of—

1 (A) the types of actions categorically ex-
2 cluded; and

3 (B) any requests previously received by the
4 Secretary for new categorical exclusions; and

5 (3) solicit requests from State departments of
6 transportation, transit authorities, metropolitan
7 planning organizations, or other government agen-
8 cies for new categorical exclusions.

9 (b) NEW CATEGORICAL EXCLUSIONS.—Not later
10 than 120 days after the date of enactment of this Act,
11 the Secretary shall publish a notice of proposed rule-
12 making to propose new categorical exclusions received by
13 the Secretary under subsection (a), to the extent that the
14 categorical exclusions meet the criteria for a categorical
15 exclusion under section 1508.4 of title 40, Code of Federal
16 Regulations and section 771.117(a) of title 23, Code of
17 Federal Regulations (as those regulations are in effect on
18 the date of the notice).

19 (c) ADDITIONAL ACTIONS.—The Secretary shall issue
20 a proposed rulemaking to move the following types of ac-
21 tions from subsection (d) of section 771.117 of title 23,
22 Code of Federal Regulations (as in effect on the date of
23 enactment of this Act), to subsection (e) of that section,
24 to the extent that such movement complies with the cri-
25 teria for a categorical exclusion under section 1508.4 of

1 title 40, Code of Federal Regulations (as in effect on the
2 date of enactment of this Act):

3 (1) Modernization of a highway by resurfacing,
4 restoration, rehabilitation, reconstruction, adding
5 shoulders, or adding auxiliary lanes (including park-
6 ing, weaving, turning, and climbing).

7 (2) Highway safety or traffic operations im-
8 provement projects, including the installation of
9 ramp metering control devices and lighting.

10 (3) Bridge rehabilitation, reconstruction, or re-
11 placement or the construction of grade separation to
12 replace existing at-grade railroad crossings.

13 (d) PROGRAMMATIC AGREEMENTS.—

14 (1) IN GENERAL.—The Secretary shall seek op-
15 portunities to enter into programmatic agreements
16 with the States that establish efficient administra-
17 tive procedures for carrying out environmental and
18 other required project reviews.

19 (2) INCLUSIONS.—Programmatic agreements
20 authorized under paragraph (1) may include agree-
21 ments that allow a State to determine on behalf of
22 the Federal Highway Administration whether a
23 project is categorically excluded from the prepara-
24 tion of an environmental assessment or environ-
25 mental impact statement under the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.).

3 (3) DETERMINATIONS.—An agreement de-
4 scribed in paragraph (2) may include determinations
5 by the Secretary of the types of projects categori-
6 cally excluded (consistent with section 1508.4 of title
7 40, Code of Federal Regulations) in the State in ad-
8 dition to the types listed in subsections (c) and (d)
9 of section 771.117 of title 23, Code of Federal Reg-
10 ulations (as in effect on the date of enactment of
11 this Act).

12 **SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRON-**
13 **MENTAL REVIEWS.**

14 (a) IN GENERAL.—When preparing a final environ-
15 mental impact statement under the National Environ-
16 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if
17 the lead agency makes changes in response to comments
18 that are minor and are confined to factual corrections or
19 explanations of why the comments do not warrant further
20 agency response, the lead agency may write on errata
21 sheets attached to the statement instead of rewriting the
22 draft statement, on the condition that the errata sheets—

23 (1) cite the sources, authorities, or reasons that
24 support the position of the agency; and

1 (2) if appropriate, indicate the circumstances
2 that would trigger agency reappraisal or further re-
3 sponse.

4 (b) INCORPORATION.—To the maximum extent prac-
5 ticable, the lead agency shall expeditiously develop a single
6 document that consists of a final environmental impact
7 statement and a record of decision unless—

8 (1) the final environmental impact statement
9 makes substantial changes to the proposed action
10 that are relevant to environmental or safety con-
11 cerns; or

12 (2) there are significant new circumstances or
13 information relevant to environmental concerns and
14 that bear on the proposed action or the impacts of
15 the proposed action.

16 **SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR**
17 **EARLY COORDINATION.**

18 (a) IN GENERAL.—It is the sense of Congress that—

19 (1) the Secretary and other Federal agencies
20 with relevant jurisdiction in the environmental re-
21 view process should cooperate with each other and
22 other agencies on environmental review and project
23 delivery activities at the earliest practicable time to
24 avoid delays and duplication of effort later in the
25 process, head off potential conflicts, and ensure that

1 planning and project development decisions reflect
2 environmental values; and

3 (2) such cooperation should include the develop-
4 ment of policies and the designation of staff that ad-
5 vise planning agencies or project sponsors of studies
6 or other information foreseeably required for later
7 Federal action and early consultation with appro-
8 priate State and local agencies and Indian tribes.

9 (b) TECHNICAL ASSISTANCE.—If requested at any
10 time by a State or local planning agency, the Secretary
11 and other Federal agencies with relevant jurisdiction in
12 the environmental review process, shall, to the extent prac-
13 ticable and appropriate, as determined by the agencies,
14 provide technical assistance to the State or local planning
15 agency on accomplishing the early coordination activities
16 described in subsection (d).

17 (c) MEMORANDUM OF AGENCY AGREEMENT.—If re-
18 quested at any time by a State or local planning agency,
19 the lead agency, in consultation with other Federal agen-
20 cies with relevant jurisdiction in the environmental review
21 process, may establish memoranda of agreement with the
22 project sponsor, State, and local governments and other
23 appropriate entities to accomplish the early coordination
24 activities described in subsection (d).

1 (d) EARLY COORDINATION ACTIVITIES.—Early co-
2 ordination activities shall include, to the maximum extent
3 practicable, the following:

4 (1) Technical assistance on identifying potential
5 impacts and mitigation issues in an integrated fash-
6 ion.

7 (2) The potential appropriateness of using plan-
8 ning products and decisions in later environmental
9 reviews.

10 (3) The identification and elimination from de-
11 tailed study in the environmental review process of
12 the issues that are not significant or that have been
13 covered by prior environmental reviews.

14 (4) The identification of other environmental
15 review and consultation requirements so that the
16 lead and cooperating agencies may prepare, as ap-
17 propriate, other required analyses and studies con-
18 currently with planning activities.

19 (5) The identification by agencies with jurisdic-
20 tion over any permits related to the project of any
21 and all relevant information that will reasonably be
22 required for the project.

23 (6) The reduction of duplication between re-
24 quirements under the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.) and State and

1 local planning and environmental review require-
2 ments, unless the agencies are specifically barred
3 from doing so by applicable law.

4 (7) Timelines for the completion of agency ac-
5 tions during the planning and environmental review
6 processes.

7 (8) Other appropriate factors.

8 **SEC. 1313. ACCELERATED DECISIONMAKING.**

9 Section 139(h) of title 23, United States Code, is
10 amended by striking paragraph (4) and inserting the fol-
11 lowing:

12 “(4) INTERIM DECISION ON ACHIEVING ACCEL-
13 ERATED DECISIONMAKING.—

14 “(A) IN GENERAL.—Not later than 30
15 days after the close of the public comment pe-
16 riod on a draft environmental impact statement,
17 the Secretary may convene a meeting with the
18 project sponsor, lead agency, resource agencies,
19 and any relevant State agencies to ensure that
20 all parties are on schedule to meet deadlines for
21 decisions to be made regarding the project.

22 “(B) DEADLINES.—The deadlines referred
23 to in subparagraph (A) shall be those estab-
24 lished under subsection (g), or any other dead-
25 lines established by the lead agency, in con-

1 only if the meeting was requested by the
2 Governor, to resolve issues that could—

3 “(I) delay completion of the envi-
4 ronmental review process; or

5 “(II) result in denial of any ap-
6 provals required for the project under
7 applicable laws.

8 “(iii) DATE.—A meeting requested
9 under this subparagraph shall be held by
10 not later than 21 days after the date of re-
11 ceipt of the request for the meeting, unless
12 the lead agency determines that there is
13 good cause to extend the time for the
14 meeting.

15 “(iv) NOTIFICATION.—On receipt of a
16 request for a meeting under this subpara-
17 graph, the lead agency shall notify all rel-
18 evant participating agencies of the request,
19 including the issue to be resolved, and the
20 date for the meeting.

21 “(v) DISPUTES.—If a relevant partici-
22 pating agency with jurisdiction over an ap-
23 proval required for a project under applica-
24 ble law determines that the relevant infor-
25 mation necessary to resolve the issue has

1 not been obtained and could not have been
2 obtained within a reasonable time, but the
3 lead agency disagrees, the resolution of the
4 dispute shall be forwarded to the heads of
5 the relevant agencies for resolution.

6 “(vi) CONVENTION BY LEAD AGEN-
7 CY.—A lead agency may convene an issue
8 resolution meeting under this subsection at
9 any time without the request of the Fed-
10 eral agency of jurisdiction, project sponsor,
11 or the Governor of a State.

12 “(B) ELEVATION OF ISSUE RESOLU-
13 TION.—

14 “(i) IN GENERAL.—If issue resolution
15 is not achieved by not later than 30 days
16 after the date of a relevant meeting under
17 subparagraph (A), the Secretary shall no-
18 tify the lead agency, the heads of the rel-
19 evant participating agencies, and the
20 project sponsor (including the Governor
21 only if the initial issue resolution meeting
22 request came from the Governor) that an
23 issue resolution meeting will be convened.

24 “(ii) REQUIREMENTS.—The Secretary
25 shall identify the issues to be addressed at

1 the meeting and convene the meeting not
2 later than 30 days after the date of
3 issuance of the notice.

4 “(C) REFERRAL OF ISSUE RESOLUTION.—

5 “(i) REFERRAL TO COUNCIL ON ENVI-
6 RONMENTAL QUALITY.—

7 “(I) IN GENERAL.—If resolution
8 is not achieved by not later than 30
9 days after the date of an issue resolu-
10 tion meeting under subparagraph (B),
11 the Secretary shall refer the matter to
12 the Council on Environmental Qual-
13 ity.

14 “(II) MEETING.—Not later than
15 30 days after the date of receipt of a
16 referral from the Secretary under sub-
17 clause (I), the Council on Environ-
18 mental Quality shall hold an issue res-
19 olution meeting with the lead agency,
20 the heads of relevant participating
21 agencies, and the project sponsor (in-
22 cluding the Governor only if an initial
23 request for an issue resolution meet-
24 ing came from the Governor).

1 “(ii) REFERRAL TO THE PRESI-
2 DENT.—If a resolution is not achieved by
3 not later than 30 days after the date of the
4 meeting convened by the Council on Envi-
5 ronmental Quality under clause (i)(II), the
6 Secretary shall refer the matter directly to
7 the President.

8 “(6) FINANCIAL TRANSFER PROVISIONS.—

9 “(A) IN GENERAL.—A Federal agency of
10 jurisdiction over an approval required for a
11 project under applicable laws shall complete any
12 required approval on an expeditious basis using
13 the shortest existing applicable process.

14 “(B) FAILURE TO DECIDE.—

15 “(i) IN GENERAL.—If an agency de-
16 scribed in subparagraph (A) fails to render
17 a decision under any Federal law relating
18 to a project that requires the preparation
19 of an environmental impact statement or
20 environmental assessment, including the
21 issuance or denial of a permit, license, or
22 other approval by the date described in
23 clause (ii), the agency shall transfer from
24 the applicable office of the head of the
25 agency, or equivalent office to which the

1 authority for rendering the decision has
2 been delegated by law, to the agency or di-
3 vision charged with rendering a decision
4 regarding the application, by not later than
5 1 day after the applicable date under
6 clause (ii), and once each week thereafter
7 until a final decision is rendered, subject to
8 subparagraph (C)—

9 “(I) \$20,000 for any project for
10 which an annual financial plan under
11 section 106(i) is required; or

12 “(II) \$10,000 for any other
13 project requiring preparation of an
14 environmental assessment or environ-
15 mental impact statement.

16 “(ii) DESCRIPTION OF DATE.—The
17 date referred to in clause (i) is the later
18 of—

19 “(I) the date that is 180 days
20 after the date on which an application
21 for the permit, license, or approval is
22 complete; and

23 “(II) the date that is 180 days
24 after the date on which the Federal
25 lead agency issues a decision on the

1 project under the National Environ-
2 mental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.).

4 “(C) LIMITATIONS.—

5 “(i) IN GENERAL.—No transfer of
6 funds under subparagraph (B) relating to
7 an individual project shall exceed, in any
8 fiscal year, an amount equal to 1 percent
9 of the funds made available for the appli-
10 cable agency office.

11 “(ii) FAILURE TO DECIDE.—The total
12 amount transferred in a fiscal year as a re-
13 sult of a failure by an agency to make a
14 decision by an applicable deadline shall not
15 exceed an amount equal to 5 percent of the
16 funds made available for the applicable
17 agency office for that fiscal year.

18 “(D) TREATMENT.—The transferred funds
19 shall only be available to the agency or division
20 charged with rendering the decision as addi-
21 tional resources, pursuant to subparagraph (F).

22 “(E) NO FAULT OF AGENCY.—A transfer
23 of funds under this paragraph shall not be
24 made if the agency responsible for rendering
25 the decision certifies that—

1 “(i) the agency has not received nec-
2 essary information or approvals from an-
3 other entity, such as the project sponsor,
4 in a manner that affects the ability of the
5 agency to meet any requirements under
6 State, local, or Federal law; or

7 “(ii) significant new information or
8 circumstances, including a major modifica-
9 tion to an aspect of the project, requires
10 additional analysis for the agency to make
11 a decision on the project application.

12 “(F) TREATMENT OF FUNDS.—

13 “(i) IN GENERAL.—Funds transferred
14 under this paragraph shall supplement re-
15 sources available to the agency or division
16 charged with making a decision for the
17 purpose of expediting permit reviews.

18 “(ii) AVAILABILITY.—Funds trans-
19 ferred under this paragraph shall be avail-
20 able for use or obligation for the same pe-
21 riod that the funds were originally author-
22 ized or appropriated, plus 1 additional fis-
23 cal year.

24 “(iii) LIMITATION.—The Federal
25 agency with jurisdiction for the decision

1 that has transferred the funds pursuant to
2 this paragraph shall not reprogram funds
3 to the office of the head of the agency, or
4 equivalent office, to reimburse that office
5 for the loss of the funds.

6 “(G) AUDITS.—In any fiscal year in which
7 any Federal agency transfers funds pursuant to
8 this paragraph, the Inspector General of that
9 agency shall—

10 “(i) conduct an audit to assess com-
11 pliance with the requirements of this para-
12 graph; and

13 “(ii) not later than 120 days after the
14 end of the fiscal year during which the
15 transfer occurred, submit to the Committee
16 on Environment and Public Works of the
17 Senate and any other appropriate congress-
18 sional committees a report describing the
19 reasons why the transfers were levied, in-
20 cluding allocations of resources.

21 “(H) EFFECT OF PARAGRAPH.—Nothing
22 in this paragraph affects or limits the applica-
23 tion of, or obligation to comply with, any Fed-
24 eral, State, local, or tribal law.

1 “(I) AUTHORITY FOR INTRA-AGENCY
2 TRANSFER OF FUNDS.—The requirement pro-
3 vided under this paragraph for a Federal agen-
4 cy to transfer or reallocate funds of the Federal
5 agency in accordance with subparagraph
6 (B)(i)—

7 “(i) shall be treated by the Federal
8 agency as a requirement and authority
9 consistent with any applicable original law
10 establishing and authorizing the agency;
11 but

12 “(ii) does not provide to the Federal
13 agency the authority to require or deter-
14 mine the intra-agency transfer or realloca-
15 tion of funds that are provided to or are
16 within any other Federal agency.

17 “(7) EXPEDIENT DECISIONS AND REVIEWS.—
18 To ensure that Federal environmental decisions and
19 reviews are expeditiously made—

20 “(A) adequate resources made available
21 under this title shall be devoted to ensuring
22 that applicable environmental reviews under the
23 National Environmental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.) are completed on an expe-
25 ditious basis and that the shortest existing ap-

1 plicable process under that Act is implemented;
2 and

3 “(B) the President shall submit to the
4 Committee on Transportation and Infrastruc-
5 ture of the House of Representatives and the
6 Committee on Environment and Public Works
7 of the Senate, not less frequently than once
8 every 120 days after the date of enactment of
9 the MAP-21, a report on the status and
10 progress of the following projects and activities
11 funded under this title with respect to compli-
12 ance with applicable requirements under the
13 National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.):

15 “(i) Projects and activities required to
16 prepare an annual financial plan under
17 section 106(i).

18 “(ii) A sample of not less than 5 per-
19 cent of the projects requiring preparation
20 of an environmental impact statement or
21 environmental assessment in each State.”.

22 **SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.**

23 (a) ESTABLISHMENT.—For grant programs under
24 which funds are distributed by formula by the Department
25 of Transportation, the Secretary shall establish an initia-

1 tive to review and develop consistent procedures for envi-
2 ronmental permitting and procurement requirements.

3 (b) REPORT.—The Secretary shall publish the results
4 of the initiative described in subsection (a) in an electroni-
5 cally accessible format.

6 **SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEM-**
7 **ONSTRATION PROGRAM.**

8 (a) PAYMENT DEMONSTRATION PROGRAM.—

9 (1) IN GENERAL.—Except as otherwise pro-
10 vided in this section, for the purpose of identifying
11 improvements in the timeliness of providing reloca-
12 tion assistance to persons displaced by Federal or
13 federally assisted programs and projects, the Sec-
14 retary may allow not more than 5 States to partici-
15 pate in an alternative relocation payment demonstra-
16 tion program under which payments to displaced
17 persons eligible for relocation assistance pursuant to
18 the Uniform Relocation Assistance and Real Prop-
19 erty Acquisition Policies Act of 1970 (42 U.S.C.
20 4601 et seq.) (including implementing regulations),
21 are calculated based on reasonable estimates and
22 paid in advance of the physical displacement of the
23 displaced person.

24 (2) TIMING OF PAYMENTS.—Relocation assist-
25 ance payments for projects carried out under an ap-

1 proved State demonstration program may be pro-
2 vided to the displaced person at the same time as
3 payments of just compensation for real property ac-
4 quired for the program or project of the State.

5 (3) COMBINING OF PAYMENTS.—Payments for
6 relocation and just compensation may be combined
7 into a single unallocated amount.

8 (b) CRITERIA.—

9 (1) IN GENERAL.—After public notice and an
10 opportunity to comment, the Secretary shall adopt
11 criteria for carrying out the alternative relocation
12 payment demonstration program.

13 (2) CONDITIONS.—

14 (A) IN GENERAL.—Conditions for State
15 participation in the demonstration program
16 shall include the conditions described in sub-
17 paragraphs (B) through (E).

18 (B) MEMORANDUM OF AGREEMENT.—A
19 State wishing to participate in the demonstra-
20 tion program shall be required to enter into a
21 memorandum of agreement with the Secretary
22 that includes provisions relating to—

23 (i) the selection of projects or pro-
24 grams within the State to which the alter-

1 native relocation payment process will be
2 applied;

3 (ii) program and project-level moni-
4 toring;

5 (iii) performance measurement;

6 (iv) reporting; and

7 (v) the circumstances under which the
8 Secretary may terminate the demonstra-
9 tion program of the State before the end of
10 the program term.

11 (C) TERM OF DEMONSTRATION PRO-
12 GRAM.—Except as provided in subparagraph
13 (B)(v), the demonstration program of the State
14 may continue for up to 3 years after the date
15 on which the Secretary executes the memo-
16 randum of agreement.

17 (D) DISPLACED PERSONS.—

18 (i) IN GENERAL.—Displaced persons
19 affected by a project included in the dem-
20 onstration program of the State shall be
21 informed in writing in a format that is
22 clear and easily understandable that the
23 relocation payments that the displaced per-
24 sons receive under the demonstration pro-
25 gram may be higher or lower than the

1 amount that the displaced persons would
2 receive under the standard relocation as-
3 sistance process.

4 (ii) ALTERNATIVE PROCESS.—Dis-
5 placed persons shall be informed—

6 (I) of the right of the displaced
7 persons not to participate in the dem-
8 onstration program; and

9 (II) that the alternative reloca-
10 tion payment process can be used only
11 if the displaced person agrees in writ-
12 ing.

13 (iii) ASSISTANCE.—The displacing
14 agency shall provide any displaced person
15 who elects not to participate in the dem-
16 onstration program with relocation assist-
17 ance in accordance with the Uniform Relo-
18 cation Assistance and Real Property Ac-
19 quisition Policies Act of 1970 (42 U.S.C.
20 4601 et seq.) (including implementing reg-
21 ulations).

22 (E) OTHER DISPLACEMENTS.—

23 (i) IN GENERAL.—If other Federal
24 agencies plan displacements in or adjacent
25 to a demonstration program project area

1 within the same time period as the project
2 acquisition and relocation actions of the
3 demonstration program, the Secretary
4 shall adopt measures to protect against in-
5 consistent treatment of displaced persons.

6 (ii) INCLUSION.—Measures described
7 in clause (i) may include a determination
8 that the demonstration program authority
9 may not be used on a particular project.

10 (c) REPORT.—

11 (1) IN GENERAL.—The Secretary shall submit
12 to Congress—

13 (A) at least every 18 months after the date
14 of enactment of this Act, a report on the
15 progress and results of the demonstration pro-
16 gram; and

17 (B) not later than 1 year after all State
18 demonstration programs have ended, a final re-
19 port.

20 (2) REQUIREMENTS.—The final report shall in-
21 clude an evaluation by the Secretary of the merits
22 of the alternative relocation payment demonstration
23 program, including the effects of the demonstration
24 program on—

1 (A) displaced persons and the protections
2 afforded to displaced persons by the Uniform
3 Relocation Assistance and Real Property Acqui-
4 sition Policies Act of 1970 (42 U.S.C. 4601 et
5 seq.);

6 (B) the efficiency of the delivery of Fed-
7 eral-aid highway projects and overall effects on
8 the Federal-aid highway program; and

9 (C) the achievement of the purposes of the
10 Uniform Relocation Assistance and Real Prop-
11 erty Acquisition Policies Act of 1970 (42
12 U.S.C. 4601 et seq.).

13 (d) LIMITATION.—The authority of this section may
14 be used only on projects funded under title 23, United
15 States Code, in cases in which the funds are administered
16 by the Federal Highway Administration.

17 (e) AUTHORITY.—The authority of the Secretary to
18 approve an alternate relocation payment demonstration
19 program for a State terminates on the date that is 3 years
20 after the date of enactment of this Act

21 **SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM**
22 **DELIVERY.**

23 (a) COMPLETION TIME ASSESSMENTS AND RE-
24 PORTS.—

1 (1) IN GENERAL.—For projects funded under
2 title 23, United States Code, the Secretary shall
3 compare—

4 (A)(i) the completion times of categorical
5 exclusions, environmental assessments, and en-
6 vironmental impact statements initiated after
7 calendar year 2005; to

8 (ii) the completion times of categorical ex-
9 clusions, environmental assessments, and envi-
10 ronmental impact statements initiated during a
11 period prior to calendar year 2005; and

12 (B)(i) the completion times of categorical
13 exclusions, environmental assessments, and en-
14 vironmental impact statements initiated during
15 the period beginning on January 1, 2005, and
16 ending on the date of enactment of this Act; to

17 (ii) the completion times of categorical ex-
18 clusions, environmental assessments, and envi-
19 ronmental impact statements initiated after the
20 date of enactment of this Act.

21 (2) REPORT.—The Secretary shall submit to
22 the Committee on Transportation and Infrastructure
23 of the House of Representatives and the Committee
24 on Environment and Public Works of the Senate a
25 report—

1 (A) not later than 1 year after the date of
2 enactment of this Act that—

3 (i) describes the results of the review
4 conducted under paragraph (1)(A); and

5 (ii) identifies any change in the timing
6 for completions, including the reasons for
7 any such change and the reasons for
8 delays in excess of 5 years; and

9 (B) not later than 5 years after the date
10 of enactment of this Act that—

11 (i) describes the results of the review
12 conducted under paragraph (1)(B); and

13 (ii) identifies any change in the timing
14 for completions, including the reasons for
15 any such change and the reasons for
16 delays in excess of 5 years.

17 (b) ADDITIONAL REPORT.—Not later than 2 years
18 after the date of enactment of this Act, the Secretary shall
19 submit to the Committee on Transportation and Infra-
20 structure of the House of Representatives and the Com-
21 mittee on Environment and Public Works of the Senate
22 a report on the types and justification for the additional
23 categorical exclusions granted under the authority pro-
24 vided under sections 1309 and 1310.

1 (c) GAO REPORT.—The Comptroller General of the
2 United States shall—

3 (1) assess the reforms carried out under sec-
4 tions 1301 through 1315 (including the amendments
5 made by those sections); and

6 (2) not later than 5 years after the date of en-
7 actment of this Act, submit to the Committee on
8 Transportation and Infrastructure of the House of
9 Representatives and the Committee on Environment
10 and Public Works of the Senate a report that de-
11 scribes the results of the assessment.

12 (d) INSPECTOR GENERAL REPORT.—The Inspector
13 General of the Department of Transportation shall—

14 (1) assess the reforms carried out under sec-
15 tions 1301 through 1315 (including the amendments
16 made by those sections); and

17 (2) submit to the Committee on Transportation
18 and Infrastructure of the House of Representatives
19 and the Committee on Environment and Public
20 Works of the Senate—

21 (A) not later than 2 years after the date
22 of enactment of this Act, an initial report of the
23 findings of the Inspector General; and

1 (B) not later than 4 years after the date
2 of enactment of this Act, a final report of the
3 findings.

4 **Subtitle D—Highway Safety**

5 **SEC. 1401. JASON'S LAW.**

6 (a) IN GENERAL.—It is the sense of Congress that
7 it is a national priority to address projects under this sec-
8 tion for the shortage of long-term parking for commercial
9 motor vehicles on the National Highway System to im-
10 prove the safety of motorized and nonmotorized users and
11 for commercial motor vehicle operators.

12 (b) ELIGIBLE PROJECTS.—Eligible projects under
13 this section are those that—

14 (1) serve the National Highway System; and

15 (2) may include the following:

16 (A) Constructing safety rest areas (as de-
17 fined in section 120(c) of title 23, United
18 States Code) that include parking for commer-
19 cial motor vehicles.

20 (B) Constructing commercial motor vehicle
21 parking facilities adjacent to commercial truck
22 stops and travel plazas.

23 (C) Opening existing facilities to commer-
24 cial motor vehicle parking, including inspection
25 and weigh stations and park-and-ride facilities.

1 (D) Promoting the availability of publicly
2 or privately provided commercial motor vehicle
3 parking on the National Highway System using
4 intelligent transportation systems and other
5 means.

6 (E) Constructing turnouts along the Na-
7 tional Highway System for commercial motor
8 vehicles.

9 (F) Making capital improvements to public
10 commercial motor vehicle parking facilities cur-
11 rently closed on a seasonal basis to allow the fa-
12 cilities to remain open year-round.

13 (G) Improving the geometric design of
14 interchanges on the National Highway System
15 to improve access to commercial motor vehicle
16 parking facilities.

17 (c) SURVEY AND COMPARATIVE ASSESSMENT.—

18 (1) IN GENERAL.—The Secretary, in consulta-
19 tion with relevant State motor carrier safety per-
20 sonnel, shall conduct a survey regarding the avail-
21 ability of parking facilities within each State—

22 (A) to evaluate the capability of the State
23 to provide adequate parking and rest facilities
24 for motor carriers engaged in interstate motor
25 carrier service;

1 (B) to assess the volume of motor carrier
2 traffic through the State; and

3 (C) to develop a system of metrics to
4 measure the adequacy of parking facilities in
5 the State.

6 (2) RESULTS.—The results of the survey under
7 paragraph (1) shall be made available to the public
8 on the website of the Department of Transportation.

9 (3) PERIODIC UPDATES.—The Secretary shall
10 periodically update the survey under this subsection.

11 (d) TREATMENT OF PROJECTS.—Notwithstanding
12 any other provision of law, projects funded through the
13 authority provided under this section shall be treated as
14 projects on a Federal-aid system under chapter 1 of title
15 23, United States Code.

16 **SEC. 1402. OPEN CONTAINER REQUIREMENTS.**

17 Section 154(e) of title 23, United States Code, is
18 amended—

19 (1) by striking paragraph (2) and inserting the
20 following:

21 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

22 “(A) RESERVATION OF FUNDS.—On Octo-
23 ber 1, 2011, and each October 1 thereafter, if
24 a State has not enacted or is not enforcing an
25 open container law described in subsection (b),

1 the Secretary shall reserve an amount equal to
2 2.5 percent of the funds to be apportioned to
3 the State on that date under each of para-
4 graphs (1) and (2) of section 104(b) until the
5 State certifies to the Secretary the means by
6 which the State will use those reserved funds in
7 accordance with subparagraphs (A) and (B) of
8 paragraph (1) and paragraph (3).

9 “(B) TRANSFER OF FUNDS.—As soon as
10 practicable after the date of receipt of a certifi-
11 cation from a State under subparagraph (A),
12 the Secretary shall—

13 “(i) transfer the reserved funds identi-
14 fied by the State for use as described in
15 subparagraphs (A) and (B) of paragraph
16 (1) to the apportionment of the State
17 under section 402; and

18 “(ii) release the reserved funds identi-
19 fied by the State as described in paragraph
20 (3).”;

21 (2) by striking paragraph (3) and inserting the
22 following:

23 “(3) USE FOR HIGHWAY SAFETY IMPROVEMENT
24 PROGRAM.—

1 “(A) IN GENERAL.—A State may elect to
2 use all or a portion of the funds transferred
3 under paragraph (2) for activities eligible under
4 section 148.

5 “(B) STATE DEPARTMENTS OF TRANSPOR-
6 TATION.—If the State makes an election under
7 subparagraph (A), the funds shall be trans-
8 ferred to the department of transportation of
9 the State, which shall be responsible for the ad-
10 ministration of the funds.”; and

11 (3) by striking paragraph (5) and inserting the
12 following:

13 “(5) DERIVATION OF AMOUNT TO BE TRANS-
14 FERRED.—The amount to be transferred under
15 paragraph (2) may be derived from the following:

16 “(A) The apportionment of the State
17 under section 104(b)(1).

18 “(B) The apportionment of the State
19 under section 104(b)(2).”.

20 **SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS**
21 **FOR DRIVING WHILE INTOXICATED OR DRIV-**
22 **ING UNDER THE INFLUENCE.**

23 (a) DEFINITIONS.—Section 164(a) of title 23, United
24 States Code, is amended—

25 (1) by striking paragraph (3);

1 (2) by redesignating paragraphs (4) and (5) as
2 paragraphs (3) and (4), respectively; and

3 (3) in paragraph (4) (as so redesignated) by
4 striking subparagraph (A) and inserting the fol-
5 lowing:

6 “(A) receive—

7 “(i) a suspension of all driving privi-
8 leges for not less than 1 year; or

9 “(ii) a suspension of unlimited driving
10 privileges for 1 year, allowing for the rein-
11 statement of limited driving privileges sub-
12 ject to restrictions and limited exemptions
13 as established by State law, if an ignition
14 interlock device is installed for not less
15 than 1 year on each of the motor vehicles
16 owned or operated, or both, by the indi-
17 vidual;”.

18 (b) TRANSFER OF FUNDS.—Section 164(b) of title
19 23, United States Code, is amended—

20 (1) by striking paragraph (2) and inserting the
21 following:

22 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

23 “(A) RESERVATION OF FUNDS.—On Octo-
24 ber 1, 2011, and each October 1 thereafter, if
25 a State has not enacted or is not enforcing a

1 repeat intoxicated driver law, the Secretary
2 shall reserve an amount equal to 6 percent of
3 the funds to be apportioned to the State on
4 that date under each of paragraphs (1) and (2)
5 of section 104(b) until the State certifies to the
6 Secretary the means by which the States will
7 use those reserved funds among the uses au-
8 thorized under subparagraphs (A) and (B) of
9 paragraph (1), and paragraph (3).

10 “(B) TRANSFER OF FUNDS.—As soon as
11 practicable after the date of receipt of a certifi-
12 cation from a State under subparagraph (A),
13 the Secretary shall—

14 “(i) transfer the reserved funds identi-
15 fied by the State for use as described in
16 subparagraphs (A) and (B) of paragraph
17 (1) to the apportionment of the State
18 under section 402; and

19 “(ii) release the reserved funds identi-
20 fied by the State as described in paragraph
21 (3).”;

22 (2) by striking paragraph (3) and inserting the
23 following:

24 “(3) USE FOR HIGHWAY SAFETY IMPROVEMENT
25 PROGRAM.—

1 “(A) IN GENERAL.—A State may elect to
2 use all or a portion of the funds transferred
3 under paragraph (2) for activities eligible under
4 section 148.

5 “(B) STATE DEPARTMENTS OF TRANSPOR-
6 TATION.—If the State makes an election under
7 subparagraph (A), the funds shall be trans-
8 ferred to the department of transportation of
9 the State, which shall be responsible for the ad-
10 ministration of the funds.”; and

11 (3) by striking paragraph (5) and inserting the
12 following:

13 “(5) DERIVATION OF AMOUNT TO BE TRANS-
14 FERRED.—The amount to be transferred under
15 paragraph (2) may be derived from the following:

16 “(A) The apportionment of the State
17 under section 104(b)(1).

18 “(B) The apportionment of the State
19 under section 104(b)(2).”.

20 **SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.**

21 (a) VEHICLE WEIGHT LIMITATIONS.—Section
22 127(a)(1) of title 23, United States Code, is amended by
23 striking “No funds shall be apportioned in any fiscal year
24 under section 104(b)(1) of this title to any State which”
25 and inserting “The Secretary shall withhold 50 percent

1 of the apportionment of a State under section 104(b)(1)
2 in any fiscal year in which the State”.

3 (b) CONTROL OF JUNKYARDS.—Section 136 of title
4 23, United States Code, is amended—

5 (1) in subsection (b), in the first sentence—

6 (A) by striking “10 per centum” and in-
7 serting “7 percent”; and

8 (B) by striking “section 104 of this title”
9 and inserting “paragraphs (1) through (5) of
10 section 104(b)”; and

11 (2) by adding at the end the following:

12 “(n) For purposes of this section, the terms ‘primary
13 system’ and ‘Federal-aid primary system’ mean any high-
14 way that is on the National Highway System, which in-
15 cludes the Interstate Highway System.”.

16 (c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT
17 LAWS.—Section 141(b)(2) of title 23, United States Code,
18 is amended—

19 (1) by striking “10 per centum” and inserting
20 “7 percent”; and

21 (2) by striking “section 104 of this title” and
22 inserting “paragraphs (1) through (5) of section
23 104(b)”.

1 (d) PROOF OF PAYMENT OF THE HEAVY VEHICLE
2 USE TAX.—Section 141(c) of title 23, United States
3 Code, is amended—

4 (1) by striking “section 104(b)(4)” each place
5 it appears and inserting “section 104(b)(1)”; and

6 (2) in the first sentence by striking “25 per
7 centum” and inserting “ 8 percent”.

8 (e) USE OF SAFETY BELTS.—Section 153(h) of title
9 23, United States Code, is amended—

10 (1) by striking paragraph (1);

11 (2) by redesignating paragraph (2) as para-
12 graph (1);

13 (3) in paragraph (1) (as so redesignated)—

14 (A) by striking the paragraph heading and
15 inserting “PRIOR TO FISCAL YEAR 2012”; and

16 (B) by inserting “and before October 1,
17 2011,” after “September 30, 1994,”; and

18 (4) by inserting after paragraph (1) (as so re-
19 designated) the following:

20 “(2) FISCAL YEAR 2012 AND THEREAFTER.—If,
21 at any time in a fiscal year beginning after Sep-
22 tember 30, 2011, a State does not have in effect a
23 law described in subsection (a)(2), the Secretary
24 shall transfer an amount equal to 2 percent of the
25 funds apportioned to the State for the succeeding

402

1 fiscal year under each of paragraphs (1) through (3)
2 of section 104(b) to the apportionment of the State
3 under section 402.”.

4 (f) NATIONAL MINIMUM DRINKING AGE.—Section
5 158(a)(1) of title 23, United States Code, is amended—

6 (1) by striking “The Secretary” and inserting
7 the following:

8 “(A) FISCAL YEARS BEFORE 2012.—The
9 Secretary”; and

10 (2) by adding at the end the following:

11 “(B) FISCAL YEAR 2012 AND THERE-
12 AFTER.—For fiscal year 2012 and each fiscal
13 year thereafter, the amount to be withheld
14 under this section shall be an amount equal to
15 8 percent of the amount apportioned to the
16 noncompliant State, as described in subpara-
17 graph (A), under paragraphs (1) and (2) of sec-
18 tion 104(b).”.

19 (g) DRUG OFFENDERS.—Section 159 of title 23,
20 United States Code, is amended—

21 (1) in subsection (a)—

22 (A) by striking paragraph (1);

23 (B) by redesignating paragraph (2) as
24 paragraph (1);

1 (C) in paragraph (1) (as so redesignated)
2 by striking “(including any amounts withheld
3 under paragraph (1))”; and

4 (D) by inserting after paragraph (1) (as so
5 redesignated) the following:

6 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

7 The Secretary shall withhold an amount equal to 8
8 percent of the amount required to be apportioned to
9 any State under each of paragraphs (1) and (2) of
10 section 104(b) on the first day of each fiscal year
11 beginning after September 30, 2011, if the State
12 fails to meet the requirements of paragraph (3) on
13 the first day of the fiscal year.”; and

14 (2) by striking subsection (b) and inserting the
15 following:

16 “(b) EFFECT OF NONCOMPLIANCE.—No funds with-
17 held under this section from apportionments to any State
18 shall be available for apportionment to that State.”.

19 (h) ZERO TOLERANCE BLOOD ALCOHOL CON-
20 CENTRATION FOR MINORS.—Section 161(a) of title 23,
21 United States Code, is amended—

22 (1) by striking paragraph (1);

23 (2) by redesignating paragraph (2) as para-
24 graph (1);

25 (3) in paragraph (1) (as so redesignated)—

1 (A) by striking the paragraph heading and
2 inserting “PRIOR TO FISCAL YEAR 2012”; and

3 (B) by inserting “through fiscal year
4 2011” after “each fiscal year thereafter”; and

5 (4) by inserting after paragraph (1) (as so re-
6 designated) the following:

7 “(2) FISCAL YEAR 2012 AND THEREAFTER.—
8 The Secretary shall withhold an amount equal to 8
9 percent of the amount required to be apportioned to
10 any State under each of paragraphs (1) and (2) of
11 section 104(b) on October 1, 2011, and on October
12 1 of each fiscal year thereafter, if the State does not
13 meet the requirement of paragraph (3) on that
14 date.”.

15 (i) OPERATION OF MOTOR VEHICLES BY INTOXI-
16 CATED PERSONS.—Section 163(e) of title 23, United
17 States Code, is amended by striking paragraphs (1) and
18 (2) and inserting the following:

19 “(1) FISCAL YEARS 2007 THROUGH 2011.—On
20 October 1, 2006, and October 1 of each fiscal year
21 thereafter through fiscal year 2011, if a State has
22 not enacted or is not enforcing a law described in
23 subsection (a), the Secretary shall withhold an
24 amount equal to 8 percent of the amounts to be ap-

1 portioned to the State on that date under each of
2 paragraphs (1), (3), and (4) of section 104(b).

3 “(2) FISCAL YEAR 2012 AND THEREAFTER.—On
4 October 1, 2011, and October 1 of each fiscal year
5 thereafter, if a State has not enacted or is not en-
6 forcing a law described in subsection (a), the Sec-
7 retary shall withhold an amount equal to 6 percent
8 of the amounts to be apportioned to the State on
9 that date under each of paragraphs (1) and (2) of
10 section 104(b).”.

11 (j) COMMERCIAL DRIVER’S LICENSE.—Section
12 31314 of title 49, United States Code, is amended—

13 (1) by redesignating subsection (c) as sub-
14 section (d); and

15 (2) by inserting after subsection (b) the fol-
16 lowing:

17 “(c) PENALTIES IMPOSED IN FISCAL YEAR 2012
18 AND THEREAFTER.—Effective beginning on October 1,
19 2011—

20 “(1) the penalty for the first instance of non-
21 compliance by a State under this section shall be not
22 more than an amount equal to 4 percent of funds
23 required to be apportioned to the noncompliant
24 State under paragraphs (1) and (2) of section
25 104(b) of title 23; and

1 “(2) the penalty for subsequent instances of
2 noncompliance shall be not more than an amount
3 equal to 8 percent of funds required to be appor-
4 tioned to the noncompliant State under paragraphs
5 (1) and (2) of section 104(b) of title 23.”.

6 **SEC. 1405. HIGHWAY WORKER SAFETY.**

7 (a) **POSITIVE PROTECTIVE DEVICES.**—Not later than
8 60 days after the date of enactment of this Act, the Sec-
9 retary shall modify section 630.1108(a) of title 23, Code
10 of Federal Regulations (as in effect on the date of enact-
11 ment of this Act), to ensure that—

12 (1) at a minimum, positive protective measures
13 are used to separate workers on highway construc-
14 tion projects from motorized traffic in all work zones
15 conducted under traffic in areas that offer workers
16 no means of escape (such as tunnels and bridges),
17 unless an engineering study determines otherwise;

18 (2) temporary longitudinal traffic barriers are
19 used to protect workers on highway construction
20 projects in long-duration stationary work zones when
21 the project design speed is anticipated to be high
22 and the nature of the work requires workers to be
23 within 1 lane-width from the edge of a live travel
24 lane, unless—

1 (A) an analysis by the project sponsor de-
2 termines otherwise; or

3 (B) the project is outside of an urbanized
4 area and the annual average daily traffic load
5 of the applicable road is less than 100 vehicles
6 per hour; and

7 (3) when positive protective devices are nec-
8 essary for highway construction projects, those de-
9 vices are paid for on a unit-pay basis, unless doing
10 so would create a conflict with innovative con-
11 tracting approaches, such as design-build or some
12 performance-based contracts under which the con-
13 tractor is paid to assume a certain risk allocation
14 and payment is generally made on a lump-sum basis.

15 (b) TURNOUT GEAR.—Notwithstanding sections
16 6D.03 and 6E.02 of the Manual on Uniform Traffic Con-
17 trol Devices dated 2009 (as in effect on the date of enact-
18 ment of this Act), any firefighter engaged in any type of
19 operation while working within the right-of-way of a Fed-
20 eral-aid highway may optionally wear for compliance
21 retroreflective turnout gear that is specified and regulated
22 by other organizations, such as the gear specified in Na-
23 tional Fire Protection Association standards 1971 through
24 2007 (as in effect on that date of enactment), in lieu of

1 apparel meeting the requirements under ANSI/ISEA 107–
2 2004 or ANSI/ISEA 207–2006 (as in effect on that date).

3 **Subtitle E—Miscellaneous**

4 **SEC. 1501. PROGRAM EFFICIENCIES.**

5 The first sentence of section 102(b) of title 23,
6 United States Code, is amended by striking “made avail-
7 able for such engineering” and inserting “reimbursed for
8 the preliminary engineering”.

9 **SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.**

10 Section 106 of title 23, United States Code, is
11 amended—

12 (1) in subsection (a)(2) by inserting “recipient”
13 before “formalizing”;

14 (2) in subsection (c)—

15 (A) in paragraph (1)—

16 (i) in the heading, by striking “NON-
17 INTERSTATE”; and

18 (ii) by striking “but not on the Inter-
19 state System”; and

20 (B) by striking paragraph (4) and insert-
21 ing the following:

22 “(4) LIMITATION ON INTERSTATE PROJECTS.—

23 “(A) IN GENERAL.—The Secretary shall
24 not assign any responsibilities to a State for
25 projects the Secretary determines to be in a

1 high risk category, as defined under subpara-
2 graph (B).

3 “(B) HIGH RISK CATEGORIES.—The Sec-
4 retary may define the high risk categories
5 under this subparagraph on a national basis, a
6 State-by-State basis, or a national and State-
7 by-State basis, as determined to be appropriate
8 by the Secretary.”;

9 (3) in subsection (e)—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A)—

12 (I) in the matter preceding clause

13 (i)—

14 (aa) by striking “concept”
15 and inserting “planning”; and

16 (bb) by striking “multidis-
17 ciplined” and inserting “multi-
18 disciplinary”; and

19 (II) by striking clause (i) and in-
20 serting the following:

21 “(i) providing the needed functions
22 and achieving the established commitments
23 (including environmental, community, and
24 agency commitments) safely, reliably, and
25 at the lowest overall lifecycle cost;”; and

1 (ii) in subparagraph (B) by striking
2 clause (ii) and inserting the following:

3 “(ii) refining or redesigning, as appro-
4 priate, the project using different tech-
5 nologies, materials, or methods so as to ac-
6 complish the purpose, functions, and estab-
7 lished commitments (including environ-
8 mental, community, and agency commit-
9 ments) of the project.”;

10 (B) in paragraph (2)—

11 (i) in the matter preceding subpara-
12 graph (A) by striking “or other cost-reduc-
13 tion analysis”;

14 (ii) in subparagraph (A) by striking
15 “Federal-aid system” and inserting “Na-
16 tional Highway System receiving Federal
17 assistance”; and

18 (iii) in subparagraph (B) by inserting
19 “on the National Highway System receiv-
20 ing Federal assistance” after “a bridge
21 project”; and

22 (C) by striking paragraph (4) and insert-
23 ing the following:

24 “(4) REQUIREMENTS.—

1 “(A) VALUE ENGINEERING PROGRAM.—

2 The State shall develop and carry out a value
3 engineering program that—

4 “(i) establishes and documents value
5 engineering program policies and proce-
6 dures;

7 “(ii) ensures that the required value
8 engineering analysis is conducted before
9 completing the final design of a project;

10 “(iii) ensures that the value engineer-
11 ing analysis that is conducted, and the rec-
12 ommendations developed and implemented
13 for each project, are documented in a final
14 value engineering report; and

15 “(iv) monitors, evaluates, and annu-
16 ally submits to the Secretary a report that
17 describes the results of the value analyses
18 that are conducted and the recommenda-
19 tions implemented for each of the projects
20 described in paragraph (2) that are com-
21 pleted in the State.

22 “(B) BRIDGE PROJECTS.—The value engi-
23 neering analysis for a bridge project under
24 paragraph (2) shall—

1 “(i) include bridge superstructure and
2 substructure requirements based on con-
3 struction material; and

4 “(ii) be evaluated by the State—

5 “(I) on engineering and economic
6 bases, taking into consideration ac-
7 ceptable designs for bridges; and

8 “(II) using an analysis of
9 lifecycle costs and duration of project
10 construction.”;

11 (4) in subsection (g)(4) by adding at the end
12 the following:

13 “(C) FUNDING.—

14 “(i) IN GENERAL.—Subject to project
15 approval by the Secretary, a State may ob-
16 ligate funds apportioned to the State under
17 section 104(b)(2) for carrying out the re-
18 sponsibilities of the State under subpara-
19 graph (A).

20 “(ii) ELIGIBLE ACTIVITIES.—Activi-
21 ties eligible for assistance under this sub-
22 paragraph include—

23 “(I) State administration of sub-
24 grants; and

1 “(II) State oversight of subrecipi-
2 ents.

3 “(iii) ANNUAL WORK PLAN.—To re-
4 ceive the funding flexibility made available
5 under this subparagraph, the State shall
6 submit to the Secretary an annual work
7 plan identifying activities to be carried out
8 under this subparagraph during the appli-
9 cable year.

10 “(iv) FEDERAL SHARE.—The Federal
11 share of the cost of activities carried out
12 under this subparagraph shall be 100 per-
13 cent.”; and

14 (5) in subsection (h)—

15 (A) in paragraph (1)(B) by inserting “, in-
16 cluding a phasing plan when applicable” after
17 “financial plan”; and

18 (B) by striking paragraph (3) and insert-
19 ing the following:

20 “(3) FINANCIAL PLAN.—A financial plan—

21 “(A) shall be based on detailed estimates
22 of the cost to complete the project;

23 “(B) shall provide for the annual submis-
24 sion of updates to the Secretary that are based
25 on reasonable assumptions, as determined by

1 the Secretary, of future increases in the cost to
2 complete the project; and

3 “(C) may include a phasing plan that iden-
4 tifies fundable incremental improvements or
5 phases that will address the purpose and the
6 need of the project in the short term in the
7 event there are insufficient financial resources
8 to complete the entire project. If a phasing plan
9 is adopted for a project pursuant to this sec-
10 tion, the project shall be deemed to satisfy the
11 fiscal constraint requirements in the statewide
12 and metropolitan planning requirements in sec-
13 tions 134 and 135.”.

14 **SEC. 1503. STANDARDS.**

15 (a) PRACTICAL DESIGN.—Section 109 of title 23,
16 United States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1) by striking “and” at
19 the end;

20 (B) in paragraph (2) by striking the period
21 at the end and inserting “; and”; and

22 (C) by adding at the end the following:

23 “(3) utilize, when appropriate, practical design
24 solutions, as defined in this section, to ensure that
25 transportation needs are met and that funds avail-

1 able for transportation projects are used effi-
2 ciently.”;

3 (2) in subsection (c)—

4 (A) in paragraph (1), in the matter pre-
5 ceding subparagraph (A)—

6 (i) by striking “, reconstruction, re-
7 surfacing (except for maintenance resur-
8 facing), restoration, or rehabilitation” and
9 inserting “or reconstruction”; and

10 (ii) by striking “may take into ac-
11 count” and inserting “shall consider”;

12 (B) in paragraph (2)—

13 (i) in the first sentence of the matter
14 preceding subparagraph (A) by striking
15 “may” and inserting “shall”;

16 (ii) in subparagraph (C) by striking
17 “and” at the end;

18 (iii) by redesignating subparagraph
19 (D) as subparagraph (F); and

20 (iv) by inserting after subparagraph
21 (C) the following:

22 “(D) the publication entitled ‘Highway
23 Safety Manual’ of the American Association of
24 State Highway and Transportation Officials;

1 “(E) the publication entitled ‘A Guide for
2 Achieving Flexibility in Highway Design, 1st
3 Edition’, published by the American Association
4 of State Highway and Transportation Officials;
5 and”;

6 (3) in subsection (f) by inserting “pedestrian
7 walkways,” after “bikeways,”;

8 (4) in subsection (m) by inserting “, safe, and
9 continuous” after “for a reasonable”;

10 (5) in subsection (q) by striking “consistent
11 with the operative safety management system estab-
12 lished in accordance with section 303 or in accord-
13 ance with” inserting “that is in accordance with a
14 State’s strategic highway safety plan and included
15 on”; and

16 (6) by adding at the end the following:

17 “(r) DEFINITION.—In this section, the term ‘prac-
18 tical design solution’ means a collaborative interdiscipli-
19 nary approach that results in a transportation project that
20 fits its physical setting, preserves safety, and balances
21 costs with the necessary scope and project delivery needs
22 of the project, as well as with scenic, aesthetic, historic,
23 and environmental resources.”.

1 (b) ADDITIONAL STANDARDS.—Section 109 of title
2 23, United States Code (as amended by subsection (a)(6)),
3 is amended by adding at the end the following:

4 “(s) PAVEMENT MARKINGS.—The Secretary shall not
5 approve any pavement markings project that includes the
6 use of glass beads containing more than 200 parts per
7 million of arsenic or lead.”.

8 **SEC. 1504. CONSTRUCTION.**

9 Section 114 of title 23, United States Code, is
10 amended—

11 (1) in subsection (b)—

12 (A) by striking paragraph (1) and insert-
13 ing the following:

14 “(1) LIMITATION ON CONVICT LABOR.—Convict
15 labor shall not be used in construction of Federal-
16 aid highways or portions of Federal-aid highways
17 unless the labor is performed by convicts who are on
18 parole, supervised release, or probation.”; and

19 (B) in paragraph (3) by inserting “in ex-
20 istence during that period” after “located on a
21 Federal-aid system”; and

22 (2) in subsection (c)—

23 (A) by striking paragraph (1) and insert-
24 ing the following:

1 “(1) IN GENERAL.—The Secretary shall ensure
2 that a worker who is employed on a remote project
3 for the construction of a Federal-aid highway or por-
4 tion of a Federal-aid highway in the State of Alaska
5 and who is not a domiciled resident of the locality
6 shall receive meals and lodging.”; and

7 (B) in paragraph (3)(C) by striking “high-
8 way or portion of a highway located on a Fed-
9 eral-aid system” and inserting “Federal-aid
10 highway or portion of a Federal-aid highway”.

11 **SEC. 1505. MAINTENANCE.**

12 Section 116 of title 23, United States Code, is
13 amended—

14 (1) in subsection (a)—

15 (A) in the first sentence, by inserting “or
16 other direct recipient” before “to maintain”;
17 and

18 (B) by striking the second sentence;

19 (2) by striking subsection (b) and inserting the
20 following:

21 “(b) AGREEMENT.—In any State in which the State
22 transportation department or other direct recipient is
23 without legal authority to maintain a project described in
24 subsection (a), the transportation department or direct re-
25 cipient shall enter into a formal agreement with the appro-

1 priate officials of the county or municipality in which the
2 project is located providing for the maintenance of the
3 project.”; and

4 (3) in the first sentence of subsection (c) by in-
5 serting “or other direct recipient” after “State
6 transportation department”.

7 **SEC. 1506. FEDERAL SHARE PAYABLE.**

8 Section 120 of title 23, United States Code, is
9 amended—

10 (1) in the first sentence of subsection (c)(1)—

11 (A) by inserting “maintaining minimum
12 levels of retroreflectivity of highway signs or
13 pavement markings,” after “traffic control sig-
14 nalization,”;

15 (B) by inserting “shoulder and centerline
16 rumble strips and stripes,” after “pavement
17 marking,”; and

18 (C) by striking “Federal-aid systems” and
19 inserting “Federal-aid programs”;

20 (2) in subsection (e)—

21 (A) in the first sentence—

22 (i) in the matter preceding paragraph

23 (1) by striking “on such highway” and in-
24 serting “on the system”; and

1 (ii) in paragraph (2) by striking “for-
2 est highways, forest development roads and
3 trails, park roads and trails, parkways,
4 public lands highways, public lands devel-
5 opment roads and trails, and Indian res-
6 ervation roads” and inserting “Federal
7 land transportation facilities and tribal
8 transportation facilities”; and

9 (B) by striking the second and third sen-
10 tences;

11 (3) by striking subsection (g) and redesignating
12 subsections (h) through (l) as subsections (g)
13 through (k), respectively;

14 (4) in subsection (i)(1)(A) (as redesignated by
15 paragraph (3)) by striking “and the Appalachian de-
16 velopment highway system program under section
17 14501 of title 40”; and

18 (5) by striking subsections (j) and (k) (as re-
19 designated by paragraph (3)) and inserting the fol-
20 lowing:

21 “(j) USE OF FEDERAL AGENCY FUNDS.—Notwith-
22 standing any other provision of law, any Federal funds
23 other than those made available under this title and title
24 49, United States Code, may be used to pay the non-Fed-
25 eral share of the cost of any transportation project that

1 is within, adjacent to, or provides access to Federal land,
2 the Federal share of which is funded under this title or
3 chapter 53 of title 49.

4 “(k) USE OF FEDERAL LAND AND TRIBAL TRANS-
5 PORTATION FUNDS.—Notwithstanding any other provi-
6 sion of law, the funds authorized to be appropriated to
7 carry out the tribal transportation program under section
8 202 and the Federal lands transportation program under
9 section 203 may be used to pay the non-Federal share of
10 the cost of any project that is funded under this title or
11 chapter 53 of title 49 and that provides access to or within
12 Federal or tribal land.”.

13 **SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY**
14 **FUNDS.**

15 (a) IN GENERAL.—Section 126 of title 23, United
16 States Code, is amended to read as follows:

17 **“§ 126. Transferability of Federal-aid highway funds**

18 “(a) IN GENERAL.—Notwithstanding any other pro-
19 vision of law, subject to subsection (b), a State may trans-
20 fer from an apportionment under section 104(b) not to
21 exceed 20 percent of the amount apportioned for the fiscal
22 year to any other apportionment of the State under that
23 section.

1 “(b) APPLICATION TO CERTAIN SET-ASIDES.—Funds
2 that are subject to sections 104(d) and 133(d) shall not
3 be transferred under this section.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 1 of title 23, United States Code, is amended by
6 striking the item relating to section 126 and inserting the
7 following:

“126. Transferability of Federal-aid highway funds.”.

8 **SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NA-**
9 **TIONAL EMERGENCY.**

10 Section 127 of title 23, United States Code, is
11 amended by inserting at the end the following:

12 “(i) SPECIAL PERMITS DURING PERIODS OF NA-
13 TIONAL EMERGENCY.—

14 “(1) IN GENERAL.—Notwithstanding any other
15 provision of this section, a State may issue special
16 permits during an emergency to overweight vehicles
17 and loads that can easily be dismantled or divided
18 if—

19 “(A) the President has declared the emer-
20 gency to be a major disaster under the Robert
21 T. Stafford Disaster Relief and Emergency As-
22 sistance Act (42 U.S.C. 5121 et seq.);

23 “(B) the permits are issued in accordance
24 with State law; and

1 “(C) the permits are issued exclusively to
2 vehicles and loads that are delivering relief sup-
3 plies.

4 “(2) EXPIRATION.—A permit issued under
5 paragraph (1) shall expire not later than 120 days
6 after the date of the declaration of emergency under
7 subparagraph (A) of that paragraph.”.

8 **SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.**

9 (a) FRINGE AND CORRIDOR PARKING FACILITIES.—
10 Section 137 of title 23, United States Code, is amended—

11 (1) in subsection (a) by inserting after the sec-
12 ond sentence the following: “The addition of electric
13 vehicle charging stations to new or previously funded
14 parking facilities shall be eligible for funding under
15 this section.”; and

16 (2) in subsection (f)(1)—

17 (A) by striking “104(b)(4)” and inserting
18 “104(b)(1)”; and

19 (B) by inserting “including the addition of
20 electric vehicle charging stations,” after “new
21 facilities,”.

22 (b) PUBLIC TRANSPORTATION .—Section 142(a)(1)
23 of title 23, United States Code, is amended by inserting
24 “(which may include electric vehicle charging stations)”
25 after “corridor parking facilities”.

1 **SEC. 1510. HOV FACILITIES.**

2 Section 166 of title 23, United States Code, is
3 amended—

4 (1) in subsection (b)(5)—

5 (A) in subparagraph (A) by striking “Be-
6 fore September 30, 2009, the” and inserting
7 “The”; and

8 (B) in subparagraph (B) by striking “Be-
9 fore September 30, 2009, the” and inserting
10 “The”; and

11 (2) in subsection (d)(1)—

12 (A) in the matter preceding subparagraph
13 (A)—

14 (i) by striking “in a fiscal year shall
15 certify” and inserting “shall submit to the
16 Secretary a report demonstrating that the
17 facility is not already degraded, and that
18 the presence of the vehicles will not cause
19 the facility to become degraded, and cer-
20 tify”; and

21 (ii) by striking “in the fiscal year”;

22 (B) in subparagraph (A) by inserting “and
23 submitting to the Secretary annual reports of
24 those impacts” after “adjacent highways”;

25 (C) in subparagraph (C) by striking “if the
26 presence of the vehicles has degraded the oper-

1 ation of the facility” and inserting “whenever
2 the operation of the facility is degraded”; and

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

4 “(D) MAINTENANCE OF OPERATING PER-
5 FORMANCE.—A facility that has become de-
6 graded shall be brought back into compliance
7 with the minimum average operating speed per-
8 formance standard by not later than 180 days
9 after the date on which the degradation is iden-
10 tified through changes to operation, including
11 the following:

12 “(i) Increase the occupancy require-
13 ment for HOVs.

14 “(ii) Increase the toll charged for ve-
15 hicles allowed under subsection (b) to re-
16 duce demand.

17 “(iii) Charge tolls to any class of vehi-
18 cle allowed under subsection (b) that is not
19 already subject to a toll.

20 “(iv) Limit or discontinue allowing ve-
21 hicles under subsection (b).

22 “(v) Increase the available capacity of
23 the HOV facility.

24 “(E) COMPLIANCE.—If the State fails to
25 bring a facility into compliance under subpara-

1 graph (D), the Secretary shall subject the State
2 to appropriate program sanctions under section
3 1.36 of title 23, Code of Federal Regulations
4 (or successor regulations), until the perform-
5 ance is no longer degraded.”.

6 **SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.**

7 (a) IN GENERAL.—Chapter 3 of title 23, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.**

11 “(a) IN GENERAL.—In accordance with the obliga-
12 tion process established pursuant to section 149(j)(4), a
13 State shall expend amounts required to be obligated for
14 this section to install and employ diesel emission control
15 technology on covered equipment, with an engine that does
16 not meet any particulate matter emission standards for
17 the applicable engine power group issued by the Environ-
18 mental Protection Agency, on a covered highway project
19 within a PM_{2.5} nonattainment or maintenance area.

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

22 “(1) COVERED EQUIPMENT.—The term ‘cov-
23 ered construction equipment’ means any off-road
24 diesel equipment or on-road diesel equipment that is
25 operated on a covered highway construction project

1 for not less than 80 hours over the life of the
2 project.

3 “(2) COVERED HIGHWAY CONSTRUCTION
4 PROJECT.—The term ‘covered highway construction
5 project’ means a highway construction project car-
6 ried out under this title or any other Federal law
7 which is funded in whole or in part with Federal
8 funds.

9 “(3) DIESEL EMISSION CONTROL TECH-
10 NOLOGY.—The term ‘diesel emission control tech-
11 nology’ means a technology that—

12 “(A) is—

13 “(i) a diesel exhaust control tech-
14 nology;

15 “(ii) a diesel engine upgrade;

16 “(iii) a diesel engine repower; or

17 “(iv) an idle reduction control tech-
18 nology; and

19 “(B) reduces PM_{2.5} emissions from covered
20 equipment by—

21 “(i) not less than 85 percent control
22 of any emission of particulate matter; or

23 “(ii) the maximum achievable reduc-
24 tion of any emission of particulate matter.

1 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-
2 tity’ means an entity that has entered into a prime
3 contract or agreement with a State to carry out a
4 covered highway construction project.

5 “(5) OFF-ROAD DIESEL EQUIPMENT.—

6 “(A) IN GENERAL.—The term ‘off-road
7 diesel equipment’ means a vehicle, including
8 covered equipment, that is—

9 “(i) powered by a nonroad diesel en-
10 gine of not less than 50 horsepower; and

11 “(ii) not intended for highway use.

12 “(B) INCLUSIONS.—The term ‘off-road
13 diesel equipment’ includes a backhoe, bulldozer,
14 compressor, crane, excavator, generator, and
15 similar equipment.

16 “(C) EXCLUSIONS.—The term ‘off-road
17 diesel equipment’ does not include a locomotive
18 or marine vessel.

19 “(6) ON-ROAD DIESEL EQUIPMENT.—The term
20 ‘on-road diesel equipment’ means any self-propelled
21 vehicle that—

22 “(A) operates on diesel fuel;

23 “(B) is designed to transport persons or
24 property on a street or highway; and

1 “(C) has a gross vehicle weight rating of at
2 least 14,000 pounds.

3 “(7) PM_{2.5} NONATTAINMENT OR MAINTENANCE
4 AREA.—The term ‘PM_{2.5} nonattainment or mainte-
5 nance area’ means a nonattainment or maintenance
6 area designated under section 107(d)(6) of the
7 Clean Air Act (42 U.S.C. 7407(d)(6)).

8 “(c) CRITERIA ELIGIBLE ACTIVITIES.—

9 “(1) DIESEL EXHAUST CONTROL TECH-
10 NOLOGY.—For a diesel exhaust control technology,
11 the technology shall be—

12 “(A) installed on a diesel engine or vehicle;

13 “(B) included in the list of verified or cer-
14 tified technologies for non-road vehicles and
15 non-road engines (as defined in section 216 of
16 the Clean Air Act (42 U.S.C. 7550)) published
17 pursuant to subsection (f)(2) of section 149, as
18 in effect on the day before the date of enact-
19 ment of the MAP-21; and

20 “(C) certified by the installer as having
21 been installed in accordance with the specifica-
22 tions included on the list referred to in sub-
23 clause (II) for achieving a reduction in PM_{2.5}.

1 “(2) DIESEL ENGINE UPGRADE.—For a diesel
2 engine upgrade, the upgrade shall be performed on
3 an engine that is—

4 “(A) rebuilt using new components that
5 collectively appear as a system in the list of
6 verified or certified technologies for non-road
7 vehicles and non-road engines (as defined in
8 section 216 of the Clean Air Act (42 U.S.C.
9 7550)) published pursuant to subsection (f)(2)
10 of section 149, as in effect on the day before
11 the date of enactment of the MAP-21; and

12 “(B) certified by the installer to have been
13 installed in accordance with the specifications
14 included on the list referred to in subclause (I)
15 for achieving a reduction in PM_{2.5}.

16 “(3) DIESEL ENGINE REPOWER.—For a diesel
17 engine repower, the repower shall be conducted on a
18 new or remanufactured diesel engine that is—

19 “(A) installed as a replacement for an en-
20 gine used in the existing equipment, subject to
21 the condition that the replaced engine is—

22 “(i) used for scrap;

23 “(ii) permanently disabled; or

24 “(iii) returned to the original manu-
25 facturer for remanufacture to a PM level

1 that is at least equivalent to a Tier 2 emis-
2 sion standard; and

3 “(B) certified by the engine manufacturer
4 as meeting the emission standards for new vehi-
5 cles for the applicable engine power group es-
6 tablished by the Environmental Protection
7 Agency as in effect on the date on which the
8 engine is remanufactured.

9 “(4) IDLE REDUCTION CONTROL TECH-
10 NOLOGY.—For an idle reduction control technology,
11 the technology shall be—

12 “(A) installed on a diesel engine or vehicle;

13 “(B) included in the list of verified or cer-
14 tified technologies for non-road vehicles and
15 non-road engines (as defined in section 216 of
16 the Clean Air Act (42 U.S.C. 7550)) published
17 pursuant to subsection (f)(2) of section 149, as
18 in effect on the day before the date of enact-
19 ment of the MAP-21; and

20 “(C) certified by the installer as having
21 been installed in accordance with the specifica-
22 tions included on the list referred to in sub-
23 clause (II) for achieving a reduction in PM_{2.5}.”.

24 (b) SAVINGS CLAUSE.—Nothing in this section modi-
25 fies or otherwise affects any authority or restrictions es-

1 tablished under the Clean Air Act (42 U.S.C. 7401 et
2 seq.).

3 (c) REPORT TO CONGRESS.—

4 (1) IN GENERAL.—Not later than 21 years
5 after the date of enactment of this Act, the Sec-
6 retary of Transportation shall submit to the Com-
7 mittee on Transportation and Infrastructure of the
8 House of Representatives and the Committee on En-
9 vironment and Public Works of the Senate a report
10 that describes the manners in which section 330 of
11 title 23, United States Code (as added by subsection
12 (a)) has been implemented, including the quantity of
13 covered equipment serviced under those sections and
14 the costs associated with servicing the covered equip-
15 ment.

16 (2) INFORMATION FROM STATES.—The Sec-
17 retary shall require States and recipients, as a con-
18 dition of receiving amounts under this Act or under
19 the provisions of any amendments made by this Act,
20 to submit to the Secretary any information that the
21 Secretary determines necessary to complete the re-
22 port under paragraph (1).

23 (d) TECHNICAL AMENDMENT.—The analysis for
24 chapter 3 of title 23, United States Code, is amended by
25 adding at the end the following:

“330. Construction equipment and vehicles.”.

1 **SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES**
2 **AND OVERPASSES.**

3 Section 1805(a) of the SAFETEA-LU (23 U.S.C.
4 144 note; 119 Stat. 1459) is amended by striking “high-
5 way bridge replacement and rehabilitation program under
6 section 144” and inserting “national highway performance
7 program under section 119”.

8 **SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-**
9 **EMPTION FROM AXLE WEIGHT RESTRIC-**
10 **TIONS.**

11 Section 1023(h)(1) of the Intermodal Surface Trans-
12 portation Efficiency Act of 1991 (23 U.S.C. 127 note;
13 Public Law 102–388) is amended by striking “, for the
14 period beginning on October 6, 1992, and ending on Octo-
15 ber 1, 2009,”.

16 **SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT**
17 **AMENDMENTS.**

18 (a) MOVING AND RELATED EXPENSES.—Section 202
19 of the Uniform Relocation Assistance and Real Property
20 Acquisition Policies Act of 1970 (42 U.S.C. 4622) is
21 amended—

22 (1) in subsection (a)(4) by striking “\$10,000”
23 and inserting “\$25,000, as adjusted by regulation,
24 in accordance with section 213(d)”; and

25 (2) in the second sentence of subsection (c) by
26 striking “\$20,000” and inserting “\$40,000, as ad-

1 justed by regulation, in accordance with section
2 213(d)”.

3 (b) REPLACEMENT HOUSING FOR HOMEOWNERS.—

4 The first sentence of section 203(a)(1) of the Uniform Re-
5 location Assistance and Real Property Acquisition Policies
6 Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—

7 (1) by striking “\$22,500” and inserting
8 “\$31,000, as adjusted by regulation, in accordance
9 with 213(d),”; and

10 (2) by striking “one hundred and eighty days
11 prior to” and inserting “90 days before”.

12 (c) REPLACEMENT HOUSING FOR TENANTS AND

13 CERTAIN OTHERS.—Section 204 of the Uniform Reloca-
14 tion Assistance and Real Property Acquisition Policies Act
15 of 1970 (42 U.S.C. 4624) is amended—

16 (1) in the second sentence of subsection (a) by
17 striking “\$5,250” and inserting “\$7,200, as ad-
18 justed by regulation, in accordance with section
19 213(d),”; and

20 (2) in the second sentence of subsection (b) by
21 striking “, except” and all that follows through the
22 end of the subsection and inserting a period.

23 (d) DUTIES OF LEAD AGENCY.—Section 213 of the

24 Uniform Relocation Assistance and Real Property Acquisi-
25 tion Policies Act of 1970 (42 U.S.C. 4633) is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (2) by striking “and” at
3 the end;

4 (B) in paragraph (3) by striking the period
5 at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(4) that each Federal agency that has pro-
8 grams or projects requiring the acquisition of real
9 property or causing a displacement from real prop-
10 erty subject to the provisions of this Act shall pro-
11 vide to the lead agency an annual summary report
12 the describes the activities conducted by the Federal
13 agency.”; and

14 (2) by adding at the end the following:

15 “(d) ADJUSTMENT OF PAYMENTS.—The head of the
16 lead agency may adjust, by regulation, the amounts of re-
17 location payments provided under sections 202(a)(4),
18 202(e), 203(a), and 204(a) if the head of the lead agency
19 determines that cost of living, inflation, or other factors
20 indicate that the payments should be adjusted to meet the
21 policy objectives of this Act.”.

22 (e) AGENCY COORDINATION.—Title II of the Uni-
23 form Relocation Assistance and Real Property Acquisition
24 Policies Act of 1970 is amended by inserting after section
25 213 (42 U.S.C. 4633) the following:

1 **“SEC. 214. AGENCY COORDINATION.**

2 “(a) AGENCY CAPACITY.—Each Federal agency re-
3 sponsible for funding or carrying out relocation and acqui-
4 sition activities shall have adequately trained personnel
5 and such other resources as are necessary to manage and
6 oversee the relocation and acquisition program of the Fed-
7 eral agency in accordance with this Act.

8 “(b) INTERAGENCY AGREEMENTS.—Not later than 1
9 year after the date of enactment of this section, each Fed-
10 eral agency responsible for funding relocation and acquisi-
11 tion activities (other than the agency serving as the lead
12 agency) shall enter into a memorandum of understanding
13 with the lead agency that—

14 “(1) provides for periodic training of the per-
15 sonnel of the Federal agency, which in the case of
16 a Federal agency that provides Federal financial as-
17 sistance, may include personnel of any displacing
18 agency that receives Federal financial assistance;

19 “(2) addresses ways in which the lead agency
20 may provide assistance and coordination to the Fed-
21 eral agency relating to compliance with the Act on
22 a program or project basis; and

23 “(3) addresses the funding of the training, as-
24 sistance, and coordination activities provided by the
25 lead agency, in accordance with subsection (c).

26 “(c) INTERAGENCY PAYMENTS.—

1 “(1) IN GENERAL.—For the fiscal year that be-
2 gins 1 year after the date of enactment of this sec-
3 tion, and each fiscal year thereafter, each Federal
4 agency responsible for funding relocation and acqui-
5 sition activities (other than the agency serving as the
6 lead agency) shall transfer to the lead agency for the
7 fiscal year, such funds as are necessary, but not less
8 than \$35,000, to support the training, assistance,
9 and coordination activities of the lead agency de-
10 scribed in subsection (b).

11 “(2) INCLUDED COSTS.—The cost to a Federal
12 agency of providing the funds described in para-
13 graph (1) shall be included as part of the cost of 1
14 or more programs or projects undertaken by the
15 Federal agency or with Federal financial assistance
16 that result in the displacement of persons or the ac-
17 quisition of real property.”.

18 (f) COOPERATION WITH FEDERAL AGENCIES.—Sec-
19 tion 308 of title 23, United States Code, is amended by
20 striking subsection (a) and inserting the following:

21 “(a) AUTHORIZED ACTIVITIES.—

22 “(1) IN GENERAL.—The Secretary may per-
23 form, by contract or otherwise, authorized engineer-
24 ing or other services in connection with the survey,
25 construction, maintenance, or improvement of high-

1 ways for other Federal agencies, cooperating foreign
2 countries, and State cooperating agencies.

3 “(2) INCLUSIONS.—Services authorized under
4 paragraph (1) may include activities authorized
5 under section 214 of the Uniform Relocation Assist-
6 ance and Real Property Acquisition Policies Act of
7 1970.

8 “(3) REIMBURSEMENT.—Reimbursement for
9 services carried out under this subsection (including
10 depreciation on engineering and road-building equip-
11 ment) shall be credited to the applicable appropria-
12 tion.”.

13 (g) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall take effect on the date of enactment of this
17 Act.

18 (2) EXCEPTION.—The amendments made by
19 subsections (a) through (c) shall take effect 2 years
20 after the date of enactment of this Act.

21 **SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION**
22 **CORPS.**

23 (a) IN GENERAL.—The Secretary shall encourage the
24 States and regional transportation planning agencies to
25 enter into contracts and cooperative agreements with

1 Healthy Futures Corps under section 122(a)(2) of the Na-
2 tional and Community Service Act of 1990 (42 U.S.C.
3 12572(a)(2)) or qualified urban youth corps (as defined
4 in section 106(c) of the National and Community Service
5 Trust Act of 1993 (42 U.S.C. 12656(c)) to perform—

6 (1) appropriate projects eligible under sections
7 162, 206, and 217 of title 23, United States Code;

8 (2) appropriate transportation enhancement ac-
9 tivities (as defined in section 101(a) of such title);

10 (3) appropriate transportation byway, trail, or
11 bicycle and pedestrian projects under section 204 of
12 such title; and

13 (4) appropriate safe routes to school projects
14 under section 1404 of the SAFETEA-LU (23
15 U.S.C. 402 note; 119 Stat. 1228).

16 (b) REQUIREMENTS.—Under any contract or cooper-
17 ative agreement entered into with a Healthy Futures
18 Corps or qualified urban youth corps under this section,
19 the Secretary—

20 (1) shall establish the amount of a living allow-
21 ance or rate of pay for each participant in such
22 corps—

23 (A) at such amount or rate as is required
24 under State law in a State with such a require-
25 ment; or

1 (B) for corps in a State not described in
2 subparagraph (A), at such amount or rate as
3 determined by the Secretary, not to exceed the
4 maximum living allowance authorized by section
5 140 of the National and Community Service
6 Act of 1990 (42 U.S.C. 12594); and

7 (2) shall not subject such corps to the require-
8 ments of section 112 of title 23, United States Code.

9 **SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OB-**
10 **SOLETE PROVISIONS.**

11 (a) CONSOLIDATION OF PROGRAMS.—From adminis-
12 trative funds made available under section 104(a) of title
13 23, United States Code, not less than \$10,000,000 for
14 each fiscal year shall be made available for the following
15 activities:

16 (1) To carry out the operation lifesaver pro-
17 gram—

18 (A) to provide public information and edu-
19 cation programs to help prevent and reduce
20 motor vehicle accidents, injuries, and fatalities;
21 and

22 (B) to improve driver performance at rail-
23 way-highway crossings.

24 (2) To operate the national work zone safety in-
25 formation clearinghouse authorized by section

1 358(b)(2) of the National Highway System Designa-
2 tion Act of 1995 (23 U.S.C. 401 note; 109 Stat.
3 625)

4 (3) To operate a public road safety clearing-
5 house in accordance with section 1411(a) of the
6 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.
7 1234).

8 (4) To operate a bicycle and pedestrian safety
9 clearinghouse in accordance with section 1411(b) of
10 the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.
11 1234).

12 (5) To operate a national safe routes to school
13 clearinghouse in accordance with section 1404(g) of
14 the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.
15 1229).

16 (6) To provide work zone safety grants in ac-
17 cordance with subsections (a) and (b) of section
18 1409 of the SAFETEA-LU (23 U.S.C. 401 note;
19 119 Stat. 1232).

20 (b) REPEALS.—Sections 105, 110, 117, 124, 147,
21 151, 155, 160, and 303 of title 23, United States Code,
22 are repealed.

23 (c) CONFORMING AMENDMENTS.—

24 (1) TITLE ANALYSIS.—The analysis for title 23,
25 United States Code, is amended by striking the

1 items relating to sections 105, 110, 117, 124, 147,
2 152, 155, 160, and 303 of that title.

3 (2) SECTION 118.—Section 118 of such title is
4 amended—

5 (A) in subsection (b)—

6 (i) by striking paragraph (1) and all
7 that follows through the heading of para-
8 graph (2); and

9 (ii) by striking “(other than for Inter-
10 state construction)”; and

11 (B) by striking subsection (c); and

12 (C) by redesignating subsections (d) and
13 (e) as subsections (c) and (d), respectively.

14 (3) SECTION 130.—Section 130 of such title is
15 amended—

16 (A) by striking subsections (e) through (h);

17 (B) by redesignating subsection (i) as sub-
18 section (e);

19 (C) by striking subsections (j) and (k);

20 (D) by redesignating subsection (l) as sub-
21 section (f);

22 (E) in subsection (e) (as so redesignated)
23 by striking “this section” **【**the second place it
24 appears**】** and inserting “section 104(b)(3)”;
25 and

1 (F) in subsection (f) (as so redesignated)
2 by striking paragraphs (3) and (4).

3 (4) SECTION 142.—Section 142 of title 23,
4 United States Code, is amended—

5 (A) in subsection (a)—

6 (i) in paragraph (1)—

7 (I) by striking “motor vehicles
8 (other than rail)” and inserting
9 “buses”;

10 (II) by striking “(hereafter in
11 this section referred to as ‘buses’)”;

12 (III) by striking “Federal-aid
13 systems” and inserting “Federal-aid
14 highways”; and

15 (IV) by striking “Federal-aid sys-
16 tem” and inserting “Federal-aid high-
17 way”; and

18 (ii) in paragraph (2)—

19 (I) by striking “as a project on
20 the the surface transportation pro-
21 gram for”; and

22 (II) by striking “section
23 104(b)(3)” and inserting “section
24 104(b)(2);

1 (B) in subsection (b) by striking
2 “104(b)(4)” and inserting “104(b)(1)”;

3 (C) in subsection (c)—

4 (i) by striking “system” in each place
5 it appears and inserting “highway”; and

6 (ii) by striking “highway facilities”
7 and inserting “highways eligible under the
8 program that is the source of the funds”;

9 (D) in subsection (e)(2)—

10 (i) by striking “Notwithstanding sec-
11 tion 209(f)(1) of the Highway Revenue Act
12 of 1956, the Highway Trust Fund shall be
13 available for making expenditures to meet
14 obligations resulting from projects author-
15 ized by subsection (a)(2) of this section
16 and such projects” and inserting “Projects
17 authorized by subsection (a)(2)”;

18 (ii) striking “on the surface transpor-
19 tation program” and inserting “under the
20 transportation mobility program”; and

21 (E) in subsection (f) by striking “exits”
22 and inserting “exists”.

23 (5) SECTION 145.—Section 145(b) of title 23,
24 United States Code, is amended by striking “section
25 117 of this title.”

1 (6) SECTION 322.—Section 322(h)(3) of title
2 23, United States Code, is amended by striking
3 “surface transportation program” and inserting “the
4 transportation mobility program”.

5 **SEC. 1517. RESCISSIONS.**

6 (a) FISCAL YEAR 2012.—

7 (1) Not later than 30 days after the date of en-
8 actment of this Act, of the unobligated balances
9 available under sections 144(f) and 320 of title 23,
10 United States Code, section 147 of Public Law 95–
11 599 (23 U.S.C. 144 note; 92 Stat. 2714), section
12 9(c) of Public Law 97–134 (95 Stat. 1702), section
13 149 of Public Law 100–17 (101 Stat. 181), sections
14 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108,
15 6005, 6015, and 6023 of Public Law 102–240 (105
16 Stat. 1914), section 1602 of Public Law 105–178
17 (112 Stat. 256), sections 1301, 1302, 1702, and
18 1934 of Public Law 109–59 (119 Stat. 1144), and
19 of other funds apportioned to each State under
20 chapter 1 of title 23, United States Code, prior to
21 the date of enactment of this Act, \$2,391,000,000
22 are permanently rescinded.

23 (2) In administering the rescission required
24 under this subsection, the Secretary shall allow each
25 State to determine the amount of the required re-

1 **TITLE II—RESEARCH AND**
2 **EDUCATION**
3 **Subtitle A—Funding**

4 **SEC. 2101. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—The following amounts are au-
6 thorized to be appropriated out of the Highway Trust
7 Fund (other than the Mass Transit Account):

8 (1) HIGHWAY RESEARCH AND DEVELOPMENT
9 PROGRAM.—To carry out sections 503(b) and 509 of
10 title 23, United States Code, \$90,000,000 for each
11 of fiscal years 2012 and 2013.

12 (2) TECHNOLOGY AND INNOVATION DEPLOY-
13 MENT PROGRAM.—To carry out section 503(c) of
14 title 23, United States Code, \$90,000,000 for each
15 of fiscal years 2012 and 2013.

16 (3) TRAINING AND EDUCATION.—To carry out
17 section 504 of title 23, United States Code,
18 \$24,000,000 for each of fiscal years 2012 and 2013.

19 (4) INTELLIGENT TRANSPORTATION SYSTEMS
20 PROGRAM.—To carry out sections 512 through 518
21 of title 23, United States Code, \$100,000,000 for
22 each of fiscal years 2012 and 2013.

23 (5) UNIVERSITY TRANSPORTATION CENTERS
24 PROGRAM.—To carry out section 5505 of title 49,

1 United States Code, \$70,000,000 for each of fiscal
2 years 2012 and 2013.

3 (6) BUREAU OF TRANSPORTATION STATIS-
4 TICS.—To carry out chapter 65 of title 49, United
5 States Code, \$26,000,000 for each of fiscal years
6 2012 and 2013.

7 (b) APPLICABILITY OF TITLE 23, UNITED STATES
8 CODE.—Funds authorized to be appropriated by sub-
9 section (a) shall—

10 (1) be available for obligation in the same man-
11 ner as if those funds were apportioned under chap-
12 ter 1 of title 23, United States Code, except that the
13 Federal share of the cost of a project or activity car-
14 ried out using those funds shall be 80 percent, un-
15 less otherwise expressly provided by this Act (includ-
16 ing the amendments by this Act) or otherwise deter-
17 mined by the Secretary; and

18 (2) remain available until expended and not be
19 transferable.

20 **Subtitle B—Research, Technology,**
21 **and Education**

22 **SEC. 2201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

23 Section 501 of title 23, United States Code, is
24 amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (8);

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

5 “(2) INCIDENT.—The term ‘incident’ means a
6 crash, natural disaster, workzone activity, special
7 event, or other emergency road user occurrence that
8 adversely affects or impedes the normal flow of traf-
9 fic.

10 “(3) INNOVATION LIFECYCLE.—The term ‘inno-
11 vation lifecycle’ means the process of innovating
12 through—

13 “(A) the identification of a need;

14 “(B) the establishment of the scope of re-
15 search to address that need;

16 “(C) setting an agenda;

17 “(D) carrying out research, development,
18 deployment, and testing of the resulting tech-
19 nology or innovation; and

20 “(E) carrying out an evaluation of the im-
21 pact of the resulting technology or innovation.

22 “(4) INTELLIGENT TRANSPORTATION INFRA-
23 STRUCTURE.—The term ‘intelligent transportation
24 infrastructure’ means fully integrated public sector

1 intelligent transportation system components, as de-
2 fined by the Secretary.

3 “(5) INTELLIGENT TRANSPORTATION SYS-
4 TEM.—The terms ‘intelligent transportation system’
5 and ‘ITS’ mean electronics, photonics, communica-
6 tions, or information processing used singly or in
7 combination to improve the efficiency or safety of a
8 surface transportation system.

9 “(6) NATIONAL ARCHITECTURE.—For purposes
10 of this chapter, the term ‘national architecture’
11 means the common framework for interoperability
12 that defines—

13 “(A) the functions associated with intel-
14 ligent transportation system user services;

15 “(B) the physical entities or subsystems
16 within which the functions reside;

17 “(C) the data interfaces and information
18 flows between physical subsystems; and

19 “(D) the communications requirements as-
20 sociated with the information flows.

21 “(7) PROJECT.—The term ‘project’ means an
22 undertaking to research, develop, or operationally
23 test intelligent transportation systems or any other
24 undertaking eligible for assistance under this chap-
25 ter.”; and

1 (3) by inserting after paragraph (8) (as so re-
2 designated) the following:

3 “(9) STANDARD.—The term ‘standard’ means a
4 document that—

5 “(A) contains technical specifications or
6 other precise criteria for intelligent transpor-
7 tation systems that are to be used consistently
8 as rules, guidelines, or definitions of character-
9 istics so as to ensure that materials, products,
10 processes, and services are fit for the intended
11 purposes of the materials, products, processes,
12 and services; and

13 “(B) may support the national architecture
14 and promote—

15 “(i) the widespread use and adoption
16 of intelligent transportation system tech-
17 nology as a component of the surface
18 transportation systems of the United
19 States; and

20 “(ii) interoperability among intelligent
21 transportation system technologies imple-
22 mented throughout the States.”.

1 **SEC. 2202. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.**
2

3 (a) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.—Section 502 of title 23,
4 United States Code, is amended—

6 (1) in the section heading by inserting “, DEVELOPMENT, AND TECHNOLOGY” after “SURFACE TRANSPORTATION RESEARCH”;
7
8

9 (2) in subsection (a)—

10 (A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;
11
12

13 (B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:
14
15

16 “(1) APPLICABILITY.—The research, development, and technology provisions of this section shall
17 apply throughout this chapter.”;
18

19 (C) in paragraph (2) (as redesignated by subparagraph (A))—
20

21 (i) by inserting “within the innovation lifecycle” after “activities”; and
22

23 (ii) by inserting “marketing and communications, impact analysis,” after
24 “training”;
25

1 (D) in paragraph (3) (as redesignated by
2 subparagraph (A))—

3 (i) in subparagraph (B) by striking
4 “supports research in which there is a
5 clear public benefit and” and inserting
6 “delivers a clear public benefit and occurs
7 where”;

8 (ii) in subparagraph (C) by striking
9 “or” after the semicolon;

10 (iii) by redesignating subparagraph
11 (D) as subparagraph (H); and

12 (iv) by inserting after subparagraph
13 (C) the following:

14 “(D) meets and addresses current or
15 emerging needs;

16 “(E) presents the best means to align re-
17 sources with multiyear plans and priorities;

18 “(F) ensures the coordination of highway
19 research and technology transfer activities, in-
20 cluding through activities performed by univer-
21 sity transportation centers;

22 “(G) educates current and future transpor-
23 tation professionals; or”;

1 (E) in paragraph (4) (as redesignated by
2 subparagraph (A)) by striking subparagraphs
3 (B) through (D) and inserting the following:

4 “(B) partner with State highway agencies
5 and other stakeholders as appropriate, includ-
6 ing international entities, to facilitate research
7 and technology transfer activities;

8 “(C) communicate the results of ongoing
9 and completed research;

10 “(D) lead efforts to coordinate national
11 emphasis areas of highway research, technology,
12 and innovation deployment;

13 “(E) leverage partnerships with industry,
14 academia, and international entities; and

15 “(F) conduct, facilitate, and support train-
16 ing and education of current and future trans-
17 portation professionals.”;

18 (F) in paragraph (5)(C) (as redesignated
19 by subparagraph (A)) by striking “policy and
20 planning” and inserting “all highway objectives
21 seeking to improve the performance of the
22 transportation system”;

23 (G) in paragraph (6) (as redesignated by
24 subparagraph (A)) in the second sentence, by

1 inserting “tribal governments,” after “local gov-
2 ernments,”; and

3 (H) in paragraph (8) (as redesignated by
4 subparagraph (A))—

5 (i) in the first sentence, by striking
6 “To the maximum” and inserting the fol-
7 lowing:

8 “(A) IN GENERAL.—To the maximum”;

9 (ii) in the second sentence, by striking
10 “Performance measures” and inserting the
11 following:

12 “(B) PERFORMANCE MEASURES.—Per-
13 formance measures”;

14 (iii) in the third sentence, by striking
15 “All evaluations” and inserting the fol-
16 lowing:

17 “(D) AVAILABILITY OF EVALUATIONS.—All
18 evaluations under this paragraph”; and

19 (iv) by inserting after subparagraph
20 (B) the following:

21 “(C) PROGRAM PLAN.—To the maximum
22 extent practicable, each program pursued under
23 this chapter shall be part of a data-driven, out-
24 come-oriented program plan.”;

25 (3) in subsection (b)—

1 (A) in paragraph (4) by striking “surface
2 transportation research and technology develop-
3 ment strategic plan developed under section
4 508” and inserting “the transportation research
5 and development strategic plan of the Sec-
6 retary”;

7 (B) in paragraph (5) by striking “section”
8 each place it appears and inserting “chapter”;

9 (C) in paragraph (6) by adding at the end
10 the following:

11 “(C) TRANSFER OF AMOUNTS AMONG
12 STATES OR TO FEDERAL HIGHWAY ADMINIS-
13 TRATION.—The Secretary may, at the request
14 of a State, transfer amounts apportioned or al-
15 located to that State under this chapter to an-
16 other State or the Federal Highway Adminis-
17 tration to fund research, development, and tech-
18 nology transfer activities of mutual interest on
19 a pooled funds basis.

20 “(D) TRANSFER OF OBLIGATION AUTHOR-
21 ITY.—Obligation authority for amounts trans-
22 ferred under this subsection shall be disbursed
23 in the same manner and for the same amount
24 as provided for the project being transferred.”;
25 and

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

2 “(7) PRIZE COMPETITIONS.—

3 “(A) IN GENERAL.—The Secretary may
4 carry out prize competitions to award competi-
5 tive prizes for surface transportation innova-
6 tions that have the potential for application to
7 the research and technology objectives and ac-
8 tivities of the Federal Highway Administration
9 to improve system performance.

10 “(B) REQUIREMENTS.—

11 “(i) IN GENERAL.—The Secretary
12 shall use a competitive process for the se-
13 lection of prize recipients and shall widely
14 advertise and solicit participation in prize
15 competitions under this paragraph.

16 “(ii) REGISTRATION REQUIRED.—No
17 individual or entity shall participate in a
18 prize competition under this paragraph un-
19 less the individual or entity has registered
20 with the Secretary in accordance with the
21 eligibility requirements established by the
22 Secretary under clause (iii).

23 “(iii) MINIMUM REQUIREMENTS.—The
24 Secretary shall establish eligibility require-
25 ments for participation in each prize com-

1 petition under this paragraph, which, at a
2 minimum, shall—

3 “(I) limit participation in the
4 prize competition to—

5 “(aa) individuals who are
6 citizens of the United States;

7 “(bb) entities organized or
8 existing under the laws of the
9 United States or of a State; and

10 “(cc) entities organized or
11 existing under the laws of a for-
12 eign country, if the controlling
13 interest, as defined by the Sec-
14 retary, is held by an individual or
15 entity described in item (aa) or
16 (bb);

17 “(II) require any individual or
18 entity that registers for a prize com-
19 petition—

20 “(aa) to assume all risks
21 arising from participation in the
22 competition; and

23 “(bb) to waive all claims
24 against the Federal Government
25 for any damages arising out of

1 participation in the competition,
2 including all claims, whether
3 through negligence or otherwise,
4 except in the case of willful mis-
5 conduct, for—

6 “(AA) injury, death,
7 damage, or loss of property;

8 or

9 “(BB) loss of revenue
10 or profits, whether direct,
11 indirect, or consequential;
12 and

13 “(III) require any individual or
14 entity that registers for a prize com-
15 petition to waive all claims against
16 any non-Federal entity operating or
17 managing the prize competition, such
18 as a private contractor managing
19 competition activities, to the extent
20 that the Secretary believes is nec-
21 essary to protect the interests of the
22 Federal Government.

23 “(C) RELATIONSHIP TO OTHER AUTHOR-
24 ITY.—The Secretary may exercise the authority
25 in this section in conjunction with, or in addi-

1 tion to, any other authority of the Secretary to
2 acquire, support, or stimulate innovations with
3 the potential for application to the Federal
4 highway research technology and education pro-
5 gram.”;

6 (4) in subsection (c)—

7 (A) in paragraph (3)(A)—

8 (i) by striking “subsection” and in-
9 serting “chapter”; and

10 (ii) by striking “50” and inserting
11 “80”; and

12 (B) in paragraph (4) by striking “sub-
13 section” and inserting “chapter”; and

14 (5) by striking subsections (d) through (j).

15 (b) CONFORMING AMENDMENT.—The analysis for
16 chapter 5 of title 23, United States Code, is amended by
17 striking the item relating to section 502 and inserting the
18 following:

“502. Surface transportation research, development, and technology.”.

19 **SEC. 2203. RESEARCH AND TECHNOLOGY DEVELOPMENT**
20 **AND DEPLOYMENT.**

21 (a) IN GENERAL.—Section 503 of title 23, United
22 States Code, is amended to read as follows:

23 **“§ 503. Research and technology development and de-**
24 **ployment**

25 “(a) IN GENERAL.—The Secretary shall—

1 activities from an integrated perspective to
2 establish and implement systematic meas-
3 ures to improve highway safety.

4 “(ii) OBJECTIVES.—In carrying out
5 this subparagraph the Secretary shall
6 carry out research and development activi-
7 ties—

8 “(I) to achieve greater long-term
9 safety gains;

10 “(II) to reduce the number of fa-
11 talities and serious injuries on public
12 roads;

13 “(III) to fill knowledge gaps that
14 limit the effectiveness of research;

15 “(IV) to support the development
16 and implementation of State strategic
17 highway safety plans;

18 “(V) to advance improvements
19 in, and use of, performance prediction
20 analysis for decisionmaking; and

21 “(VI) to expand technology
22 transfer to partners and stakeholders.

23 “(iii) CONTENTS.—Research and tech-
24 nology activities carried out under this
25 subparagraph may include—

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- 1 “(I) safety assessments and deci-
2 sionmaking tools;
- 3 “(II) data collection and analysis;
- 4 “(III) crash reduction projec-
5 tions;
- 6 “(IV) low-cost safety counter-
7 measures;
- 8 “(V) innovative operational im-
9 provements and designs of roadway
10 and roadside features;
- 11 “(VI) evaluation of counter-
12 measure costs and benefits;
- 13 “(VII) development of tools for
14 projecting impacts of safety counter-
15 measures;
- 16 “(VIII) rural road safety meas-
17 ures;
- 18 “(IX) safety measures for vulner-
19 able road users, including bicyclists
20 and pedestrians;
- 21 “(X) safety policy studies;
- 22 “(XI) human factors studies and
23 measures;
- 24 “(XII) safety technology deploy-
25 ment;

1 “(XIII) safety workforce profes-
2 sional capacity building initiatives;

3 “(XIV) safety program and proc-
4 ess improvements; and

5 “(XV) tools and methods to en-
6 hance safety performance, including
7 achievement of statewide safety per-
8 formance targets.

9 “(B) IMPROVING INFRASTRUCTURE INTEG-
10 RITY.—

11 “(i) IN GENERAL.—The Secretary
12 shall carry out and facilitate highway in-
13 frastructure research and development ac-
14 tivities—

15 “(I) to maintain infrastructure
16 integrity;

17 “(II) to meet user needs; and

18 “(III) to link Federal transpor-
19 tation investments to improvements in
20 system performance.

21 “(ii) OBJECTIVES.—In carrying out
22 this subparagraph, the Secretary shall
23 carry out research and development activi-
24 ties—

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1 “(I) to reduce the number of fa-
2 talities attributable to infrastructure
3 design characteristics and work zones;

4 “(II) to improve the safety and
5 security of highway infrastructure;

6 “(III) to increase the reliability
7 of lifecycle performance predictions
8 used in infrastructure design, con-
9 struction, and management;

10 “(IV) to improve the ability of
11 transportation agencies to deliver
12 projects that meet expectations for
13 timeliness, quality, and cost;

14 “(V) to reduce user delay attrib-
15 utable to infrastructure system per-
16 formance, maintenance, rehabilitation,
17 and construction;

18 “(VI) to improve highway condi-
19 tion and performance through in-
20 creased use of design, materials, con-
21 struction, and maintenance innova-
22 tions;

23 “(VII) to reduce the lifecycle en-
24 vironmental impacts of highway infra-
25 structure through innovations in de-

1 sign, construction, operation, preser-
2 vation, and maintenance; and

3 “(VIII) to study vulnerabilities of
4 the transportation system to seismic
5 activities and extreme events and
6 methods to reduce those
7 vulnerabilities.

8 “(iii) CONTENTS.—Research and tech-
9 nology activities carried out under this
10 subparagraph may include—

11 “(I) long-term infrastructure per-
12 formance programs addressing pave-
13 ments, bridges, tunnels, and other
14 structures;

15 “(II) short-term and accelerated
16 studies of infrastructure performance;

17 “(III) research to develop more
18 durable infrastructure materials and
19 systems;

20 “(IV) advanced infrastructure de-
21 sign methods;

22 “(V) accelerated highway con-
23 struction;

24 “(VI) performance-based speci-
25 fications;

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1 “(VII) construction and materials
2 quality assurance;

3 “(VIII) comprehensive and inte-
4 grated infrastructure asset manage-
5 ment;

6 “(IX) infrastructure safety assur-
7 ance;

8 “(X) highway infrastructure se-
9 curity;

10 “(XI) sustainable infrastructure
11 design and construction;

12 “(XII) infrastructure rehabilita-
13 tion and preservation techniques, in-
14 cluding techniques to rehabilitate and
15 preserve historic infrastructure;

16 “(XIII) hydraulic, geotechnical,
17 and aerodynamic aspects of infra-
18 structure;

19 “(XIV) improved highway con-
20 struction technologies and practices;

21 “(XV) improved tools, tech-
22 nologies, and models for infrastruc-
23 ture management, including assess-
24 ment and monitoring of infrastructure
25 condition;

1 “(XVI) studies to improve flexi-
2 bility and resiliency of infrastructure
3 systems to withstand climate varia-
4 bility;

5 “(XVII) studies of infrastructure
6 resilience and other adaptation meas-
7 ures; and

8 “(XVIII) maintenance of seismic
9 research activities, including research
10 carried out in conjunction with other
11 Federal agencies to study the vulner-
12 ability of the transportation system to
13 seismic activity and methods to reduce
14 that vulnerability.

15 “(iv) LIFECYCLE COSTS ANALYSIS
16 STUDY.—

17 “(I) IN GENERAL.—In this
18 clause, the term ‘lifecycle costs anal-
19 ysis’ means a process for evaluating
20 the total economic worth of a usable
21 project segment by analyzing initial
22 costs and discounted future costs,
23 such as maintenance, user, recon-
24 struction, rehabilitation, restoring,

1 and resurfacing costs, over the life of
2 the project segment.

3 “(II) STUDY.—The Comptroller
4 General shall conduct a study of the
5 best practices for calculating lifecycle
6 costs for federally funded highway
7 projects. At a minimum, this study
8 shall include a thorough literature re-
9 view and a survey of current lifecycle
10 cost practices of State departments of
11 transportation.

12 “(III) CONSULTATION.—In car-
13 rying out this study, the Comptroller
14 shall consult with, at a minimum—

15 “(aa) the American Associa-
16 tion of State Highway and
17 Transportation Officials;

18 “(bb) appropriate experts in
19 the field of lifecycle cost analysis;
20 and

21 “(cc) appropriate industry
22 experts and research centers.

23 “(IV) REPORT.—Not later than
24 1 year after the date of enactment of
25 the MAP-21, the Comptroller General

1 shall submit to the Committee on En-
2 vironment and Public Works of the
3 Senate and the Committee on Trans-
4 portation and Infrastructure of the
5 House of Representatives a report on
6 the results of the study which shall in-
7 clude, but is not limited to—

8 “(aa) a summary of the lat-
9 est research on lifecycle cost
10 analysis; and

11 “(bb) recommendations on
12 the appropriate—

13 “(AA) period of anal-
14 ysis;

15 “(BB) design period;

16 “(CC) discount rates;
17 and

18 “(DD) use of actual
19 material life and mainte-
20 nance cost data.

21 “(C) STRENGTHENING TRANSPORTATION
22 PLANNING AND ENVIRONMENTAL DECISION-
23 MAKING.—

24 “(i) IN GENERAL.—The Secretary
25 shall carry out research—

1 “(I) to improve transportation
2 planning and environmental decision-
3 making processes; and

4 “(II) to minimize the impact of
5 surface transportation on the environ-
6 ment and quality of life.

7 “(ii) OBJECTIVES.—In carrying out
8 this subparagraph the Secretary shall
9 carry out research and development activi-
10 ties—

11 “(I) to reduce the impact of high-
12 way infrastructure and operations on
13 the natural and human environment;

14 “(II) to advance improvements in
15 environmental analyses and processes
16 and context sensitive solutions for
17 transportation decisionmaking;

18 “(III) to improve construction
19 techniques;

20 “(IV) to accelerate construction
21 to reduce congestion and related emis-
22 sions;

23 “(V) to reduce the impact of
24 highway runoff on the environment;

1 “(VI) to maintain sustainability
2 of biological communities and eco-
3 systems adjacent to highway cor-
4 ridors;

5 “(VII) to improve understanding
6 and modeling of the factors that con-
7 tribute to the demand for transpor-
8 tation;

9 “(VIII) to improve transportation
10 planning decisionmaking and coordi-
11 nation; and

12 “(IX) to reduce the environ-
13 mental impacts of freight movement.

14 “(iii) CONTENTS.—Research and tech-
15 nology activities carried out under this
16 subparagraph may include—

17 “(I) creation of models and tools
18 for evaluating transportation meas-
19 ures and transportation system de-
20 signs;

21 “(II) congestion reduction ef-
22 forts;

23 “(III) transportation planning in
24 rural areas and small communities;

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1 “(IV) improvement of State,
2 local, and tribal capabilities relating
3 to surface transportation planning
4 and the environment;

5 “(V) environmental stewardship
6 and sustainability activities;

7 “(VI) streamlining of project de-
8 livery processes;

9 “(VII) development of effective
10 strategies and techniques to analyze
11 and minimize impacts to the natural
12 and human environment and provide
13 environmentally beneficial mitigation;

14 “(VIII) comprehensive multi-
15 national planning;

16 “(IX) multistate transportation
17 corridor planning;

18 “(X) improvement of transpor-
19 tation choices, including walking, bicy-
20 cling, and linkages to public transpor-
21 tation;

22 “(XI) ecosystem sustainability;

23 “(XII) wildlife and plant popu-
24 lation connectivity and interaction
25 across and along highway corridors;

1 “(XIII) analysis, measurement,
2 and reduction of air pollution from
3 transportation sources;

4 “(XIV) advancement in the un-
5 derstanding of health impact analyses
6 in transportation planning and project
7 development;

8 “(XV) transportation planning
9 professional development;

10 “(XVI) research on improving
11 the cooperation and integration of
12 transportation planning with other re-
13 gional plans, including land use, en-
14 ergy, water infrastructure, and hous-
15 ing plans; and

16 “(XVII) reducing the environ-
17 mental impacts of freight movement.

18 “(D) REDUCING CONGESTION, IMPROVING
19 HIGHWAY OPERATIONS, AND ENHANCING
20 FREIGHT PRODUCTIVITY.—

21 “(i) IN GENERAL.—The Secretary
22 shall carry out research under this sub-
23 paragraph with the goals of—

24 “(I) addressing congestion prob-
25 lems;

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1 “(II) reducing the costs of con-
2 gestion;

3 “(III) improving freight move-
4 ment;

5 “(IV) increasing productivity;
6 and

7 “(V) improving the economic
8 competitiveness of the United States.

9 “(ii) OBJECTIVES.—In carrying out
10 this subparagraph, the Secretary shall
11 carry out research and development activi-
12 ties to identify, develop, and assess innova-
13 tions that have the potential—

14 “(I) to reduce traffic congestion;

15 “(II) to improve freight move-
16 ment; and

17 “(III) to reduce freight-related
18 congestion throughout the transpor-
19 tation network.

20 “(iii) CONTENTS.—Research and tech-
21 nology activities carried out under this
22 subparagraph may include—

23 “(I) active traffic and demand
24 management;

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1 “(II) acceleration of the imple-
2 mentation of Intelligent Transpor-
3 tation Systems technology;

4 “(III) advanced transportation
5 concepts and analysis;

6 “(IV) arterial management and
7 traffic signal operation;

8 “(V) congestion pricing;

9 “(VI) corridor management;

10 “(VII) emergency operations;

11 “(VIII) research relating to ena-
12 bling technologies and applications;

13 “(IX) freeway management;

14 “(X) evaluation of enabling tech-
15 nologies;

16 “(XI) freight industry profes-
17 sional development;

18 “(XII) impacts of vehicle size
19 and weight on congestion;

20 “(XIII) freight operations and
21 technology;

22 “(XIV) operations and freight
23 performance measurement and man-
24 agement;

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1 “(XV) organization and planning
2 for operations;

3 “(XVI) planned special events
4 management;

5 “(XVII) real-time transportation
6 information;

7 “(XVIII) road weather manage-
8 ment;

9 “(XIX) traffic and freight data
10 and analysis tools;

11 “(XX) traffic control devices;

12 “(XXI) traffic incident manage-
13 ment;

14 “(XXII) work zone management;

15 “(XXIII) communication of trav-
16 el, roadway, and emergency informa-
17 tion to persons with disabilities; and

18 “(XXIV) research on enhanced
19 mode choice and intermodal
20 connectivity.

21 “(E) ASSESSING POLICY AND SYSTEM FI-
22 NANCING ALTERNATIVES.—

23 “(i) IN GENERAL.—The Secretary
24 shall carry out research and technology on
25 emerging issues in the domestic and inter-

1 national transportation community from a
2 policy perspective.

3 “(ii) OBJECTIVES.—Research and
4 technology activities carried out under this
5 subparagraph shall provide information to
6 policy and decisionmakers on current and
7 emerging transportation issues.

8 “(iii) RESEARCH ACTIVITIES.—Activi-
9 ties carried out under this subparagraph
10 shall include—

11 “(I) the planning and integration
12 of a coordinated program related to
13 the possible design, interoperability,
14 and institutional roles of future sus-
15 tainable transportation revenue mech-
16 anisms;

17 “(II) field trials to research po-
18 tential alternative revenue mecha-
19 nisms, and may partner with indi-
20 vidual States, groups of States, or
21 other entities to implement such
22 trials; and

23 “(III) other activities to study
24 new methods which preserve a user-
25 fee structure to maintain the long-

1 term solvency of the Highway Trust
2 Fund.

3 “(iv) CONTENTS.—Research and tech-
4 nology activities carried out under this
5 subparagraph may include—

6 “(I) highway needs and invest-
7 ment analysis;

8 “(II) motor fuel tax evasion pro-
9 gram;

10 “(III) advancing innovations in
11 revenue generation, financing, and
12 procurement for project delivery;

13 “(IV) improving the accuracy of
14 project cost analyses;

15 “(V) highway performance meas-
16 urement;

17 “(VI) travel demand performance
18 measurement;

19 “(VII) highway finance perform-
20 ance measurement;

21 “(VIII) international technology
22 exchange initiatives;

23 “(IX) infrastructure investment
24 needs reports;

1 “(X) promotion of the tech-
2 nologies, products, and best practices
3 of the United States; and

4 “(XI) establishment of partner-
5 ships among the United States, for-
6 eign agencies, and transportation ex-
7 perts.

8 “(v) FUNDING.—Of the funds author-
9 ized to carry out this subsection, no less
10 than 50 percent shall be used to carry out
11 clause (iii).

12 “(F) INFRASTRUCTURE INVESTMENT
13 NEEDS REPORT.—

14 “(i) IN GENERAL.—Not later than
15 July 31, 2012, and July 31 of every sec-
16 ond year thereafter, the Secretary shall
17 submit to the Committee on Transpor-
18 tation and Infrastructure of the House of
19 Representatives and the Committee on En-
20 vironment and Public Works of the Senate
21 a report that describes estimates of the fu-
22 ture highway and bridge needs of the
23 United States and the backlog of current
24 highway and bridge needs.

1 “(ii) COMPARISONS.—Each report
2 under clause (i) shall include all informa-
3 tion necessary to relate and compare the
4 conditions and service measures used in
5 the previous biennial reports to conditions
6 and service measures used in the current
7 report.

8 “(iii) INCLUSIONS.—Each report
9 under clause (i) shall provide recommenda-
10 tions to Congress on changes to the High-
11 way Performance Monitoring System that
12 address—

13 “(I) improvements to the quality
14 and standardization of data collection
15 on all functional classifications of
16 Federal-aid highways for accurate sys-
17 tem length, lane length, and vehicle-
18 mile of travel; and

19 “(II) changes to the reporting re-
20 quirements authorized under section
21 315, to reflect recommendations
22 under this paragraph for collection,
23 storage, analysis, reporting, and dis-
24 play of data for Federal-aid highways

1 and, to the maximum extent practical,
2 all public roads.

3 “(G) EXPLORING NEXT GENERATION SO-
4 LUTIONS AND CAPITALIZING ON THE HIGHWAY
5 RESEARCH CENTER.—

6 “(i) IN GENERAL.—The Secretary
7 shall carry out research and development
8 activities relating to exploratory advanced
9 research—

10 “(I) to leverage the targeted ca-
11 pabilities of the Turner-Fairbank
12 Highway Research Center to develop
13 technologies and innovations of na-
14 tional importance; and

15 “(II) to develop potentially trans-
16 formational solutions to improve the
17 durability, efficiency, environmental
18 impact, productivity, and safety as-
19 pects of highway and intermodal
20 transportation systems.

21 “(ii) CONTENTS.—Research and tech-
22 nology activities carried out under this
23 subparagraph may include—

1 “(I) long-term, high-risk research
2 to improve the materials used in high-
3 way infrastructure;

4 “(II) exploratory research to as-
5 sess the effects of transportation deci-
6 sions on human health;

7 “(III) advanced development of
8 surrogate measures for highway safe-
9 ty;

10 “(IV) transformational research
11 to affect complex environmental and
12 highway system relationships;

13 “(V) development of economical
14 and environmentally sensitive designs,
15 efficient and quality-controlled con-
16 struction practices, and durable mate-
17 rials;

18 “(VI) development of advanced
19 data acquisition techniques for system
20 condition and performance moni-
21 toring;

22 “(VII) inclusive research for
23 hour-to-hour operational decision-
24 making and simulation forecasting;

1 “(VIII) understanding current
2 and emerging phenomena to inform
3 next generation transportation policy
4 decisionmaking; and

5 “(IX) continued improvement
6 and advancement of the Turner-
7 Fairbank Highway Research Center.

8 “(H) ALIGNING NATIONAL CHALLENGES
9 AND DISSEMINATING INFORMATION.—

10 “(i) IN GENERAL.—The Secretary
11 shall conduct research and development ac-
12 tivities—

13 “(I) to establish a nationally co-
14 ordinated highway research agenda
15 that—

16 “(aa) focuses on topics of
17 national significance;

18 “(bb) addresses current gaps
19 in research;

20 “(cc) encourages collabora-
21 tion;

22 “(dd) reduces unnecessary
23 duplication of effort; and

24 “(ee) accelerates innovation
25 delivery; and

1 “(II) to provide relevant informa-
2 tion to researchers and highway and
3 transportation practitioners to im-
4 prove the performance of the trans-
5 portation system.

6 “(ii) CONTENTS.—Research and tech-
7 nology activities carried out under this
8 subparagraph may include—

9 “(I) coordination, development,
10 and implementation of a national
11 highway research agenda;

12 “(II) collaboration on national
13 emphasis areas of highway research
14 and coordination among international,
15 Federal, State, and university re-
16 search programs;

17 “(III) development and delivery
18 of research reports and innovation de-
19 livery messages;

20 “(IV) identification of market-
21 ready technologies and innovations;
22 and

23 “(V) provision of access to data
24 developed under this subparagraph to
25 the public, including researchers,

1 stakeholders, and customers, through
2 a publicly accessible Internet site.

3 “(c) TECHNOLOGY AND INNOVATION DEPLOYMENT
4 PROGRAM.—

5 “(1) IN GENERAL.—The Secretary shall carry
6 out a technology and innovation deployment pro-
7 gram relating to all aspects of highway transpor-
8 tation, including planning, financing, operation,
9 structures, materials, pavements, environment, con-
10 struction, and the duration of time between project
11 planning and project delivery, with the goals of—

12 “(A) significantly accelerating the adoption
13 of innovative technologies by the surface trans-
14 portation community;

15 “(B) providing leadership and incentives to
16 demonstrate and promote state-of-the-art tech-
17 nologies, elevated performance standards, and
18 new business practices in highway construction
19 processes that result in improved safety, faster
20 construction, reduced congestion from construc-
21 tion, and improved quality and user satisfac-
22 tion;

23 “(C) constructing longer-lasting highways
24 through the use of innovative technologies and

1 practices that lead to faster construction of effi-
2 cient and safe highways and bridges;

3 “(D) improving highway efficiency, safety,
4 mobility, reliability, service life, environmental
5 protection, and sustainability; and

6 “(E) developing and deploying new tools,
7 techniques, and practices to accelerate the
8 adoption of innovation in all aspects of highway
9 transportation.

10 “(2) IMPLEMENTATION.—

11 “(A) IN GENERAL.—The Secretary shall
12 promote, facilitate, and carry out the program
13 established under paragraph (1) to distribute
14 the products, technologies, tools, methods, or
15 other findings that result from highway re-
16 search and development activities, including re-
17 search and development activities carried out
18 under this chapter.

19 “(B) ACCELERATED INNOVATION DEPLOY-
20 MENT.—In carrying out the program estab-
21 lished under paragraph (1), the Secretary
22 shall—

23 “(i) establish and carry out dem-
24 onstration programs;

1 “(ii) provide incentives, technical as-
2 sistance, and training to researchers and
3 developers; and

4 “(iii) develop improved tools and
5 methods to accelerate the adoption of prov-
6 en innovative practices and technologies as
7 standard practices.

8 “(C) IMPLEMENTATION OF FUTURE STRA-
9 TEGIC HIGHWAY RESEARCH PROGRAM FINDINGS
10 AND RESULTS.—

11 “(i) IN GENERAL.—The Secretary, in
12 consultation with the American Association
13 of State Highway and Transportation Offi-
14 cials and the Transportation Research
15 Board of the National Academy of
16 Sciences, shall implement the findings and
17 recommendations developed under the fu-
18 ture strategic highway research program
19 established under section 510.

20 “(ii) BASIS FOR FINDINGS.—The ac-
21 tivities carried out under this subpara-
22 graph shall be based on the report sub-
23 mitted to Congress by the Transportation
24 Research Board of the National Academy
25 of Sciences under section 510(e).

1 “(iii) PERSONNEL.—The Secretary
2 may use funds made available to carry out
3 this subsection for administrative costs
4 under this subparagraph, which funds shall
5 be used in addition to any other funds
6 made available for that purpose.

7 “(iv) FEES.—

8 “(I) IN GENERAL.—The Sec-
9 retary may impose and collect fees to
10 recover costs associated with special
11 data or analysis requests relating to
12 safety naturalistic driving databases
13 developed under the future of stra-
14 tegic highway research program.

15 “(II) USE OF FEE AMOUNTS.—

16 “(aa) IN GENERAL.—Any
17 fees collected under this clause
18 shall be made available to the
19 Secretary to carry out this sec-
20 tion and shall remain available
21 for expenditure until expended.

22 “(bb) SUPPLEMENT, NOT
23 SUPPLANT.—Any fee amounts
24 collected under this clause shall
25 supplement, but not supplant,

1 amounts made available to the
2 Secretary to carry out this title.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 chapter 5 of title 23, United States Code, is amended by
5 striking the item relating to section 503 and inserting the
6 following:

“503. Research and technology development and deployment.”.

7 **SEC. 2204. TRAINING AND EDUCATION.**

8 Section 504 of title 23, United States Code, is
9 amended—

10 (1) in subsection (a)—

11 (A) in paragraph (2)(A) by inserting “and
12 the employees of any other applicable Federal
13 agency” before the semicolon at the end;

14 (B) in paragraph (3)(A)(ii)(V) by striking
15 “expediting” and inserting “reducing the
16 amount of time required for”;

17 (C) by striking paragraph (4);

18 (D) by redesignating paragraphs (5)
19 through (8) as paragraphs (4) through (7), re-
20 spectively; and

21 (E) in paragraph (7) (as redesignated by
22 subparagraph (D)) by striking “paragraph (7)”
23 and inserting “paragraph (6)”;

24 (2) in subsection (b) by striking paragraph (3)
25 and inserting the following:

1 “(3) FEDERAL SHARE.—

2 “(A) LOCAL TECHNICAL ASSISTANCE CEN-
3 TERS.—

4 “(i) IN GENERAL.—Subject to sub-
5 paragraph (B), the Federal share of the
6 cost of an activity carried out by a local
7 technical assistance center under para-
8 graphs (1) and (2) shall be 50 percent.

9 “(ii) NON-FEDERAL SHARE.—The
10 non-Federal share of the cost of an activity
11 described in clause (i) may consist of
12 amounts provided to a recipient under sub-
13 section (e) or section 505, up to 100 per-
14 cent of the non-Federal share.

15 “(B) TRIBAL TECHNICAL ASSISTANCE
16 CENTERS.—The Federal share of the cost of an
17 activity carried out by a tribal technical assist-
18 ance center under paragraph (2)(D)(ii) shall be
19 100 percent.”;

20 (3) in subsection (c)(2)—

21 (A) by striking “The Secretary” and in-
22 serting the following:

23 “(A) IN GENERAL.—The Secretary”;

1 (B) in subparagraph (A) (as designated by
2 subparagraph (A)) by striking “. The program”
3 and inserting “, which program”; and

4 (C) by adding at the end the following:

5 “(B) USE OF AMOUNTS.—Amounts pro-
6 vided to institutions of higher education to
7 carry out this paragraph shall be used to pro-
8 vide direct support of student expenses.”;

9 (4) in subsection (e)(1)—

10 (A) in the matter preceding subparagraph
11 (A) by striking “sections 104(b)(1), 104(b)(2),
12 104(b)(3), 104(b)(4), and 144(e)” and insert-
13 ing “paragraphs (1) through (4) of section
14 104(b)”;

15 (B) in subparagraph (D) by striking “and”
16 at the end;

17 (C) in subparagraph (E) by striking the
18 period and inserting a semicolon; and

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

20 “(F) meetings of transportation profes-
21 sionals that include education and professional
22 development activities;

23 “(G) activities carried out by the National
24 Highway Institute under subsection (a); and

1 “(H) local technical assistance programs
2 under subsection (b).”;

3 (5) in subsection (f) in the heading, by striking
4 “PILOT”;

5 (6) in subsection (g)(4)(F) by striking “excel-
6 lence” and inserting “stewardship”; and

7 (7) by adding at the end the following:

8 “(h) REGIONAL SURFACE WORKFORCE DEVELOP-
9 MENT CENTERS.—

10 “(1) IN GENERAL.—The Secretary may make
11 grants under this section to nonprofit institutions of
12 higher education to establish and operate 5 regional
13 workforce development centers.

14 “(2) USE OF AMOUNTS.—

15 “(A) IN GENERAL.—Amounts made avail-
16 able under this subsection shall be used by a re-
17 cipient to identify, promote, and advance pro-
18 grams and activities that provide for a skilled,
19 technically competent surface transportation
20 workforce, including—

21 “(i) programs carried out through ele-
22 mentary and secondary schools;

23 “(ii) programs carried out through
24 community colleges; and

1 “(iii) technical training and appren-
2 ticeship programs that are carried out in
3 coordination with labor organizations, em-
4 ployers, and other relevant stakeholders.

5 “(B) OPTIONAL USE.—Amounts made
6 available under this subsection may be used to
7 support professional development activities for
8 inservice transportation workers.

9 “(3) CONSULTATION.—In carrying out this sub-
10 section, each regional workforce development center
11 shall consult with stakeholders in the education and
12 transportation communities, including organizations
13 representing the interests of—

14 “(A) elementary and secondary schools;

15 “(B) institutions of higher education;

16 “(C) inservice transportation workers; and

17 “(D) transportation professionals.

18 “(i) CENTERS FOR SURFACE TRANSPORTATION EX-
19 CELLENCE.—

20 “(1) IN GENERAL.—The Secretary may make
21 grants under this section to establish and maintain
22 centers for surface transportation excellence.

23 “(2) GOALS.—The goals of a center referred to
24 in paragraph (1) shall be to promote and support
25 strategic national surface transportation programs

1 and activities relating to the work of State depart-
2 ments of transportation in the areas of environment,
3 surface transportation safety, rural safety, and
4 project finance.”.

5 **SEC. 2205. STATE PLANNING AND RESEARCH.**

6 Section 505 of title 23, United States Code, is
7 amended—

8 (1) in subsection (a)—

9 (A) in the matter preceding paragraph (1)
10 by striking “section 104 (other than sections
11 104(f) and 104(h)) and under section 144” and
12 inserting “paragraphs (1) through (5) of sec-
13 tion 104(b)”; and

14 (B) in paragraph (3) by striking “under
15 section 303” and inserting “, plans, and proc-
16 esses under sections 119, 148, 149, and 167”;

17 (2) in subsection (b)—

18 (A) in paragraph (1) by striking “25” and
19 inserting “24”; and

20 (B) in paragraph (2) by striking “75 per-
21 cent of the funds described in paragraph (1)”
22 and inserting “70 percent of the funds de-
23 scribed in subsection (a)”;

24 (3) by redesignating subsections (c) and (d) as
25 subsections (d) and (e), respectively;

1 (4) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) IMPLEMENTATION OF FUTURE STRATEGIC
4 HIGHWAY RESEARCH PROGRAM FINDINGS AND RE-
5 SULTS.—

6 “(1) Not less than 6 percent of the funds sub-
7 ject to subsection (a) that are apportioned to a State
8 for a fiscal year shall be made available to the Sec-
9 retary to carry out section 503(c)(2)(C).

10 “(2) Funds expended under paragraph (1) shall
11 not be considered to be part of the extramural budg-
12 et of the agency for the purpose of section 9 of the
13 Small Business Act (15 U.S.C. 638).”; and

14 (5) in paragraph (e) (as so redesignated) by
15 striking “section 118(b)(2)” and inserting “section
16 118(b)”.

17 **SEC. 2206. INTERNATIONAL HIGHWAY TRANSPORTATION**
18 **PROGRAM.**

19 Section 506 of title 23, United States Code, is re-
20 pealed.

21 **SEC. 2207. SURFACE TRANSPORTATION ENVIRONMENTAL**
22 **COOPERATIVE RESEARCH PROGRAM.**

23 Section 507 of title 23, United States Code, is re-
24 pealed.

1 **SEC. 2208. NATIONAL COOPERATIVE FREIGHT RESEARCH.**

2 Section 509(d) of title 23, United States Code, is
3 amended by adding at the end the following:

4 “(6) COORDINATION OF COOPERATIVE RE-
5 SEARCH.—The National Academy of Sciences shall
6 coordinate research agendas, research project selec-
7 tions, and competitions across all transportation-re-
8 lated cooperative research programs carried out by
9 the National Academy of Sciences to ensure pro-
10 gram efficiency, effectiveness, and the dissemination
11 of research findings.”.

12 **SEC. 2209. UNIVERSITY TRANSPORTATION CENTERS PRO-**
13 **GRAM.**

14 (a) IN GENERAL.—Section 5505 of title 49, United
15 States Code, is amended to read as follows:

16 **“§ 5505. University transportation centers program**

17 “(a) UNIVERSITY TRANSPORTATION CENTERS PRO-
18 GRAM.—

19 “(1) ESTABLISHMENT AND OPERATION.—The
20 Secretary shall make grants under this section to eli-
21 gible nonprofit institutions of higher education to es-
22 tablish and operate university transportation cen-
23 ters.

24 “(2) ROLE OF CENTERS.—The role of each uni-
25 versity transportation center referred to in para-
26 graph (1) shall be—

1 “(A) to advance transportation expertise
2 and technology in the varied disciplines that
3 comprise the field of transportation through
4 education, research, and technology transfer ac-
5 tivities;

6 “(B) to provide for a critical transpor-
7 tation knowledge base outside of the Depart-
8 ment of Transportation; and

9 “(C) to address critical workforce needs
10 and educate the next generation of transpor-
11 tation leaders.

12 “(b) COMPETITIVE SELECTION PROCESS.—

13 “(1) APPLICATIONS.—To receive a grant under
14 this section, a nonprofit institution of higher edu-
15 cation shall submit to the Secretary an application
16 that is in such form and contains such information
17 as the Secretary may require.

18 “(2) GENERAL SELECTION CRITERIA.—

19 “(A) IN GENERAL.—Except as otherwise
20 provided by this section, the Secretary shall
21 award grants under this section in nonexclusive
22 candidate topic areas established by the Sec-
23 retary that address the research priorities iden-
24 tified in section 503 of title 23.

1 “(B) CRITERIA.—The Secretary, in con-
2 junction with the Administrators of the Federal
3 Highway Administration and the Federal Tran-
4 sit Administration, shall select each recipient of
5 a grant under this section through a competi-
6 tive process based on the assessment of the Sec-
7 retary relating to—

8 “(i) the demonstrated ability of the
9 recipient to address each specific topic area
10 described in the research and strategic
11 plans of the recipient;

12 “(ii) the demonstrated research, tech-
13 nology transfer, and education resources
14 available to the recipient to carry out this
15 section;

16 “(iii) the ability of the recipient to
17 provide leadership in solving immediate
18 and long-range national and regional
19 transportation problems;

20 “(iv) the ability of the recipient to
21 carry out research, education, and tech-
22 nology transfer activities that are
23 multimodal and multidisciplinary in scope;

24 “(v) the demonstrated commitment of
25 the recipient to carry out transportation

1 workforce development programs

2 through—

3 “(I) degree-granting programs;

4 “(II) training seminars for prac-
5 ticing professionals;

6 “(III) outreach activities to at-
7 tract new entrants into the transpor-
8 tation field, including women, minori-
9 ties, and persons from disadvantaged
10 communities; and

11 “(IV) primary and secondary
12 school transportation workforce out-
13 reach;

14 “(vi) the demonstrated ability of the
15 recipient to disseminate results and spur
16 the implementation of transportation re-
17 search and education programs through
18 national or statewide continuing education
19 programs;

20 “(vii) the demonstrated commitment
21 of the recipient to the use of peer review
22 principles and other research best practices
23 in the selection, management, and dissemi-
24 nation of research projects;

1 “(viii) the strategic plan submitted by
2 the recipient describing the proposed re-
3 search to be carried out by the recipient
4 and the performance metrics to be used in
5 assessing the performance of the recipient
6 in meeting the stated research, technology
7 transfer, education, and outreach goals;
8 and

9 “(ix) the ability of the recipient to im-
10 plement the proposed program in a cost-ef-
11 ficient manner, such as through cost shar-
12 ing and overall reduced overhead, facilities,
13 and administrative costs.

14 “(c) GRANTS.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of the MAP-21, the Secretary,
17 in conjunction with the Administrators of the Fed-
18 eral Highway Administration and the Federal Tran-
19 sit Administration, shall select grant recipients
20 under subsection (b) and make grant amounts avail-
21 able to the selected recipients.

22 “(2) TIER 1 UNIVERSITY TRANSPORTATION
23 CENTERS.—

24 “(A) IN GENERAL.—For each of fiscal
25 years 2012 and 2013 and subject to subpara-

1 graph (B), the Secretary shall provide grants to
2 not more than 15 recipients that the Secretary
3 determines best meet the criteria described in
4 subsection (b)(2).

5 “(B) RESTRICTIONS.—

6 “(i) IN GENERAL.—For each fiscal
7 year, a grant made available under this
8 paragraph shall not exceed \$3,500,000 per
9 recipient.

10 “(ii) FOCUSED RESEARCH.—At least
11 2 of the recipients awarded a grant under
12 this paragraph shall have expertise in, and
13 focus research on, public transportation
14 issues.

15 “(C) MATCHING REQUIREMENT.—

16 “(i) IN GENERAL.—As a condition of
17 receiving a grant under this paragraph, a
18 grant recipient shall match 100 percent of
19 the amounts made available under the
20 grant.

21 “(ii) SOURCES.—The matching
22 amounts referred to in clause (i) may in-
23 clude amounts made available to the recipi-
24 ent under—

1 “(I) section 504(b) or 505 of title
2 23; and

3 “(II) subject to prior approval by
4 the Secretary, a transportation-related
5 grant from the National Science
6 Foundation.

7 “(3) TIER 2 UNIVERSITY TRANSPORTATION
8 CENTERS.—

9 “(A) IN GENERAL.—For each of fiscal
10 years 2012 and 2013, the Secretary shall pro-
11 vide grants of not more than \$2,000,000 each
12 to not more than 20 recipients to carry out this
13 section.

14 “(B) RESTRICTION.—A grant recipient
15 under paragraph (2) shall not be eligible to re-
16 ceive a grant under this paragraph.

17 “(C) MATCHING REQUIREMENT.—

18 “(i) IN GENERAL.—As a condition of
19 receiving a grant under this paragraph, a
20 grant recipient shall match 50 percent of
21 the amounts made available under the
22 grant.

23 “(ii) SOURCES.—The matching
24 amounts referred to in clause (i) may in-

1 “(B) disseminate the results of that re-
2 search through the establishment and operation
3 of an information clearinghouse.

4 “(2) ANNUAL REVIEW AND EVALUATION.—Not
5 less frequently than annually, and consistent with
6 the plan developed under section 508 of title 23, the
7 Secretary shall review and evaluate the programs
8 carried out under this section by grant recipients.

9 “(3) PROGRAM EVALUATION AND OVER-
10 SIGHT.—For each of fiscal years 2012 and 2013, the
11 Secretary shall expend not more than 1½ percent of
12 the amounts made available to the Secretary to
13 carry out this section for any coordination, evalua-
14 tion, and oversight activities of the Secretary under
15 this section and section 5506.

16 “(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—
17 Amounts made available to the Secretary to carry out this
18 section shall remain available for obligation by the Sec-
19 retary for a period of 3 years after the last day of the
20 fiscal year for which the amounts are appropriated.

21 “(f) INFORMATION COLLECTION.—Any survey, ques-
22 tionnaire, or interview that the Secretary determines to
23 be necessary to carry out reporting requirements relating
24 to any program assessment or evaluation activity under

1 this section, including customer satisfaction assessments,
2 shall not be subject to chapter 35 of title 44.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 chapter 55 of title 49, United States Code, is amended
5 by striking the item relating to section 5505 and inserting
6 the following:

“Sec. 5505. University transportation centers program.”.

7 **SEC. 2210. BUREAU OF TRANSPORTATION STATISTICS.**

8 (a) IN GENERAL.—Subtitle III of title 49, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 **“CHAPTER 63—BUREAU OF**
12 **TRANSPORTATION STATISTICS**

“6301. Establishment.

“6302. Director.

“6303. Responsibilities.

“6304. National transportation library.

“6305. Advisory council on transportation statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing of information, data, or reports by Federal agencies.

“6308. Prohibition on certain disclosures.

“6309. Data access.

“6310. Proceeds of data product sales.

“6311. Information collection.

“6312. National transportation atlas database.

“6313. Limitations on statutory construction.

“6314. Research and development grants.

“6315. Transportation statistics annual report.

“6316. Mandatory response authority for freight data collection.

13 **“§ 6301. Definitions.**

14 “In this chapter, the following definitions apply:

15 “(1) BUREAU.—The term ‘Bureau’ means the
16 Bureau of Transportation Statistics established by
17 section 6302(a).

1 “(2) DEPARTMENT.—The term ‘Department’
2 means the Department of Transportation.

3 “(3) DIRECTOR.—The term ‘Director’ means
4 the Director of the Bureau.

5 “(4) LIBRARY.—The term ‘Library’ means the
6 National Transportation Library established by sec-
7 tion 6304(a).

8 “(5) SECRETARY.—The term ‘Secretary’ means
9 the Secretary of Transportation.

10 **“§ 6302. Bureau of Transportation Statistics.**

11 “(a) ESTABLISHMENT.—There is established in the
12 Research and Innovative Technology Administration the
13 Bureau of Transportation Statistics.

14 “(b) DIRECTOR.—

15 “(1) APPOINTMENT.—The Bureau shall be
16 headed by a Director, who shall be appointed in the
17 competitive service by the Secretary.

18 “(2) QUALIFICATIONS.—The Director shall be
19 appointed from among individuals who are qualified
20 to serve as the Director by virtue of training and ex-
21 perience in the collection, analysis, and use of trans-
22 portation statistics.

23 “(3) DUTIES.—

24 “(A) IN GENERAL.—The Director shall—

1 “(i) serve as the senior advisor to the
2 Secretary on data and statistics; and

3 “(ii) be responsible for carrying out
4 the duties described in subparagraph (B).

5 “(B) DUTIES.—The Director shall—

6 “(i) ensure that the statistics com-
7 piled under clause (vi) are designed to sup-
8 port transportation decisionmaking by—

9 “(I) the Federal Government;

10 “(II) State and local govern-
11 ments;

12 “(III) metropolitan planning or-
13 ganizations;

14 “(IV) transportation-related asso-
15 ciations;

16 “(V) the private sector, including
17 the freight community; and

18 “(VI) the public;

19 “(ii) establish on behalf of the Sec-
20 retary a program—

21 “(I) to effectively integrate safety
22 data across modes; and

23 “(II) to address gaps in existing
24 Department safety data programs;

1 “(iii) work with the operating admin-
2 istrations of the Department—

3 “(I) to establish and implement
4 the data programs of the Bureau; and

5 “(II) to improve the coordination
6 of information collection efforts with
7 other Federal agencies;

8 “(iv) evaluate and update as nec-
9 essary surveys and data collection methods
10 of the Department on a continual basis to
11 improve the accuracy and utility of trans-
12 portation statistics;

13 “(v) encourage the standardization of
14 data, data collection methods, and data
15 management and storage technologies for
16 data collected by—

17 “(I) the Bureau;

18 “(II) the operating administra-
19 tions of the Department;

20 “(III) State and local govern-
21 ments;

22 “(IV) metropolitan planning or-
23 ganizations; and

24 “(V) private sector entities;

1 “(vi) collect, compile, analyze, and
2 publish a comprehensive set of transpor-
3 tation statistics on the performance and
4 impacts of the national transportation sys-
5 tem, including statistics on—

6 “(I) transportation safety across
7 all modes and intermodally;

8 “(II) the state of good repair of
9 United States transportation infra-
10 structure;

11 “(III) the extent, connectivity,
12 and condition of the transportation
13 system, building on the national
14 transportation atlas database devel-
15 oped under section 6310;

16 “(IV) economic efficiency across
17 the entire transportation sector;

18 “(V) the effects of the transpor-
19 tation system on global and domestic
20 economic competitiveness;

21 “(VI) demographic, economic,
22 and other variables influencing travel
23 behavior, including choice of transpor-
24 tation mode and goods movement;

1 “(VII) transportation-related
2 variables that influence the domestic
3 economy and global competitiveness;

4 “(VIII) economic costs and im-
5 pacts for passenger travel and freight
6 movement;

7 “(IX) intermodal and multimodal
8 passenger movement;

9 “(X) intermodal and multimodal
10 freight movement; and

11 “(XI) consequences of transpor-
12 tation for the human and natural en-
13 vironment;

14 “(vii) build and disseminate the trans-
15 portation layer of the National Spatial
16 Data Infrastructure developed under Exec-
17 utive Order 12906 (59 Fed. Reg. 17671)
18 (or a successor Executive Order), including
19 by coordinating the development of trans-
20 portation geospatial data standards, com-
21 piling intermodal geospatial data, and col-
22 lecting geospatial data that is not being
23 collected by other entities;

24 “(viii) issue guidelines for the collec-
25 tion of information by the Department

1 that the Director determines necessary to
2 develop transportation statistics and carry
3 out modeling, economic assessment, and
4 program assessment activities to ensure
5 that the information is accurate, reliable,
6 relevant, uniform, and in a form that per-
7 mits systematic analysis by the Depart-
8 ment;

9 “(ix) review and report to the Sec-
10 retary on the sources and reliability of—

11 “(I) the statistics proposed by
12 the heads of the operating administra-
13 tions of the Department to measure
14 outputs and outcomes as required
15 under the Government Performance
16 and Results Act of 1993 (Public Law
17 103–62;107 Stat. 285); and

18 “(II) at the request of the Sec-
19 retary, any other data collected or sta-
20 tistical information published by the
21 heads of the operating administrations
22 of the Department; and

23 “(x) ensure that the statistics pub-
24 lished under this section are readily acces-
25 sible to the public.

1 “(c) ACCESS TO FEDERAL DATA.—In carrying out
2 subsection (b)(3)(B)(ii), the Director shall be given access
3 to all safety data that the Director determines necessary
4 to carry out that subsection that is held by the Depart-
5 ment or any other Federal agency.

6 **“§ 6303. Intermodal transportation database**

7 “(a) IN GENERAL.—In consultation with the Under
8 Secretary Transportation for Policy, the Assistant Secre-
9 taries of the Department, and the heads of the operating
10 administrations of the Department, the Director shall es-
11 tablish and maintain a transportation database for all
12 modes of transportation.

13 “(b) USE.—The database shall be suitable for anal-
14 yses carried out by the Federal Government, the States,
15 and metropolitan planning organizations.

16 “(c) CONTENTS.—The database shall include—

17 “(1) information on the volumes and patterns
18 of movement of goods, including local, interregional,
19 and international movement, by all modes of trans-
20 portation, intermodal combination, and relevant clas-
21 sification;

22 “(2) information on the volumes and patterns
23 of movement of people, including local, interregional,
24 and international movements, by all modes of trans-

1 portation (including bicycle and pedestrian modes),
2 intermodal combination, and relevant classification;

3 “(3) information on the location and
4 connectivity of transportation facilities and services;
5 and

6 “(4) a national accounting of expenditures and
7 capital stocks on each mode of transportation and
8 intermodal combination.

9 **“§ 6304. National transportation library**

10 “(a) PURPOSE AND ESTABLISHMENT.—To support
11 the information management and decisionmaking needs of
12 transportation officials at the Federal, State, and local lev-
13 els, there is established in the Bureau of Transportation
14 Statistics a National Transportation Library that shall—

15 “(1) be headed by an individual who is highly
16 qualified in library and information science;

17 “(2) acquire, preserve, and manage transpor-
18 tation information and information products and
19 services for use by the Department, other Federal
20 agencies, and the general public;

21 “(3) provide reference and research assistance;

22 “(4) serve as a central depository for research
23 results and technical publications of the Depart-
24 ment;

1 “(5) provide a central clearinghouse for trans-
2 portation data and information of the Federal Gov-
3 ernment;

4 “(6) serve as coordinator and policy lead for
5 transportation information access;

6 “(7) provide transportation information and in-
7 formation products and services to—

8 “(A) the Department;

9 “(B) other Federal agencies;

10 “(C) public and private organizations; and

11 “(D) individuals, within the United States
12 as well as internationally;

13 “(8) coordinate efforts among, and cooperate
14 with, transportation libraries, information providers,
15 and technical assistance centers, with the goal of de-
16 veloping a comprehensive transportation information
17 and knowledge network that supports the activities
18 described in section 6302(b)(3)(B); and

19 “(9) engage in such other activities as the Di-
20 rector determines to be necessary and as the re-
21 sources of the Library permit.

22 “(b) ACCESS.—The Director shall publicize, facili-
23 tate, and promote access to the information products and
24 services described in subsection (a), with the goal of im-
25 proving the ability of the transportation community to

1 share information and the ability of the Director to make
2 statistics and other information readily accessible as re-
3 quired under section 6302(b)(3)(B)(x).

4 “(c) AGREEMENTS.—

5 “(1) IN GENERAL.—To carry out this section,
6 the Director may enter into agreements with, pro-
7 vide grants to, and receive amounts from, any—

8 “(A) State or local government;

9 “(B) organization;

10 “(C) business; or

11 “(D) individual.

12 “(2) CONTRACTS, GRANTS, AND AGREE-
13 MENTS.—The Library may initiate and support spe-
14 cific information and data management, access, and
15 exchange activities relating to the strategic goals of
16 the Department, knowledge networking, and na-
17 tional and international cooperation, by entering into
18 contracts or other agreements or providing grants.

19 “(3) AMOUNTS.—Any amounts received by the
20 Library as payment for library products and services
21 or other activities shall be made available to the Di-
22 rector to carry out this section and remain available
23 until expended.

1 **“§ 6305. Advisory council on transportation statistics**

2 “(a) IN GENERAL.—The Director shall establish and
3 consult with an advisory council on transportation statis-
4 tics.

5 “(b) FUNCTION.—The function of the advisory coun-
6 cil established under this subsection is to advise the Direc-
7 tor on—

8 “(1) the quality, reliability, consistency, objec-
9 tivity, and relevance of transportation statistics and
10 analyses collected, supported, or disseminated by the
11 Bureau and the Department; and

12 “(2) methods to encourage cooperation and
13 interoperability of transportation data collected by
14 the Bureau, the operating administrations of the De-
15 partment, States, local governments, metropolitan
16 planning organizations, and private sector entities.

17 “(c) MEMBERSHIP.—The advisory council shall be
18 composed of not fewer than 9 and not more than 11 mem-
19 bers appointed by the Director, who shall not be officers
20 or employees of the United States.

21 “(d) TERMS OF APPOINTMENT.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), members of the advisory council shall be
24 appointed to staggered terms not to exceed 3 years.

25 “(2) ADDITIONAL TERMS.—A member may be
26 renominated for 1 additional 3-year term.

1 “(1) IN GENERAL.—An officer, employee, or
2 contractor of the Bureau may not—

3 “(A) make any disclosure in which the
4 data provided by an individual or organization
5 under section 6302(b)(3)(B) can be identified;

6 “(B) use the information provided under
7 section 6302(b)(3)(B) for a nonstatistical pur-
8 pose; or

9 “(C) permit anyone other than an indi-
10 vidual authorized by the Director to examine
11 any individual report provided under section
12 6302(b)(3)(B).

13 “(2) COPIES OF REPORTS.—

14 “(A) IN GENERAL.—No department, bu-
15 reau, agency, officer, or employee of the United
16 States (except the Director in carrying out this
17 chapter) may require, for any reason, a copy of
18 any report that has been filed under section
19 6302(b)(3)(B) with the Bureau or retained by
20 an individual respondent.

21 “(B) LIMITATION ON JUDICIAL PRO-
22 CEEDINGS.—A copy of a report described in
23 subparagraph (A) that has been retained by an
24 individual respondent or filed with the Bureau

1 or any of the employees, contractors, or agents
2 of the Bureau—

3 “(i) shall be immune from legal proc-
4 ess; and

5 “(ii) shall not, without the consent of
6 the individual concerned, be admitted as
7 evidence or used for any purpose in any
8 action, suit, or other judicial or adminis-
9 trative proceedings.

10 “(C) APPLICABILITY.—This paragraph
11 shall apply only to reports that permit informa-
12 tion concerning an individual or organization to
13 be reasonably determined by direct or indirect
14 means.

15 “(3) INFORMING RESPONDENT OF USE OF
16 DATA.—If the Bureau is authorized by statute to
17 collect data or information for a nonstatistical pur-
18 pose, the Director shall clearly distinguish the collec-
19 tion of the data or information, by rule and on the
20 collection instrument, in a manner that informs the
21 respondent who is requested or required to supply
22 the data or information of the nonstatistical pur-
23 pose.

24 “(c) TRANSPORTATION AND TRANSPORTATION-RE-
25 LATED DATA ACCESS.—Except as expressly prohibited by

1 law, the Director shall have access to any transportation
2 and transportation-related information in the possession
3 of any Federal agency.

4 **“§ 6308. Proceeds of data product sales**

5 “Notwithstanding section 3302 of title 31, amounts
6 received by the Bureau from the sale of data products for
7 necessary expenses incurred may be credited to the High-
8 way Trust Fund (other than the Mass Transit Account)
9 for the purpose of reimbursing the Bureau for those ex-
10 penses.

11 **“§ 6309. Information collection**

12 “As the head of an independent Federal statistical
13 agency, the Director may consult directly with the Office
14 of Management and Budget concerning any survey, ques-
15 tionnaire, or interview that the Director considers nec-
16 essary to carry out the statistical responsibilities of this
17 chapter.

18 **“§ 6310. National transportation atlas database**

19 “(a) IN GENERAL.—The Director shall develop and
20 maintain a national transportation atlas database that is
21 comprised of geospatial databases that depict—

22 “(1) transportation networks;

23 “(2) flows of people, goods, vehicles, and craft
24 over the transportation networks; and

1 “(3) social, economic, and environmental condi-
2 tions that affect or are affected by the transpor-
3 tation networks.

4 “(b) INTERMODAL NETWORK ANALYSIS.—The data-
5 bases referred to in subsection (a) shall be capable of sup-
6 porting intermodal network analysis.

7 **“§ 6311. Limitations on statutory construction**

8 “Nothing in this chapter—

9 “(1) authorizes the Bureau to require any other
10 Federal agency to collect data; or

11 “(2) alters or diminishes the authority of any
12 other officer of the Department to collect and dis-
13 seminate data independently.

14 **“§ 6312. Research and development grants**

15 “The Secretary may make grants to, or enter into
16 cooperative agreements or contracts with, public and non-
17 profit private entities (including State transportation de-
18 partments, metropolitan planning organizations, and insti-
19 tutions of higher education) for—

20 “(1) investigation of the subjects described in
21 section 6302(b)(3)(B)(vi);

22 “(2) research and development of new methods
23 of data collection, standardization, management, in-
24 tegration, dissemination, interpretation, and anal-
25 ysis;

1 “(3) demonstration programs by States, local
2 governments, and metropolitan planning organiza-
3 tions to coordinate data collection, reporting, man-
4 agement, storage, and archiving to simplify data
5 comparisons across jurisdictions;

6 “(4) development of electronic clearinghouses of
7 transportation data and related information, as part
8 of the Library; and

9 “(5) development and improvement of methods
10 for sharing geographic data, in support of the data-
11 base under section 6310 and the National Spatial
12 Data Infrastructure developed under Executive
13 Order 12906 (59 Fed. Reg. 17671) (or a successor
14 Executive Order).

15 **“§ 6313. Transportation statistics annual report**

16 “The Director shall submit to the President and Con-
17 gress a transportation statistics annual report, which shall
18 include—

19 “(1) information on the progress of the Direc-
20 tor in carrying out the duties described in section
21 6302(b)(3)(B);

22 “(2) documentation of the methods used to ob-
23 tain and ensure the quality of the statistics pre-
24 sented in the report; and

1 “(3) any recommendations of the Director for
2 improving transportation statistical information.

3 **“§ 6314. Mandatory response authority for freight**
4 **data collection.**

5 “(a) IN GENERAL.—An owner, official, agent, person
6 in charge, or assistant to the person in charge of any
7 freight corporation, company, business, institution, estab-
8 lishment, or organization shall be fined in accordance with
9 subsection (b) if that individual neglects or refuses, when
10 requested by the Director or other authorized officer, em-
11 ployee, or contractor of the Bureau to submit data under
12 section 6302(b)(3)(B)—

13 “(1) to answer completely and correctly to the
14 best knowledge of that individual all questions relat-
15 ing to the corporation, company, business, institu-
16 tion, establishment, or other organization; or

17 “(2) to make available records or statistics in
18 the official custody of the individual.

19 “(b) FINES.—

20 “(1) IN GENERAL.—Subject to paragraph (2),
21 an individual described in subsection (a) shall be
22 fined not more than \$500.

23 “(2) WILLFUL ACTIONS.—If an individual will-
24 fully gives a false answer to a question described in

1 subsection (a)(1), the individual shall be fined not
2 more than \$10,000.”.

3 (b) RULES OF CONSTRUCTION.—If the provisions of
4 section 111 of title 49, United States Code, are trans-
5 ferred to chapter 63 of that title, the following rules of
6 construction apply:

7 (1) For purposes of determining whether 1 pro-
8 vision of law supersedes another based on enactment
9 later in time, a chapter 63 provision is deemed to
10 have been enacted on the date of enactment of the
11 corresponding section 111 provision.

12 (2) A reference to a section 111 provision, in-
13 cluding a reference in a regulation, order, or other
14 law, is deemed to refer to the corresponding chapter
15 63 provision.

16 (3) A regulation, order, or other administrative
17 action in effect under a section 111 provision con-
18 tinues in effect under the corresponding chapter 63
19 provision.

20 (4) An action taken or an offense committed
21 under a section 111 provision is deemed to have
22 been taken or committed under the corresponding
23 chapter 63 provision.

24 (c) CONFORMING AMENDMENTS.—

1 (1) REPEAL.—Section 111 of title 49, United
2 States Code, is repealed, and the item relating to
3 section 111 in the analysis of chapter 1 of that title
4 is deleted.

5 (2) ANALYSIS OF SUBTITLE III.—The analysis
6 for subtitle III of title 49, United States Code, is
7 amended by inserting after the items for chapter 61
8 the following:

“Chapter 63. Bureau of Transportation Statistics ”.

9 **SEC. 2211. ADMINISTRATIVE AUTHORITY.**

10 Section 112 of title 49, United States Code, is
11 amended by adding at the end the following:

12 “(f) PROMOTIONAL AUTHORITY.—Amounts author-
13 ized to be appropriated for the administration and oper-
14 ation of the Research and Innovative Technology Adminis-
15 tration may be used to purchase promotional items of
16 nominal value for use by the Administrator of the Re-
17 search and Innovative Technology Administration in the
18 recruitment of individuals and promotion of the programs
19 of the Administration.

20 “(g) PROGRAM EVALUATION AND OVERSIGHT.—For
21 each of fiscal years 2012 and 2013, the Administrator
22 may expend not more than 1½ percent of the amounts
23 authorized to be appropriated for the administration and
24 operation of the Research and Innovative Technology Ad-
25 ministration to carry out the coordination, evaluation, and

1 oversight of the programs administered by the Administra-
2 tion.

3 “(h) COLLABORATIVE RESEARCH AND DEVELOP-
4 MENT.—

5 “(1) IN GENERAL.—To encourage innovative
6 solutions to multimodal transportation problems and
7 stimulate the deployment of new technology, the Ad-
8 ministrator may carry out, on a cost-shared basis,
9 collaborative research and development with—

10 “(A) non-Federal entities, including State
11 and local governments, foreign governments, in-
12 stitutions of higher education, corporations, in-
13 stitutions, partnerships, sole proprietorships,
14 and trade associations that are incorporated or
15 established under the laws of any State;

16 “(B) Federal laboratories; and

17 “(C) other Federal agencies.

18 “(2) COOPERATION, GRANTS, CONTRACTS, AND
19 AGREEMENTS.—Notwithstanding any other provision
20 of law, the Administrator may directly initiate con-
21 tracts, grants, cooperative research and development
22 agreements (as defined in section 12 of the Steven-
23 son-Wydler Technology Innovation Act of 1980 (15
24 U.S.C. 3710a)), and other agreements to fund, and
25 accept funds from, the Transportation Research

1 Board of the National Research Council of the Na-
2 tional Academy of Sciences, State departments of
3 transportation, cities, counties, institutions of higher
4 education, associations, and the agents of those enti-
5 ties to carry out joint transportation research and
6 technology efforts.

7 “(3) FEDERAL SHARE.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the Federal share of the cost of an
10 activity carried out under paragraph (2) shall
11 not exceed 50 percent.

12 “(B) EXCEPTION.—If the Secretary deter-
13 mines that the activity is of substantial public
14 interest or benefit, the Secretary may approve
15 a greater Federal share.

16 “(C) NON-FEDERAL SHARE.—All costs di-
17 rectly incurred by the non-Federal partners, in-
18 cluding personnel, travel, facility, and hardware
19 development costs, shall be credited toward the
20 non-Federal share of the cost of an activity de-
21 scribed in subparagraph (A).

22 “(4) USE OF TECHNOLOGY.—The research, de-
23 velopment, or use of a technology under a contract,
24 grant, cooperative research and development agree-
25 ment, or other agreement entered into under this

1 subsection, including the terms under which the
2 technology may be licensed and the resulting royal-
3 ties may be distributed, shall be subject to the Ste-
4 venson-Wyidler Technology Innovation Act of 1980
5 (15 U.S.C. 3701 et seq.).

6 “(5) WAIVER OF ADVERTISING REQUIRE-
7 MENTS.—Section 3709 of the Revised Statutes (41
8 U.S.C. 5) shall not apply to a contract, grant, or
9 other agreement entered into under this section.”.

10 **SEC. 2212. TRANSPORTATION RESEARCH AND DEVELOP-**
11 **MENT STRATEGIC PLANNING.**

12 Section 508(a)(2) of title 23, United States Code, is
13 amended by striking subparagraph (A) and inserting the
14 following:

15 “(A) describe the primary purposes of the
16 transportation research and development pro-
17 gram, which shall include, at a minimum—

18 “(i) promoting safety;

19 “(ii) reducing congestion and improv-
20 ing mobility;

21 “(iii) protecting and enhancing the
22 environment;

23 “(iv) preserving the existing transpor-
24 tation system;

1 “(v) improving the durability and ex-
2 tending the life of transportation infra-
3 structure; and

4 “(vi) improving goods movement;”.

5 **Subtitle C—Funding**

6 **SEC. 2301. USE OF FUNDS FOR ITS ACTIVITIES.**

7 Section 513 of title 23, United States Code, is
8 amended to read as follows:

9 **“§ 513. Use of funds for ITS activities.**

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

12 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
13 tity’ means a State or local government, tribal gov-
14 ernment, transit agency, public toll authority, metro-
15 politan planning organization, other political subdivi-
16 sion of a State or local government, or a multistate
17 or multijurisdictional group applying through a sin-
18 gle lead applicant.

19 “(2) MULTIJURISDICTIONAL GROUP.—The term
20 ‘multijurisdictional group’ means a combination of
21 State governments, local governments, metropolitan
22 planning agencies, transit agencies, or other political
23 subdivisions of a State that—

1 “(A) have signed a written agreement to
2 implement an activity that meets the grant cri-
3 teria under this section; and

4 “(B) is comprised of at least 2 members,
5 each of whom is an eligible entity.

6 “(b) PURPOSE.—The purpose of this section is to de-
7 velop, administer, communicate, and promote the use of
8 products of research, technology, and technology transfer
9 programs.

10 “(c) ITS DEPLOYMENT INCENTIVES.—

11 “(1) IN GENERAL.—The Secretary may—

12 “(A) develop and implement incentives to
13 accelerate deployment of ITS technologies and
14 services within all funding programs authorized
15 by the MAP-21; and

16 “(B) for each fiscal year, use amounts
17 made available to the Secretary to carry out in-
18 telligent transportation systems outreach, in-
19 cluding through the use of websites, public rela-
20 tions, displays, tours, and brochures.

21 “(2) COMPREHENSIVE PLAN.—To carry out
22 this section, the Secretary shall develop a detailed
23 and comprehensive plan that addresses the manner
24 in which incentives may be adopted through the ex-

1 isting deployment activities carried out by surface
2 transportation modal administrations.

3 “(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT
4 GRANT PROGRAM.—

5 “(1) ESTABLISHMENT.—The Secretary shall es-
6 tablish a competitive grant program to accelerate the
7 deployment, operation, systems management, inter-
8 modal integration, and interoperability of the ITS
9 program and ITS-enabled operational strategies—

10 “(A) to measure and improve the perform-
11 ance of the surface transportation system;

12 “(B) to reduce traffic congestion and the
13 economic and environmental impacts of traffic
14 congestion;

15 “(C) to minimize fatalities and injuries;

16 “(D) to enhance mobility of people and
17 goods;

18 “(E) to improve traveler information and
19 services; and

20 “(F) to optimize existing roadway capacity.

21 “(2) APPLICATION.—To be considered for a
22 grant under this subsection, an eligible entity shall
23 submit an application to the Secretary that in-
24 cludes—

1 “(A) a plan to deploy and provide for the
2 long-term operation and maintenance of intel-
3 ligent transportation systems to improve safety,
4 efficiency, system performance, and return on
5 investment, such as—

6 “(i) real-time integrated traffic, tran-
7 sit, and multimodal transportation infor-
8 mation;

9 “(ii) advanced traffic, freight, park-
10 ing, and incident management systems;

11 “(iii) advanced technologies to im-
12 prove transit and commercial vehicle oper-
13 ations;

14 “(iv) synchronized, adaptive, and
15 transit preferential traffic signals;

16 “(v) advanced infrastructure condition
17 assessment technologies; and

18 “(vi) other technologies to improve
19 system operations, including ITS applica-
20 tions necessary for multimodal systems in-
21 tegration and for achieving performance
22 goals;

23 “(B) quantifiable system performance im-
24 provements, including—

1 “(i) reductions in traffic-related
2 crashes, congestion, and costs;

3 “(ii) optimization of system efficiency;
4 and

5 “(iii) improvement of access to trans-
6 portation services;

7 “(C) quantifiable safety, mobility, and en-
8 vironmental benefit projections, including data
9 driven estimates of the manner in which the
10 project will improve the transportation system
11 efficiency and reduce traffic congestion in the
12 region;

13 “(D) a plan for partnering with the private
14 sector, including telecommunications industries
15 and public service utilities, public agencies (in-
16 cluding multimodal and multijurisdictional enti-
17 ties), research institutions, organizations rep-
18 resenting transportation and technology leaders,
19 and other transportation stakeholders;

20 “(E) a plan to leverage and optimize exist-
21 ing local and regional ITS investments; and

22 “(F) a plan to ensure interoperability of
23 deployed technologies with other tolling, traffic
24 management, and intelligent transportation sys-
25 tems.

1 “(3) SELECTION.—

2 “(A) IN GENERAL.—Not later than 1 year
3 after the date of enactment of the MAP-21, the
4 Secretary may provide grants to eligible entities
5 under this section.

6 “(B) GEOGRAPHIC DIVERSITY.—In award-
7 ing a grant under this section, the Secretary
8 shall ensure, to the maximum extent prac-
9 ticable, that grant recipients represent diverse
10 geographical areas of the United States, includ-
11 ing urban, suburban, and rural areas.

12 “(C) NON-FEDERAL SHARE.—In awarding
13 a grant under the section, the Secretary shall
14 give priority to grant recipients that dem-
15 onstrate an ability to contribute a significant
16 non-Federal share to the cost of carrying out
17 the project for which the grant is received.

18 “(4) ELIGIBLE USES.—Projects for which
19 grants awarded under this section may be used in-
20 clude—

21 “(A) the establishment and implementation
22 of ITS and ITS-enabled operations strategies
23 that improve performance in the areas of—

24 “(i) traffic operations;

1 “(ii) emergency response to surface
2 transportation incidents;

3 “(iii) incident management;

4 “(iv) transit and commercial vehicle
5 operations improvements;

6 “(v) weather event response manage-
7 ment by State and local authorities;

8 “(vi) surface transportation network
9 and facility management;

10 “(vii) construction and work zone
11 management;

12 “(viii) traffic flow information;

13 “(ix) freight management; and

14 “(x) congestion management;

15 “(B) carrying out activities that support
16 the creation of networks that link metropolitan
17 and rural surface transportation systems into
18 an integrated data network, capable of col-
19 lecting, sharing, and archiving transportation
20 system traffic condition and performance infor-
21 mation;

22 “(C) the implementation of intelligent
23 transportation systems and technologies that
24 improve highway safety through information
25 and communications systems linking vehicles,

1 infrastructure, mobile devices, transportation
2 users, and emergency responders;

3 “(D) the provision of services necessary to
4 ensure the efficient operation and management
5 of ITS infrastructure, including costs associated
6 with communications, utilities, rent, hardware,
7 software, labor, administrative costs, training,
8 and technical services;

9 “(E) the provision of support for the es-
10 tablishment and maintenance of institutional
11 relationships between transportation agencies,
12 police, emergency medical services, private
13 emergency operators, freight operators, ship-
14 pers, and public service utilities and tele-
15 communications providers;

16 “(F) carrying out multimodal and
17 crossjurisdictional planning and deployment of
18 regional transportation systems operations and
19 management approaches; and

20 “(G) performing project evaluations to de-
21 termine the costs, benefits, lessons learned, and
22 future deployment strategies associated with the
23 deployment of intelligent transportation sys-
24 tems.

1 “(5) REPORT TO SECRETARY.—For each fiscal
2 year that an eligible entity receives a grant under
3 this section, not later than 1 year after receiving
4 that grant, each recipient shall submit a report to
5 the Secretary that describes how the project has met
6 the expectations projected in the deployment plan
7 submitted with the application, including—

8 “(A) data on how the program has helped
9 reduce traffic crashes, congestion, costs, and
10 other benefits of the deployed systems;

11 “(B) data on the effect of measuring and
12 improving transportation system performance
13 through the deployment of advanced tech-
14 nologies;

15 “(C) the effectiveness of providing real-
16 time integrated traffic, transit, and multimodal
17 transportation information to the public that al-
18 lows the public to make informed travel deci-
19 sions; and

20 “(D) lessons learned and recommendations
21 for future deployment strategies to optimize
22 transportation efficiency and multimodal system
23 performance.

24 “(6) REPORT TO CONGRESS.—Not later than 2
25 years after date on which the first grant is awarded

1 under this section and annually thereafter for each
2 fiscal year for which grants are awarded under this
3 section, the Secretary shall submit to Congress a re-
4 port that describes the effectiveness of the grant re-
5 cipients in meeting the projected deployment plan
6 goals, including data on how the grant program
7 has—

8 “(A) reduced traffic-related fatalities and
9 injuries;

10 “(B) reduced traffic congestion and im-
11 proved travel time reliability;

12 “(C) reduced transportation-related emis-
13 sions;

14 “(D) optimized multimodal system per-
15 formance;

16 “(E) improved access to transportation al-
17 ternatives;

18 “(F) provided the public with access to
19 real-time integrated traffic, transit, and
20 multimodal transportation information to make
21 informed travel decisions;

22 “(G) provided cost savings to transpor-
23 tation agencies, businesses, and the traveling
24 public; and

1 “(H) provided other benefits to transpor-
2 tation users and the general public.

3 “(7) ADDITIONAL GRANTS.—If the Secretary
4 determines, based on a report submitted under para-
5 graph (5), that a grant recipient is not complying
6 with the established grant criteria, the Secretary
7 may—

8 “(A) cease payment to the recipient of any
9 remaining grant amounts; and

10 “(B) redistribute any remaining amounts
11 to other eligible entities under this section.

12 “(8) NON-FEDERAL SHARE.—The Federal
13 share of a grant under this section shall not exceed
14 50 percent of the cost of the project.

15 “(9) GRANT LIMITATION.—The Secretary may
16 not award more than 10 percent of the amounts pro-
17 vided under this section to a single grant recipient
18 in any fiscal year.

19 “(10) MULTIYEAR GRANTS.—Subject to avail-
20 ability of amounts, the Secretary may provide an eli-
21 gible entity with grant amounts for a period of mul-
22 tiple fiscal years.

23 “(11) FUNDING.—Of the funds authorized to
24 be appropriated to carry out the intelligent transpor-
25 tation system program under sections 512 through

1 518, not less than 50 percent of such funds shall be
2 used to carry out this subsection.”.

3 **SEC. 2302. GOALS AND PURPOSES.**

4 (a) IN GENERAL.—Chapter 5 of title 23, United
5 States Code, is amended by adding after section 513 the
6 following:

7 **“§ 514. Goals and purposes**

8 “(a) GOALS.—The goals of the intelligent transpor-
9 tation system program include—

10 “(1) enhancement of surface transportation ef-
11 ficiency and facilitation of intermodalism and inter-
12 national trade to enable existing facilities to meet a
13 significant portion of future transportation needs,
14 including public access to employment, goods, and
15 services and to reduce regulatory, financial, and
16 other transaction costs to public agencies and sys-
17 tem users;

18 “(2) achievement of national transportation
19 safety goals, including enhancement of safe oper-
20 ation of motor vehicles and nonmotorized vehicles
21 and improved emergency response to collisions, with
22 particular emphasis on decreasing the number and
23 severity of collisions;

24 “(3) protection and enhancement of the natural
25 environment and communities affected by surface

1 transportation, with particular emphasis on assisting
2 State and local governments to achieve national en-
3 vironmental goals;

4 “(4) accommodation of the needs of all users of
5 surface transportation systems, including operators
6 of commercial motor vehicles, passenger motor vehi-
7 cles, motorcycles, bicycles, and pedestrians (includ-
8 ing individuals with disabilities); and

9 “(5) enhancement of national defense mobility
10 and improvement of the ability of the United States
11 to respond to security-related or other manmade
12 emergencies and natural disasters.

13 “(b) PURPOSES.—The Secretary shall implement ac-
14 tivities under the intelligent transportation system pro-
15 gram, at a minimum—

16 “(1) to expedite, in both metropolitan and rural
17 areas, deployment and integration of intelligent
18 transportation systems for consumers of passenger
19 and freight transportation;

20 “(2) to ensure that Federal, State, and local
21 transportation officials have adequate knowledge of
22 intelligent transportation systems for consideration
23 in the transportation planning process;

1 “(3) to improve regional cooperation and oper-
2 ations planning for effective intelligent transpor-
3 tation system deployment;

4 “(4) to promote the innovative use of private
5 resources in support of intelligent transportation
6 system development;

7 “(5) to facilitate, in cooperation with the motor
8 vehicle industry, the introduction of vehicle-based
9 safety enhancing systems;

10 “(6) to support the application of intelligent
11 transportation systems that increase the safety and
12 efficiency of commercial motor vehicle operations;

13 “(7) to develop a workforce capable of devel-
14 oping, operating, and maintaining intelligent trans-
15 portation systems;

16 “(8) to provide continuing support for oper-
17 ations and maintenance of intelligent transportation
18 systems; and

19 “(9) to ensure a systems approach that includes
20 cooperation among vehicles, infrastructure, and
21 users.”.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 5 of title 23, United States Code, is amended by
24 adding after the item relating to section 513 the following:

“514. Goals and purposes.”.

1 **SEC. 2303. GENERAL AUTHORITIES AND REQUIREMENTS.**

2 (a) IN GENERAL.—Chapter 5 of title 23, United
3 States Code, is amended by adding after section 514 (as
4 added by section 2302) the following:

5 **“§ 515. General authorities and requirements**

6 “(a) SCOPE.—Subject to the provisions of this chap-
7 ter, the Secretary shall conduct an ongoing intelligent
8 transportation system program—

9 “(1) to research, develop, and operationally test
10 intelligent transportation systems; and

11 “(2) to provide technical assistance in the na-
12 tionwide application of those systems as a compo-
13 nent of the surface transportation systems of the
14 United States.

15 “(b) POLICY.—Intelligent transportation system re-
16 search projects and operational tests funded pursuant to
17 this chapter shall encourage and not displace public-pri-
18 vate partnerships or private sector investment in those
19 tests and projects.

20 “(c) COOPERATION WITH GOVERNMENTAL, PRI-
21 VATE, AND EDUCATIONAL ENTITIES.—The Secretary
22 shall carry out the intelligent transportation system pro-
23 gram in cooperation with State and local governments and
24 other public entities, the private sector firms of the United
25 States, the Federal laboratories, and institutions of higher

1 education, including historically Black colleges and univer-
2 sities and other minority institutions of higher education.

3 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—

4 In carrying out the intelligent transportation system pro-
5 gram, the Secretary shall consult with the heads of other
6 Federal agencies, as appropriate.

7 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-

8 FORMATION.—The Secretary may provide technical assist-
9 ance, training, and information to State and local govern-
10 ments seeking to implement, operate, maintain, or evalu-
11 ate intelligent transportation system technologies and
12 services.

13 “(f) TRANSPORTATION PLANNING.—The Secretary

14 may provide funding to support adequate consideration of
15 transportation systems management and operations, in-
16 cluding intelligent transportation systems, within metro-
17 politan and statewide transportation planning processes.

18 “(g) INFORMATION CLEARINGHOUSE.—

19 “(1) IN GENERAL.—The Secretary shall—

20 “(A) maintain a repository for technical
21 and safety data collected as a result of federally
22 sponsored projects carried out under this chap-
23 ter; and

24 “(B) make, on request, that information
25 (except for proprietary information and data)

1 readily available to all users of the repository at
2 an appropriate cost.

3 “(2) AGREEMENT.—

4 “(A) IN GENERAL.—The Secretary may
5 enter into an agreement with a third party for
6 the maintenance of the repository for technical
7 and safety data under paragraph (1)(A).

8 “(B) FEDERAL FINANCIAL ASSISTANCE.—

9 If the Secretary enters into an agreement with
10 an entity for the maintenance of the repository,
11 the entity shall be eligible for Federal financial
12 assistance under this section.

13 “(3) AVAILABILITY OF INFORMATION.—Infor-
14 mation in the repository shall not be subject to sec-
15 tions 552 and 555 of title 5, United States Code.

16 “(h) ADVISORY COMMITTEE.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish an Advisory Committee to advise the Secretary
19 on carrying out this chapter.

20 “(2) MEMBERSHIP.—The Advisory Committee
21 shall have no more than 20 members, be balanced
22 between metropolitan and rural interests, and in-
23 clude, at a minimum—

24 “(A) a representative from a State high-
25 way department;

1 “(B) a representative from a local highway
2 department who is not from a metropolitan
3 planning organization;

4 “(C) a representative from a State, local,
5 or regional transit agency;

6 “(D) a representative from a metropolitan
7 planning organization;

8 “(E) a private sector user of intelligent
9 transportation system technologies;

10 “(F) an academic researcher with expertise
11 in computer science or another information
12 science field related to intelligent transportation
13 systems, and who is not an expert on transpor-
14 tation issues;

15 “(G) an academic researcher who is a civil
16 engineer;

17 “(H) an academic researcher who is a so-
18 cial scientist with expertise in transportation
19 issues;

20 “(I) a representative from a nonprofit
21 group representing the intelligent transpor-
22 tation system industry;

23 “(J) a representative from a public interest
24 group concerned with safety;

1 “(K) a representative from a public inter-
2 est group concerned with the impact of the
3 transportation system on land use and residen-
4 tial patterns; and

5 “(L) members with expertise in planning,
6 safety, telecommunications, utilities, and oper-
7 ations.

8 “(3) DUTIES.—The Advisory Committee shall,
9 at a minimum, perform the following duties:

10 “(A) Provide input into the development of
11 the intelligent transportation system aspects of
12 the strategic plan under section 508.

13 “(B) Review, at least annually, areas of in-
14 telligent transportation systems research being
15 considered for funding by the Department, to
16 determine—

17 “(i) whether these activities are likely
18 to advance either the state-of-the-practice
19 or state-of-the-art in intelligent transpor-
20 tation systems;

21 “(ii) whether the intelligent transpor-
22 tation system technologies are likely to be
23 deployed by users, and if not, to determine
24 the barriers to deployment; and

1 “(iii) the appropriate roles for govern-
2 ment and the private sector in investing in
3 the research and technologies being consid-
4 ered.

5 “(4) REPORT.—Not later than February 1 of
6 each year after the date of enactment of the MAP-
7 21, the Secretary shall submit to Congress a report
8 that includes—

9 “(A) all recommendations made by the Ad-
10 visory Committee during the preceding calendar
11 year;

12 “(B) an explanation of the manner in
13 which the Secretary has implemented those rec-
14 ommendations; and

15 “(C) for recommendations not imple-
16 mented, the reasons for rejecting the rec-
17 ommendations.

18 “(5) APPLICABILITY OF FEDERAL ADVISORY
19 COMMITTEE ACT.—The Advisory Committee shall be
20 subject to the Federal Advisory Committee Act (5
21 U.S.C. App.).

22 “(i) REPORTING.—

23 “(1) GUIDELINES AND REQUIREMENTS.—

24 “(A) IN GENERAL.—The Secretary shall
25 issue guidelines and requirements for the re-

1 porting and evaluation of operational tests and
2 deployment projects carried out under this
3 chapter.

4 “(B) OBJECTIVITY AND INDEPENDENCE.—
5 The guidelines and requirements issued under
6 subparagraph (A) shall include provisions to en-
7 sure the objectivity and independence of the re-
8 porting entity so as to avoid any real or appar-
9 ent conflict of interest or potential influence on
10 the outcome by parties to any such test or de-
11 ployment project or by any other formal evalua-
12 tion carried out under this chapter.

13 “(C) FUNDING.—The guidelines and re-
14 quirements issued under subparagraph (A) shall
15 establish reporting funding levels based on the
16 size and scope of each test or project that en-
17 sure adequate reporting of the results of the
18 test or project.

19 “(2) SPECIAL RULE.—Any survey, question-
20 naire, or interview that the Secretary considers nec-
21 essary to carry out the reporting of any test, deploy-
22 ment project, or program assessment activity under
23 this chapter shall not be subject to chapter 35 of
24 title 44, United States Code.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 5 of title 23, United States Code, is amended by
3 adding after the item relating to section 514 (as added
4 by section 2302) the following:

“515. General authorities and requirements.”.

5 **SEC. 2304. RESEARCH AND DEVELOPMENT.**

6 (a) IN GENERAL.—Chapter 5 of title 23, United
7 States Code, is amended by adding after section 515 (as
8 added by section 2303) the following:

9 **“§ 516. Research and development**

10 “(a) IN GENERAL.—The Secretary shall carry out a
11 comprehensive program of intelligent transportation sys-
12 tem research and development, and operational tests of
13 intelligent vehicles, intelligent infrastructure systems, and
14 other similar activities that are necessary to carry out this
15 chapter.

16 “(b) PRIORITY AREAS.—Under the program, the Sec-
17 retary shall give higher priority to funding projects that—

18 “(1) enhance mobility and productivity through
19 improved traffic management, incident management,
20 transit management, freight management, road
21 weather management, toll collection, traveler infor-
22 mation, or highway operations systems and remote
23 sensing products;

1 “(2) use interdisciplinary approaches to develop
2 traffic management strategies and tools to address
3 multiple impacts of congestion concurrently;

4 “(3) address traffic management, incident man-
5 agement, transit management, toll collection traveler
6 information, or highway operations systems;

7 “(4) incorporate research on the impact of envi-
8 ronmental, weather, and natural conditions on intel-
9 ligent transportation systems, including the effects
10 of cold climates;

11 “(5) enhance intermodal use of intelligent
12 transportation systems for diverse groups, including
13 for emergency and health-related services;

14 “(6) enhance safety through improved crash
15 avoidance and protection, crash and other notifica-
16 tion, commercial motor vehicle operations, and infra-
17 structure-based or cooperative safety systems; or

18 “(7) facilitate the integration of intelligent in-
19 frastructure, vehicle, and control technologies.

20 “(c) FEDERAL SHARE.—The Federal share payable
21 on account of any project or activity carried out under
22 subsection (a) shall not exceed 80 percent.”.

23 (b) CONFORMING AMENDMENT.—The analysis for
24 chapter 5 of title 23, United States Code, is amended by

1 adding after the item relating to section 515 (as added
2 by section 2304) the following:

“516. Research and development.”.

3 **SEC. 2305. NATIONAL ARCHITECTURE AND STANDARDS.**

4 (a) IN GENERAL.—Chapter 5 of title 23, United
5 States Code, is amended by adding after section 516 (as
6 added by section 2304) the following:

7 **“§ 517. National architecture and standards.**

8 “(a) IN GENERAL.—

9 “(1) DEVELOPMENT, IMPLEMENTATION, AND
10 MAINTENANCE.—In accordance with section 12(d) of
11 the National Technology Transfer and Advancement
12 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783;
13 115 Stat. 1241), the Secretary shall develop and
14 maintain a national ITS architecture and supporting
15 ITS standards and protocols to promote the use of
16 systems engineering methods in the widespread de-
17 ployment and evaluation of intelligent transportation
18 systems as a component of the surface transpor-
19 tation systems of the United States.

20 “(2) INTEROPERABILITY AND EFFICIENCY.—To
21 the maximum extent practicable, the national ITS
22 architecture and supporting ITS standards and pro-
23 tocols shall promote interoperability among, and effi-
24 ciency of, intelligent transportation systems and

1 technologies implemented throughout the United
2 States.

3 “(3) USE OF STANDARDS DEVELOPMENT ORGA-
4 NIZATIONS.—In carrying out this section, the Sec-
5 retary shall support the development and mainte-
6 nance of standards and protocols using the services
7 of such standards development organizations as the
8 Secretary determines to be necessary and whose
9 memberships are comprised of, and represent, the
10 surface transportation and intelligent transportation
11 systems industries.

12 “(b) STANDARDS FOR NATIONAL POLICY IMPLEMEN-
13 TATION.—If the Secretary finds that a standard is nec-
14 essary for implementation of a nationwide policy relating
15 to user fee collection or other capability requiring nation-
16 wide uniformity, the Secretary, after consultation with
17 stakeholders, may establish and require the use of that
18 standard.

19 “(c) PROVISIONAL STANDARDS.—

20 “(1) IN GENERAL.—If the Secretary finds that
21 the development or balloting of an intelligent trans-
22 portation system standard jeopardizes the timely
23 achievement of the objectives described in subsection
24 (a), the Secretary may establish a provisional stand-
25 ard, after consultation with affected parties, using,

1 to the maximum extent practicable, the work prod-
2 uct of appropriate standards development organiza-
3 tions.

4 “(2) PERIOD OF EFFECTIVENESS.—A provi-
5 sional standard established under paragraph (1)
6 shall be published in the Federal Register and re-
7 main in effect until the appropriate standards devel-
8 opment organization adopts and publishes a stand-
9 ard.

10 “(d) CONFORMITY WITH NATIONAL ARCHITEC-
11 TURE.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), the Secretary shall ensure that intelligent
14 transportation system projects carried out using
15 amounts made available from the Highway Trust
16 Fund, including amounts made available to deploy
17 intelligent transportation systems, conform to the
18 appropriate regional ITS architecture, applicable
19 standards, and protocols developed under subsection
20 (a) or (c).

21 “(2) DISCRETION OF THE SECRETARY.—The
22 Secretary, at the discretion of the Secretary, may
23 offer an exemption from paragraph (1) for projects
24 designed to achieve specific research objectives out-
25 lined in the national intelligent transportation sys-

1 tem program plan or the surface transportation re-
2 search and development strategic plan developed
3 under section 508.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 5 of title 23, United States Code, is amended by
6 adding after the item relating to section 516 (as added
7 by section 2304) the following:

“517. National architecture and standards.”.

8 **SEC. 2306. 5.9 GHz VEHICLE-TO-VEHICLE AND VEHICLE-TO-**
9 **INFRASTRUCTURE COMMUNICATIONS SYS-**
10 **TEMS DEPLOYMENT.**

11 (a) IN GENERAL.—Chapter 5 of title 23, United
12 States Code, is amended by adding after section 517 (as
13 added by section 2305) the following:

14 **“§ 518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infra-**
15 **structure communications systems de-**
16 **ployment**

17 “(a) IN GENERAL.—Not later than 3 years after the
18 date of enactment of this section, the Secretary shall sub-
19 mit to the appropriate committees of Congress a report
20 that—

21 “(1) describes a recommended implementation
22 path for dedicated short-range communications tech-
23 nology and applications; and

24 “(2) includes guidance on the relationship of
25 the proposed deployment of dedicated short-range

1 communications to the National ITS Architecture
2 and ITS Standards.

3 “(b) NATIONAL RESEARCH COUNCIL REVIEW.—The
4 Secretary shall enter into an agreement with the National
5 Research Council for the review by the National Research
6 Council of the report described in subsection (a).”.

7 (b) CONFORMING AMENDMENT.—The analysis of
8 chapter 5 of title 23, United States Code, is amended by
9 adding after section 517 (as added by section 2305) the
10 following:

“518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications
systems deployment.”.

11 **TITLE III—AMERICA FAST**
12 **FORWARD FINANCING**
13 **INNOVATION**

14 **SEC. 3001. SHORT TITLE.**

15 This title may be cited as the “America Fast Forward
16 Financing Innovation Act of 2011”.

17 **SEC. 3002. TRANSPORTATION INFRASTRUCTURE FINANCE**
18 **AND INNOVATION ACT AMENDMENTS.**

19 Sections 601 through 609 of title 23, United States
20 Code, are amended to read as follows:

21 **“§ 601. Generally applicable provisions**

22 “(a) DEFINITIONS.—In this chapter, the following
23 definitions apply:

1 “(1) ELIGIBLE PROJECT COSTS.—The term ‘eli-
2 gible project costs’ means amounts substantially all
3 of which are paid by, or for the account of, an obli-
4 gor in connection with a project, including the cost
5 of—

6 “(A) development phase activities, includ-
7 ing planning, feasibility analysis, revenue fore-
8 casting, environmental review, permitting, pre-
9 liminary engineering and design work, and
10 other preconstruction activities;

11 “(B) construction, reconstruction, rehabili-
12 tation, replacement, and acquisition of real
13 property (including land relating to the project
14 and improvements to land), environmental miti-
15 gation, construction contingencies, and acquisi-
16 tion of equipment; and

17 “(C) capitalized interest necessary to meet
18 market requirements, reasonably required re-
19 serve funds, capital issuance expenses, and
20 other carrying costs during construction.

21 “(2) FEDERAL CREDIT INSTRUMENT.—The
22 term ‘Federal credit instrument’ means a secured
23 loan, loan guarantee, or line of credit authorized to
24 be made available under this chapter with respect to
25 a project.

1 “(3) INVESTMENT-GRADE RATING.—The term
2 ‘investment-grade rating’ means a rating of BBB
3 minus, Baa3, bbb minus, BBB (low), or higher as-
4 signed by a rating agency to project obligations.

5 “(4) LENDER.—The term ‘lender’ means any
6 non-Federal qualified institutional buyer (as defined
7 in section 230.144A(a) of title 17, Code of Federal
8 Regulations (or any successor regulation), known as
9 Rule 144A(a) of the Securities and Exchange Com-
10 mission and issued under the Securities Act of 1933
11 (15 U.S.C. 77a et seq.)), including—

12 “(A) a qualified retirement plan (as de-
13 fined in section 4974(c) of the Internal Revenue
14 Code of 1986) that is a qualified institutional
15 buyer; and

16 “(B) a governmental plan (as defined in
17 section 414(d) of the Internal Revenue Code of
18 1986) that is a qualified institutional buyer.

19 “(5) LETTER OF INTEREST.—The term ‘letter
20 of interest’ means a letter submitted by a potential
21 applicant prior to an application for credit assistance
22 in a format prescribed by the Secretary on the
23 website of the TIFIA program, which—

24 “(A) describes the project and the location,
25 purpose, and cost of the project;

1 “(B) outlines the proposed financial plan,
2 including the requested credit assistance and
3 the proposed obligor;

4 “(C) provides a status of environmental re-
5 view; and

6 “(D) provides information regarding satis-
7 faction of other eligibility requirements of the
8 TIFIA program.

9 “(6) LINE OF CREDIT.—The term “‘line of
10 credit’” means an agreement entered into by the
11 Secretary with an obligor under section 604 to pro-
12 vide a direct loan at a future date upon the occur-
13 rence of certain events.

14 “(7) LIMITED BUYDOWN.—The term ‘limited
15 buydown’ means, subject to the conditions described
16 in section 603(b)(4)(C), a buydown of the interest
17 rate by the Secretary and by the obligor if the inter-
18 est rate has increased between—

19 “(A)(i) the date on which a project appli-
20 cation acceptable to the Secretary is submitted;
21 or

22 “(ii) the date on which the Secretary en-
23 tered into a master credit agreement; and

24 “(B) the date on which the Secretary exe-
25 cutes the Federal credit instrument.

1 “(8) LOAN GUARANTEE.—The term ‘loan guar-
2 antee’ means any guarantee or other pledge by the
3 Secretary to pay all or part of the principal of and
4 interest on a loan or other debt obligation issued by
5 an obligor and funded by a lender.

6 “(9) MASTER CREDIT AGREEMENT.—The term
7 ‘master credit agreement’ means an agreement to
8 extend credit assistance for a program of projects
9 secured by a common security pledge (which shall
10 receive an investment grade rating from a rating
11 agency), or for a single project covered under section
12 602(b)(2) that would—

13 “(A) make contingent commitments of 1 or
14 more secured loans or other Federal credit in-
15 struments at future dates;

16 “(B) establish the maximum amounts and
17 general terms and conditions of the secured
18 loans or other Federal credit instruments;

19 “(C) identify the 1 or more dedicated non-
20 Federal revenue sources that will secure the re-
21 payment of the secured loans or secured Fed-
22 eral credit instruments;

23 “(D) provide for the obligation of funds for
24 the secured loans or secured Federal credit in-
25 struments after all requirements have been met

1 for the projects subject to the master credit
2 agreement, including—

3 “(i) completion of an environmental
4 impact statement or similar analysis re-
5 quired under the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.); and

8 “(ii) compliance with such other re-
9 quirements as are specified in section
10 602(c); and

11 “(E) require that contingent commitments
12 result in a financial close and obligation of
13 credit assistance not later than 3 years after
14 the date of entry into the master credit agree-
15 ment, or release of the commitment, unless oth-
16 erwise extended by the Secretary.

17 “(10) OBLIGOR.—The term ‘obligor’ means a
18 party that—

19 “(A) is primarily liable for payment of the
20 principal of or interest on a Federal credit in-
21 strument; and

22 “(B) may be a corporation, partnership,
23 joint venture, trust, or governmental entity,
24 agency, or instrumentality.

25 “(11) PROJECT.—The term ‘project’ means—

1 “(A) any surface transportation project eli-
2 gible for Federal assistance under this title or
3 chapter 53 of title 49;

4 “(B) a project for an international bridge
5 or tunnel for which an international entity au-
6 thorized under Federal or State law is respon-
7 sible;

8 “(C) a project for intercity passenger bus
9 or rail facilities and vehicles, including facilities
10 and vehicles owned by the National Railroad
11 Passenger Corporation and components of mag-
12 netic levitation transportation systems; and

13 “(D) a project that—

14 “(i) is a project—

15 “(I) for a public freight rail facil-
16 ity or a private facility providing pub-
17 lic benefit for highway users by way of
18 direct freight interchange between
19 highway and rail carriers;

20 “(II) for an intermodal freight
21 transfer facility;

22 “(III) for a means of access to a
23 facility described in subclause (I) or
24 (II);

1 related projects together for that purpose,
2 on the condition that the credit assistance
3 for the projects is secured by a common
4 pledge.

5 “(12) PROJECT OBLIGATION.—The term
6 ‘project obligation’ means any note, bond, debenture,
7 or other debt obligation issued by an obligor in con-
8 nection with the financing of a project, other than
9 a Federal credit instrument.

10 “(13) RATING AGENCY.—The term ‘rating
11 agency’ means a credit rating agency registered with
12 the Securities and Exchange Commission as a na-
13 tionally recognized statistical rating organization (as
14 that term is defined in section 3(a) of the Securities
15 Exchange Act of 1934 (15 U.S.C. 78c(a))).

16 “(14) RURAL INFRASTRUCTURE PROJECT.—
17 The term ‘rural infrastructure project’ means a sur-
18 face transportation infrastructure project located in
19 any area other than an urbanized area that has a
20 population of greater than 200,000 inhabitants.

21 “(15) SECURED LOAN.—The term ‘secured
22 loan’ means a direct loan or other debt obligation
23 issued by an obligor and funded by the Secretary in
24 connection with the financing of a project under sec-
25 tion 603.

1 “(16) STATE.—The term ‘State’ has the mean-
2 ing given the term in section 101.

3 “(17) SUBSIDY AMOUNT.—The term ‘subsidy
4 amount’ means the amount of budget authority suf-
5 ficient to cover the estimated long-term cost to the
6 Federal Government of a Federal credit instrument,
7 calculated on a net present value basis, excluding
8 administrative costs and any incidental effects on
9 governmental receipts or outlays in accordance with
10 the Federal Credit Reform Act of 1990 (2 U.S.C.
11 661 et seq.).

12 “(18) SUBSTANTIAL COMPLETION.—The term
13 ‘substantial completion’ means—

14 “(A) the opening of a project to vehicular
15 or passenger traffic; or

16 “(B) a comparable event, as determined by
17 the Secretary and specified in the credit agree-
18 ment.

19 “(19) TIFIA PROGRAM.—The term ‘TIFIA
20 program’ means the transportation infrastructure fi-
21 nance and innovation program of the Department.

22 “(b) TREATMENT OF CHAPTER.—For purposes of
23 this title, this chapter shall be treated as being part of
24 chapter 1.

1 **“§ 602. Determination of eligibility and project selec-**
2 **tion**

3 “(a) ELIGIBILITY.—A project shall be eligible to re-
4 ceive credit assistance under this chapter if the entity pro-
5 posing to carry out the project submits a letter of interest
6 prior to submission of a formal application for the project,
7 and the project meets the following criteria:

8 “(1) CREDITWORTHINESS.—

9 “(A) IN GENERAL.—The project shall sat-
10 isfy applicable creditworthiness standards,
11 which, at a minimum, includes—

12 “(i) a rate covenant, if applicable;

13 “(ii) adequate coverage requirements
14 to ensure repayment;

15 “(iii) an investment grade rating from
16 at least 2 rating agencies on debt senior to
17 the Federal credit instrument; and

18 “(iv) a rating from at least 2 rating
19 agencies on the Federal credit instrument,
20 subject to the condition that, with respect
21 to clauses (ii) and (iii), if the senior debt
22 and Federal credit instrument is for an
23 amount less than \$75,000,000 or for a
24 rural infrastructure project or intelligent
25 transportation systems project, 1 rating
26 agency opinion for each of the senior debt

1 and Federal credit instrument shall be suf-
2 ficient.

3 “(B) SENIOR DEBT.—Notwithstanding
4 subparagraph (A), in a case in which the Fed-
5 eral credit instrument is the senior debt, the
6 Federal credit instrument shall be required to
7 receive an investment grade rating from at least
8 2 rating agencies, unless the credit instrument
9 is for a rural infrastructure project or intel-
10 ligent transportation systems project, in which
11 case 1 rating agency opinion shall be sufficient.

12 “(2) INCLUSION IN TRANSPORTATION PLANS
13 AND PROGRAMS.—The project shall satisfy the appli-
14 cable planning and programming requirements of
15 sections 134 and 135 at such time as an agreement
16 to make available a Federal credit instrument is en-
17 tered into under this chapter.

18 “(3) APPLICATION.—A State, local government,
19 public authority, public-private partnership, or any
20 other legal entity undertaking the project and au-
21 thorized by the Secretary, shall submit a project ap-
22 plication acceptable to the Secretary.

23 “(4) ELIGIBLE PROJECT COSTS.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), to be eligible for assistance

1 under this chapter, a project shall have eligible
2 project costs that are reasonably anticipated to
3 equal or exceed the lesser of—

4 “(i)(I) \$50,000,000; or

5 “(II) in the case of a rural infrastruc-
6 ture project, \$25,000,000; or

7 “(ii) 33 $\frac{1}{3}$ percent of the amount of
8 Federal highway assistance funds appor-
9 tioned for the most recently completed fis-
10 cal year to the State in which the project
11 is located.

12 “(B) INTELLIGENT TRANSPORTATION SYS-
13 TEM PROJECTS.—In the case of a project prin-
14 cipally involving the installation of an intelligent
15 transportation system, eligible project costs
16 shall be reasonably anticipated to equal or ex-
17 ceed \$15,000,000.

18 “(5) DEDICATED REVENUE SOURCES.—The
19 Federal credit instrument shall be repayable, in
20 whole or in part, from tolls, user fees, or other dedi-
21 cated revenue sources that also secure the project
22 obligations.

23 “(6) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
24 TIES.—In the case of a project that is undertaken
25 by an entity that is not a State or local government

1 or an agency or instrumentality of a State or local
2 government, the project that the entity is under-
3 taking shall be publicly sponsored as provided in
4 paragraph (2).

5 “(b) SELECTION AMONG ELIGIBLE PROJECTS.—

6 “(1) ESTABLISHMENT.—The Secretary shall es-
7 tablish a rolling application process in which projects
8 that are eligible to receive credit assistance under
9 subsection (a) shall receive credit assistance on
10 terms acceptable to the Secretary, if adequate funds
11 are available to cover the subsidy costs associated
12 with the Federal credit instrument.

13 “(2) ADEQUATE FUNDING NOT AVAILABLE.—

14 “(A) IN GENERAL.—If the Secretary fully
15 obligates funding to eligible projects in a given
16 fiscal year, and adequate funding is not avail-
17 able to fund a credit instrument, a project
18 sponsor of an eligible project may elect to enter
19 into a master credit agreement and wait until
20 the following fiscal year to receive credit assist-
21 ance, or pay its own credit subsidy to permit an
22 obligation.

23 “(B) USE OF FUNDS.—A project sponsor
24 may use any eligible funds apportioned under
25 chapter 1 of this title or chapter 53 of title 49

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

4 “(2) NEPA.—No funding shall be obligated for
5 a project that has not received an environmental
6 Categorical Exclusion, Finding of No Significant
7 Impact, or Record of Decision under the National
8 Environmental Policy Act of 1969 (42 U.S.C. 4321
9 et seq.).

10 **“§ 603. Secured loans**

11 “(a) IN GENERAL.—

12 “(1) AGREEMENTS.—Subject to paragraphs (2)
13 through (4), the Secretary may enter into agree-
14 ments with 1 or more obligors to make secured
15 loans, the proceeds of which shall be used—

16 “(A) to finance eligible project costs of any
17 project selected under section 602;

18 “(B) to refinance interim construction fi-
19 nancing of eligible project costs of any project
20 selected under section 602; or

21 “(C) to refinance long-term project obliga-
22 tions or Federal credit instruments if the refi-
23 nancing provides additional funding capacity for
24 the completion, enhancement, or expansion of
25 any project that—

1 “(i) is selected under section 602; or

2 “(ii) otherwise meets the requirements

3 of section 602.

4 “(2) LIMITATION ON REFINANCING OF INTERIM

5 CONSTRUCTION FINANCING.—A loan under para-

6 graph (1) shall not refinance interim construction fi-

7 nancing under paragraph (1)(B) later than 1 year

8 after the date of substantial completion of the

9 project.

10 “(3) RISK ASSESSMENT.—Before entering into

11 an agreement under this subsection, the Secretary,

12 in consultation with the Director of the Office of

13 Management and Budget, shall determine an appro-

14 priate capital reserve subsidy amount for each se-

15 cured loan, taking into account each rating letter

16 provided by an agency under section 602(b)(3)(B).

17 “(b) TERMS AND LIMITATIONS.—

18 “(1) IN GENERAL.—A secured loan under this

19 section with respect to a project shall be on such

20 terms and conditions and contain such covenants,

21 representations, warranties, and requirements (in-

22 cluding requirements for audits) as the Secretary de-

23 termines appropriate.

24 “(2) MAXIMUM AMOUNT.—The amount of the

25 secured loan shall not exceed the lesser of 49 per-

1 cent of the reasonably anticipated eligible project
2 costs or, if the secured loan does not receive an in-
3 vestment grade rating, the amount of the senior
4 project obligations.

5 “(3) PAYMENT.—The secured loan—

6 “(A) shall—

7 “(i) be payable, in whole or in part,
8 from tolls, user fees, or other dedicated
9 revenue sources that also secure the senior
10 project obligations; and

11 “(ii) include a rate covenant, coverage
12 requirement, or similar security feature
13 supporting the project obligations; and

14 “(B) may have a lien on revenues de-
15 scribed in subparagraph (A) subject to any lien
16 securing project obligations.

17 “(4) INTEREST RATE.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraphs (B) and (C), the interest rate on
20 the secured loan shall be not less than the yield
21 on United States Treasury securities of a simi-
22 lar maturity to the maturity of the secured loan
23 on the date of execution of the loan agreement.

24 “(B) RURAL INFRASTRUCTURE
25 PROJECTS.—A loan offered to a rural infra-

1 structure project under this chapter shall be at
2 $\frac{1}{2}$ of the Treasury Rate.

3 “(C) LIMITED BUYDOWNS.—A limited
4 buydown is subject to the following conditions:

5 “(i) The interest rate under the agree-
6 ment may not be lowered by more than the
7 lower of—

8 “(I) $1\frac{1}{2}$ percentage points (150
9 basis points); or

10 “(II) the amount of the increase
11 in the interest rate.

12 “(ii) The Secretary may pay up to 50
13 percent of the cost of the limited buydown,
14 and the obligor shall pay the balance of the
15 cost of the limited buydown.

16 “(iii) Not more than 5 percent of the
17 funding made available annually to carry
18 out this chapter may be used to carry out
19 limited buydowns.

20 “(5) MATURITY DATE.—The final maturity
21 date of the secured loan shall be the lesser of—

22 “(A) 35 years after the date of substantial
23 completion of the project; or

1 “(B) if the useful life of the capital asset
2 being financed is of a lesser period, the useful
3 life of the asset.

4 “(6) NONSUBORDINATION.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraphs (B) and (C), the secured loan
7 shall not be subordinated to the claims of any
8 holder of project obligations in the event of
9 bankruptcy, insolvency, or liquidation of the ob-
10 ligor.

11 “(B) PRE-EXISTING INDENTURE.—

12 “(i) IN GENERAL.—The Secretary
13 shall waive subparagraph (A) for public
14 agency borrowers that are financing ongo-
15 ing capital programs and have outstanding
16 senior bonds under a pre-existing inden-
17 ture, if—

18 “(I) the secured loan is rated in
19 the A-category or higher;

20 “(II) the secured loan is secured
21 and payable from pledged revenues
22 not affected by project performance,
23 such as a tax-backed revenue pledge
24 or a system-backed pledge of project
25 revenues; and

1 “(III) the TIFIA program share
2 of eligible project costs is 33 percent
3 or less.

4 “(ii) LIMITATION.—If the Secretary
5 waives the nonsubordination requirement
6 under this subparagraph—

7 “(I) the maximum credit subsidy
8 that will be paid by the Federal Gov-
9 ernment shall be limited to 10 percent
10 of the principal amount of the secured
11 loan; and

12 “(II) the obligor shall be respon-
13 sible for paying the remainder of the
14 subsidy cost.

15 “(7) FEES.—The Secretary may establish fees
16 at a level sufficient to cover all or a portion of the
17 costs to the Federal Government of making a se-
18 cured loan under this section.

19 “(8) NON-FEDERAL SHARE.—The proceeds of a
20 secured loan under this chapter may be used for any
21 non-Federal share of project costs required under
22 this title or chapter 53 of title 49, if the loan is re-
23 payable from non-Federal funds.

24 “(9) MAXIMUM FEDERAL INVOLVEMENT.—The
25 total Federal assistance provided on a project receiv-

1 ing a loan under this chapter shall not exceed 80
2 percent of the total project cost.

3 “(c) REPAYMENT.—

4 “(1) SCHEDULE.—The Secretary shall establish
5 a repayment schedule for each secured loan under
6 this section based on the projected cash flow from
7 project revenues and other repayment sources, and
8 the useful life of the project.

9 “(2) COMMENCEMENT.—Scheduled loan repay-
10 ments of principal or interest on a secured loan
11 under this section shall commence not later than 5
12 years after the date of substantial completion of the
13 project.

14 “(3) DEFERRED PAYMENTS.—

15 “(A) AUTHORIZATION.—If, at any time
16 after the date of substantial completion of the
17 project, the project is unable to generate suffi-
18 cient revenues to pay the scheduled loan repay-
19 ments of principal and interest on the secured
20 loan, the Secretary may, subject to subpara-
21 graph (C), allow the obligor to add unpaid prin-
22 cipal and interest to the outstanding balance of
23 the secured loan.

24 “(B) INTEREST.—Any payment deferred
25 under subparagraph (A) shall—

1 “(i) continue to accrue interest in ac-
2 cordance with subsection (b)(4) until fully
3 repaid; and

4 “(ii) be scheduled to be amortized
5 over the remaining term of the loan.

6 “(C) CRITERIA.—

7 “(i) IN GENERAL.—Any payment de-
8 ferral under subparagraph (A) shall be
9 contingent on the project meeting criteria
10 established by the Secretary.

11 “(ii) REPAYMENT STANDARDS.—The
12 criteria established under clause (i) shall
13 include standards for reasonable assurance
14 of repayment.

15 “(4) PREPAYMENT.—

16 “(A) USE OF EXCESS REVENUES.—Any
17 excess revenues that remain after satisfying
18 scheduled debt service requirements on the
19 project obligations and secured loan and all de-
20 posit requirements under the terms of any trust
21 agreement, bond resolution, or similar agree-
22 ment securing project obligations may be ap-
23 plied annually to prepay the secured loan with-
24 out penalty.

1 “(B) USE OF PROCEEDS OF REFI-
2 NANCING.—The secured loan may be prepaid at
3 any time without penalty from the proceeds of
4 refinancing from non-Federal funding sources.

5 “(d) SALE OF SECURED LOANS.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 as soon as practicable after substantial completion of
8 a project and after notifying the obligor, the Sec-
9 retary may sell to another entity or reoffer into the
10 capital markets a secured loan for the project if the
11 Secretary determines that the sale or reoffering can
12 be made on favorable terms.

13 “(2) CONSENT OF OBLIGOR.—In making a sale
14 or reoffering under paragraph (1), the Secretary
15 may not change the original terms and conditions of
16 the secured loan without the written consent of the
17 obligor.

18 “(e) LOAN GUARANTEES.—

19 “(1) IN GENERAL.—The Secretary may provide
20 a loan guarantee to a lender in lieu of making a se-
21 cured loan if the Secretary determines that the
22 budgetary cost of the loan guarantee is substantially
23 the same as that of a secured loan.

24 “(2) TERMS.—The terms of a guaranteed loan
25 shall be consistent with the terms set forth in this

1 section for a secured loan, except that the rate on
2 the guaranteed loan and any prepayment features
3 shall be negotiated between the obligor and the lend-
4 er, with the consent of the Secretary.

5 **“§ 604. Lines of credit**

6 “(a) IN GENERAL.—

7 “(1) AGREEMENTS.—Subject to paragraphs (2)
8 through (4), the Secretary may enter into agree-
9 ments to make available lines of credit to 1 or more
10 obligors in the form of direct loans to be made by
11 the Secretary at future dates on the occurrence of
12 certain events for any project selected under section
13 602.

14 “(2) USE OF PROCEEDS.—The proceeds of a
15 line of credit made available under this section shall
16 be available to pay debt service on project obliga-
17 tions issued to finance eligible project costs, extraor-
18 dinary repair and replacement costs, operation and
19 maintenance expenses, and costs associated with un-
20 expected Federal or State environmental restrictions.

21 “(3) RISK ASSESSMENT.—Before entering into
22 an agreement under this subsection, the Secretary,
23 in consultation with the Director of the Office of
24 Management and Budget and each rating agency
25 providing a preliminary rating opinion letter under

1 section 602(b)(3), shall determine an appropriate
2 capital reserve subsidy amount for each line of cred-
3 it, taking into account the rating opinion letter.

4 “(4) INVESTMENT-GRADE RATING REQUIRE-
5 MENT.—The funding of a line of credit under this
6 section shall be contingent on the senior obligations
7 of the project receiving an investment-grade rating
8 from 2 rating agencies.

9 “(b) TERMS AND LIMITATIONS.—

10 “(1) IN GENERAL.—A line of credit under this
11 section with respect to a project shall be on such
12 terms and conditions and contain such covenants,
13 representations, warranties, and requirements (in-
14 cluding requirements for audits) as the Secretary de-
15 termines appropriate.

16 “(2) MAXIMUM AMOUNTS.—The total amount
17 of the line of credit shall not exceed 33 percent of
18 the reasonably anticipated eligible project costs.

19 “(3) DRAWS.—Any draw on the line of credit
20 shall represent a direct loan and shall be made only
21 if net revenues from the project (including capital-
22 ized interest but not including reasonably required
23 financing reserves) are insufficient to pay the costs
24 specified in subsection (a)(2).

1 “(4) INTEREST RATE.—Except as otherwise
2 provided in subparagraphs (B) and (C) of section
3 603(b)(4), the interest rate on a direct loan result-
4 ing from a draw on the line of credit shall be not
5 less than the yield on 30-year United States Treas-
6 ury securities as of the date of execution of the line
7 of credit agreement.

8 “(5) SECURITY.—The line of credit—

9 “(A) shall—

10 “(i) be payable, in whole or in part,
11 from tolls, user fees, or other dedicated
12 revenue sources that also secure the senior
13 project obligations; and

14 “(ii) include a rate covenant, coverage
15 requirement, or similar security feature
16 supporting the project obligations; and

17 “(B) may have a lien on revenues de-
18 scribed in subparagraph (A) subject to any lien
19 securing project obligations.

20 “(6) PERIOD OF AVAILABILITY.—The full
21 amount of the line of credit, to the extent not drawn
22 upon, shall be available during the period beginning
23 on the date of substantial completion of the project
24 and ending not later than 10 years after that date.

25 “(7) RIGHTS OF THIRD-PARTY CREDITORS.—

1 “(A) AGAINST FEDERAL GOVERNMENT.—A
2 third-party creditor of the obligor shall not have
3 any right against the Federal Government with
4 respect to any draw on the line of credit.

5 “(B) ASSIGNMENT.—An obligor may as-
6 sign the line of credit to 1 or more lenders or
7 to a trustee on the behalf of the lenders.

8 “(8) NONSUBORDINATION.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraphs (B) and (C), a direct loan under
11 this section shall not be subordinated to the
12 claims of any holder of project obligations in
13 the event of bankruptcy, insolvency, or liquida-
14 tion of the obligor.

15 “(B) PRE-EXISTING INDENTURE.—

16 “(i) IN GENERAL.—The Secretary
17 shall waive subparagraph (A) for public
18 agency borrowers that are financing ongo-
19 ing capital programs and have outstanding
20 senior bonds under a pre-existing inden-
21 ture, if—

22 “(I) the line of credit is rated in
23 the A-category or higher;

24 “(II) the TIFIA program loan
25 resulting from a draw on the line of

1 credit is payable from pledged reve-
2 nues not affected by project perform-
3 ance, such as a tax-backed revenue
4 pledge or a system-backed pledge of
5 project revenues; and

6 “(III) the TIFIA program share
7 of eligible project costs is 33 percent
8 or less.

9 “(ii) LIMITATION.—If the Secretary
10 waives the nonsubordination requirement
11 under this subparagraph—

12 “(I) the maximum credit subsidy
13 that will be paid by the Federal Gov-
14 ernment shall be limited to 10 percent
15 of the principal amount of the secured
16 loan; and

17 “(II) the obligor shall be respon-
18 sible for paying the remainder of the
19 subsidy cost.

20 “(9) FEES.—The Secretary may establish fees
21 at a level sufficient to cover all or a portion of the
22 costs to the Federal Government of providing a line
23 of credit under this section.

24 “(10) RELATIONSHIP TO OTHER CREDIT IN-
25 STRUMENTS.—A project that receives a line of credit

1 under this section shall not also receive a secured
2 loan or loan guarantee under section 603 in an
3 amount that, combined with the amount of the line
4 of credit, exceeds 49 percent of eligible project costs.

5 “(c) REPAYMENT.—

6 “(1) TERMS AND CONDITIONS.—The Secretary
7 shall establish repayment terms and conditions for
8 each direct loan under this section based on the pro-
9 jected cash flow from project revenues and other re-
10 payment sources, and the useful life of the asset
11 being financed.

12 “(2) TIMING.—All repayments of principal or
13 interest on a direct loan under this section shall be
14 scheduled to commence not later than 5 years after
15 the end of the period of availability specified in sub-
16 section (b)(6) and to conclude, with full repayment
17 of principal and interest, by the date that is 25
18 years after the end of the period of availability speci-
19 fied in subsection (b)(6).

20 **“§ 605. Program administration**

21 “(a) REQUIREMENT.—The Secretary shall establish
22 a uniform system to service the Federal credit instruments
23 made available under this chapter.

1 “(b) FEES.—The Secretary may collect and spend
2 fees, contingent upon authority being provided in appro-
3 priations Acts, at a level that is sufficient to cover—

4 “(1) the costs of services of expert firms re-
5 tained pursuant to subsection (d); and

6 “(2) all or a portion of the costs to the Federal
7 Government of servicing the Federal credit instru-
8 ments.

9 “(c) SERVICER.—

10 “(1) IN GENERAL.—The Secretary may appoint
11 a financial entity to assist the Secretary in servicing
12 the Federal credit instruments.

13 “(2) DUTIES.—The servicer shall act as the
14 agent for the Secretary.

15 “(3) FEE.—The servicer shall receive a serv-
16 icing fee, subject to approval by the Secretary.

17 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
18 retary may retain the services of expert firms, including
19 counsel, in the field of municipal and project finance to
20 assist in the underwriting and servicing of Federal credit
21 instruments.

22 **“§ 606. State and local permits**

23 “The provision of credit assistance under this chapter
24 with respect to a project shall not—

1 “(1) relieve any recipient of the assistance of
2 any obligation to obtain any required State or local
3 permit or approval with respect to the project;

4 “(2) limit the right of any unit of State or local
5 government to approve or regulate any rate of re-
6 turn on private equity invested in the project; or

7 “(3) otherwise supersede any State or local law
8 (including any regulation) applicable to the construc-
9 tion or operation of the project.

10 **“§ 607. Regulations**

11 “The Secretary may promulgate such regulations as
12 the Secretary determines appropriate to carry out this
13 chapter.

14 **“§ 608. Funding**

15 “(a) FUNDING.—

16 “(1) SPENDING AND BORROWING AUTHOR-
17 ITY.—Spending and borrowing authority for a fiscal
18 year to enter into Federal credit instruments shall
19 be promptly apportioned to the Secretary on a fiscal
20 year basis.

21 “(2) REESTIMATES.—When the estimated cost
22 of a loan or loans is reestimated, the cost of the re-
23 estimate shall be borne by or benefit the general
24 fund of the Treasury, consistent with section 661e(f)
25 of title 2, United States Code.

1 “(3) RURAL SET-ASIDE.—

2 “(A) IN GENERAL.—Of the total amount
3 of funds made available to carry out this chap-
4 ter for each fiscal year, 10 percent shall be set
5 aside for rural infrastructure projects.

6 “(B) REOBLIGATION.—Any amounts set
7 aside under subparagraph (A) that remain un-
8 obligated by June 1 of the fiscal year for which
9 the amounts were set aside shall be available
10 for obligation by the Secretary on projects other
11 than rural infrastructure projects.

12 “(4) REDISTRIBUTION OF AUTHORIZED FUND-
13 ING.—

14 “(A) IN GENERAL.—Beginning for the sec-
15 ond fiscal year after the date of enactment of
16 this paragraph, on August 1 of that fiscal year,
17 and each fiscal year thereafter, if the unobli-
18 gated and uncommitted balance of funding
19 available exceeds 150 percent of the amount
20 made available to carry out this chapter for
21 that fiscal year, the Secretary shall distribute to
22 the States the amount of funds and associated
23 obligation authority in excess of that amount.

24 “(B) DISTRIBUTION.—The amounts and
25 obligation authority distributed under this para-

1 graph shall be distributed, in the same manner
2 as obligation authority is distributed to the
3 States for the fiscal year, based on the propor-
4 tion that—

5 “(i) the relative share of each State of
6 obligation authority for the fiscal year;
7 bears to

8 “(ii) the total amount of obligation
9 authority distributed to all States for the
10 fiscal year.

11 “(C) PURPOSE.—Funds distributed under
12 subparagraph (B) shall be available for any
13 purpose described in section 133(c).

14 “(5) AVAILABILITY.—Amounts made available
15 to carry out this chapter shall remain available until
16 expended.

17 “(6) ADMINISTRATIVE COSTS.—Of the amounts
18 made available to carry out this chapter, the Sec-
19 retary may use not more than 1 percent for each fis-
20 cal year for the administration of this chapter.

21 “(b) CONTRACT AUTHORITY.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of law, execution of a term sheet by the
24 Secretary of a Federal credit instrument that uses
25 amounts made available under this chapter shall im-

1 pose on the United States a contractual obligation to
2 fund the Federal credit investment.

3 “(2) AVAILABILITY.—Amounts made available
4 to carry out this chapter for a fiscal year shall be
5 available for obligation on October 1 of the fiscal
6 year.

7 **“§ 609. Reports to Congress**

8 “On June 1, 2012, and every 2 years thereafter, the
9 Secretary shall submit to Congress a report summarizing
10 the financial performance of the projects that are receiv-
11 ing, or have received, assistance under this chapter (other
12 than section 610), including a recommendation as to
13 whether the objectives of this chapter (other than section
14 610) are best served—

15 “(1) by continuing the program under the au-
16 thority of the Secretary;

17 “(2) by establishing a Federal corporation or
18 federally sponsored enterprise to administer the pro-
19 gram; or

20 “(3) by phasing out the program and relying on
21 the capital markets to fund the types of infrastruc-
22 ture investments assisted by this chapter (other than
23 section 610) without Federal participation.”.

1 **SEC. 3003. STATE INFRASTRUCTURE BANKS.**

2 Section 610(d)(1)(A) of title 23, United States Code,
3 is amended by striking “sections 104(b)(1)” and all that
4 follows though the semicolon and inserting “paragraphs
5 (1) and (2) of section 104(b)”.

6

7 **TITLE IV—HIGHWAY SPENDING**
8 **CONTROLS**

9 **SEC. 4001. HIGHWAY SPENDING CONTROLS.**

10 (a) IN GENERAL.—Title 23, United States Code, is
11 amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.

701. Solvency of Highway Account of the Highway Trust Fund.

12 **“SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGH-**
13 **WAY TRUST FUND.**

14 “(a) SOLVENCY CALCULATION FOR FISCAL YEAR
15 2012.—Not later than 60 days after the date of enactment
16 of the MAP–21, the Secretary, in consultation with the
17 Secretary of Treasury, shall—

18 “(1) estimate the balance of the Highway Trust
19 Fund (other than the Mass Transit Account) at the
20 end of such fiscal year and the end of the next fiscal
21 year, for purposes of which estimation the Secretary
22 shall assume that the obligation limitation on Fed-
23 eral-aid highways and highway safety construction

1 programs is equal to the obligation limitations en-
2 acted for those fiscal years in the MAP-21;

3 “(2) determine if the estimated balance of the
4 Highway Trust Fund (other than the Mass Transit
5 Account) would fall below—

6 “(A) \$2,000,000,000 at the end of the fis-
7 cal year for which the obligation limitation is
8 being distributed; or

9 “(B) \$1,000,000,000 at the end of the
10 next fiscal year;

11 “(3) if either of the conditions in paragraph (1)
12 would occur, calculate the amount by which the obli-
13 gation limitation in the fiscal year for which the obli-
14 gation limitation is being distributed must be re-
15 duced to prevent such occurrence, for purposes of
16 which calculation the Secretary shall assume that
17 the obligation limitation on Federal-aid highways
18 and highway safety construction programs for the
19 next fiscal year is equal to the obligation limitation
20 for the fiscal year for which the limitation is being
21 distributed as reduced pursuant to this subpara-
22 graph;

23 “(4) distribute such obligation limitation, less
24 any amount determined under paragraph (3);

1 “(5) ensure that any obligation limitation that
2 is withheld from distribution pursuant to paragraph
3 (3) shall lapse immediately following the distribution
4 of obligation limitation under paragraph (4); and

5 “(6) upon the lapse of any obligation limitation
6 under paragraph (5), reduce proportionately the
7 amount of sums authorized to be appropriated from
8 the Highway Trust Fund (other than the Mass
9 Transit Account) for such fiscal year to carry out
10 each of the Federal-aid highway and highway safety
11 construction programs (other than emergency relief)
12 by an aggregate amount equal to the amount deter-
13 mined pursuant to such paragraph. The amounts
14 withheld pursuant to this paragraph are perma-
15 nently rescinded.

16 “(b) SOLVENCY CALCULATION FOR FISCAL YEAR
17 2013 AND FISCAL YEARS THEREAFTER.—

18 “(1) ADJUSTMENT OF OBLIGATION LIMITA-
19 TION.—Except as provided in paragraph (2), in dis-
20 tributing the obligation limitation on Federal-aid
21 highways and highway safety construction programs
22 for fiscal year 2013 and each fiscal year thereafter,
23 the Secretary shall—

24 “(A) estimate the balance of the Highway
25 Trust Fund (other than the Mass Transit Ac-

1 count) at the end of such fiscal year and the
2 end of the next fiscal year, for purposes of
3 which estimation, the Secretary shall assume
4 that the obligation limitation on Federal-aid
5 highways and highway safety construction pro-
6 grams for the next fiscal year is equal to the
7 obligation limitation enacted for the fiscal year
8 for which the limitation is being distributed;

9 “(B) determine if the estimated balance of
10 the Highway Trust Fund (other than the Mass
11 Transit Account) would fall below—

12 “(i) \$2,000,000,000 at the end of the
13 fiscal year for which the obligation limita-
14 tion is being distributed; or

15 “(ii) \$1,000,000,000 at the end of the
16 next fiscal year;

17 “(C) if either of the conditions in subpara-
18 graph (B) would occur, calculate the amount by
19 which the obligation limitation in the fiscal year
20 for which the obligation limitation is being dis-
21 tributed must be reduced to prevent such occur-
22 rence; and

23 “(D) distribute such obligation limitation
24 less any amount determined under subpara-
25 graph (C).

1 “(2) LAPSE AND RESCISSION.—

2 “(A) OBLIGATION LIMITATION.—

3 “(i) RECALCULATION.—In a fiscal
4 year in which the Secretary withholds obli-
5 gation limitation based on the calculation
6 under paragraph (1), the Secretary shall,
7 on March 1 of such fiscal year, repeat the
8 calculations under subparagraphs (A)
9 through (C) of such paragraph. Based on
10 the results of those calculations, the Sec-
11 retary shall—

12 “(I) if the Secretary determines
13 that either of the conditions in para-
14 graph (1)(B) would occur, withdraw
15 an additional amount of obligation
16 limitation necessary to prevent such
17 occurrence; or

18 “(II) distribute as much of the
19 withheld obligation limitation as may
20 be distributed without causing either
21 of the conditions specified in para-
22 graph (1)(B) to occur.

23 “(ii) LAPSE.—Any obligation limita-
24 tion that is enacted for a fiscal year, with-
25 held from distribution pursuant to para-

1 graph (1)(D) (or withdrawn under clause
2 (i)(I)), and not subsequently distributed
3 under clause (i)(II) shall lapse immediately
4 following the distribution of obligation lim-
5 itation under such paragraph.

6 “(B) CONTRACT AUTHORITY.—

7 “(i) IN GENERAL.—Upon the lapse of
8 any obligation limitation under subpara-
9 graph (A)(ii), an equal amount of the un-
10 obligated balances of funds apportioned
11 among the States under chapter 1 and sec-
12 tions 1116, 1303, and 1404 of the
13 SAFETEA-LU (119 Stat. 1177, 1207,
14 and 1228) are permanently rescinded. In
15 administering the rescission required under
16 this subparagraph, the Secretary shall
17 allow each State to determine the amount
18 of the required rescission to be drawn from
19 the programs to which the rescission ap-
20 plies, except as provided in clause (ii).

21 “(ii) RESCISSION OF FUNDS APPOR-
22 TIONED IN FISCAL YEAR 2013 AND FISCAL
23 YEARS THEREAFTER.—If a State deter-
24 mines that it will meet any of its required
25 rescission amount from funds apportioned

1 to such State on or subsequent to October
2 1, 2012, the Secretary shall determine the
3 amount to be rescinded from each of the
4 programs subject to the rescission for
5 which the State was apportioned funds on
6 or subsequent to October 1, 2012, in pro-
7 portion to the cumulative amount of appor-
8 tionments that the State received for each
9 such program on or subsequent to October
10 1, 2012.

11 “(3) OTHER ACTIONS TO PREVENT INSOL-
12 VENCY.—The Secretary shall issue a regulation to
13 establish any actions in addition to those described
14 in paragraph (1) that may be taken by the Secretary
15 if it becomes apparent that the Highway Trust
16 Fund (other than the Mass Transit Account) will be-
17 come insolvent, including the denial of further obli-
18 gations.

19 “(4) APPLICABLE ONLY TO FULL-YEAR LIMITA-
20 TION.—The requirements of paragraph (1) apply
21 only to the distribution of a full-year obligation limi-
22 tation and do not apply to partial-year limitations
23 under continuing appropriations Acts.”.

1 (b) TABLE OF CHAPTERS.—The table of chapters for
2 title 23, United States Code, is amended by inserting after
3 the item relating to chapter 6 the following:

“7. Highway Spending Controls 701”.