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(Original Signature of Member)

109TH CONGRESS
1ST SESSION

# H. R. _____

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. DEFAZIO) introduced the following bill; which was referred to the Committee on _____

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# A BILL

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

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

**SECTION 1. SHORT TITLE, TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Transportation Equity Act: A Legacy for Users".

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

Sec. 1. Short title, table of contents.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization of programs

Sec. 1101. Authorizations of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Minimum guarantee.
Sec. 1105. Project approval and oversight.
Sec. 1106. Temporary traffic control devices.
Sec. 1107. Revenue aligned budget authority.
Sec. 1108. Emergency relief.
Sec. 1109. Surface transportation program.
Sec. 1110. Highway use tax evasion projects.
Sec. 1111. Appalachian development highway system.
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Sec. 1114. Highway bridge.
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Sec. 1116. Deployment of magnetic levitation transportation projects.
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Sec. 1120. Pedestrian and cyclist equity.
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Sec. 1122. Adjustments for the Surface Transportation Extension Act of 2004, Part V.
Sec. 1123. Roadway safety.
Sec. 1124. Equity requirement.

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Sec. 1202. Transportation systems management and operations.
Sec. 1203. Real-time system management information program.
Sec. 1204. Expedited national intelligent transportation systems deployment program.
Sec. 1205. Intelligent transportation systems deployment.
Sec. 1206. Environmental review of activities that support deployment of intelligent transportation systems.
Sec. 1207. State assumption of responsibilities for certain programs and projects.
Sec. 1208. HOV facilities.
Sec. 1209. Congestion pricing pilot program.
Sec. 1210. Congestion mitigation and air quality improvement program eligibility.
Sec. 1211. Special rules for State assumption of responsibilities.

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Sec. 1304. Projects of national and regional significance.
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Sec. 1401. Highway safety improvement program.
Sec. 1402. Worker injury prevention and free flow of vehicular traffic.
Sec. 1403. High risk rural road safety improvement program.
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Sec. 1405. Safety incentive grants for use of seat belts.
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Sec. 1408. Repair or replacement of highway features on National Highway System.

Subtitle E—Construction and Contract Efficiencies

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Sec. 1502. Warranty highway construction project pilot program.
Sec. 1503. Private investment study.
Sec. 1504. Highways for LIFE pilot program.

Subtitle F—Finance

Sec. 1601. Transportation Infrastructure Finance and Innovation Act.
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Sec. 1603. Interstate System reconstruction and rehabilitation toll pilot program.
Sec. 1604. Interstate System construction toll pilot program.
Sec. 1605. Use of excess funds.
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Subtitle G—High Priority Projects

Sec. 1701. High priority projects program.
Sec. 1702. Project authorizations.

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Sec. 1804. High priority corridors on the National Highway System.
Sec. 1805. Additions to Appalachian region.
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TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

Sec. 8001. Policy.

# TITLE I—FEDERAL-AID HIGHWAYS

## Subtitle A—Authorization of Programs

**SEC. 1101. AUTHORIZATIONS OF APPROPRIATIONS.**

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

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,323,076,000 for fiscal year 2004, $4,431,153,000 for fiscal year 2005, $4,541,932,000 for fiscal year, 2006,

$4,655,480,000 for fiscal year 2007, $4,771,867,000 for fiscal year 2008, and $4,891,164,000 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title, $5,187,691,000 for fiscal year 2004, $5,317,383,000 for fiscal year 2005, $5,450,318,000 for fiscal year 2006, $5,586,576,000 for fiscal year 2007, $5,726,240,000 for fiscal year 2008, and $5,869,396,000 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title, $3,709,440,000 for fiscal year 2004, $3,802,176,000 for fiscal year 2005, $3,897,231,000 for fiscal year 2006, $3,994,661,000 for fiscal year 2007, $4,094,528,000 for fiscal year 2008, and $4,196,891,000 for fiscal year 2009.

(4) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under sections 130 and 152 of that title, $630,000,000 for fiscal year 2005, $645,000,000 for fiscal year 2006, $660,000,000 for fiscal year 2007, $680,000,000 for fiscal year 2008, and

$695,000,000 for fiscal year 2009. Of such funds ⅓ per fiscal year shall be available to carry out section 130 and ⅔ shall be available to carry out section 152.

(5) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $6,052,306,000 for fiscal year 2004, $6,203,614,000 for fiscal year 2005, $6,358,704,000 for fiscal year 2006, $6,517,672,000 for fiscal year 2007, $6,680,614,000 for fiscal year 2008, and $6,847,629,000 for fiscal year 2009.

(6) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title, $1,469,846,000 for fiscal year 2004, $1,506,592,000 for fiscal year 2005, $1,544,257,000 for fiscal year 2006, $1,582,863,000 for fiscal year 2007, $1,622,435,000 for fiscal year 2008, and $1,662,996,000 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 14501 of title 40, United States Code, $460,000,000 for

fiscal year 2004 and $470,000,000 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, $53,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $90,000,000 for fiscal year 2007, $100,000,000 for fiscal year 2008, and $110,000,000 for fiscal year 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of title 23, United States Code, $325,000,000 for fiscal year 2004, $365,000,000 for fiscal year 2005, $390,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $420,000,000 for fiscal year 2008, and $420,000,000 for fiscal year 2009.

(B) PARK ROADS AND PARKWAYS.—For park roads and parkways roads under section 204 of that title, $170,000,000 for fiscal year 2004, $185,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $215,000,000 for fiscal year 2007,

$225,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.

(C) PUBLIC LANDS HIGHWAY.—For public lands highway under section 204 of that title, $250,000,000 for fiscal year 2004, $260,000,000 for fiscal year 2005, $280,000,000 for fiscal year 2006, $280,000,000 for fiscal year 2007, $290,000,000 for fiscal year 2008, and $300,000,000 for fiscal year 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $20,000,000 for each of fiscal years 2004 through 2009.

(10) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—For the national corridor infrastructure improvement program under section 1301 of this title, $600,000,000 for fiscal year 2005, $600,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, $600,000,000 for fiscal year 2008, and $600,000,000 for fiscal year 2009.

(11) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—For the coordinated border infrastructure program under section 1302 of this title, $200,000,000 for fiscal year 2005, $200,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007,

$200,000,000 for fiscal year 2008, and $225,000,000 for fiscal year 2009.

(12) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE PROGRAM.—For the projects of national and regional significance program under section 1304 of this title, $1,100,000,000 for fiscal year 2005, $1,100,000,000 for fiscal year 2006, $1,200,000,000 for fiscal year 2007, $1,300,000,000 for fiscal year 2008, and $1,300,000,000 for fiscal year 2009.

(13) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 165 of title 23, United States Code, $60,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, $75,000,000 for fiscal year 2006, $75,000,000 for fiscal year 2007, $75,000,000 for fiscal year 2008, and $75,000,000 for fiscal year 2009.

(14) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $30,000,000 for fiscal year 2004, $40,000,000 for fiscal year 2005, $45,000,000 for fiscal year 2006, $55,000,000 for fiscal year 2007, $55,000,000 for

fiscal year 2008, and $60,000,000 for fiscal year 2009.

(15) CONGESTION PRICING PILOT PROGRAM.—For the congestion pricing pilot program under section 1209 of this title, $15,000,000 for fiscal year 2004, $15,000,000 for fiscal year 2005, $15,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $15,000,000 for fiscal year 2008, and $15,000,000 for fiscal year 2009.

(16) DEPLOYMENT OF 511 TRAVELER INFORMATION PROGRAM.—For the 511 traveler information program under section 1204(c)(7) of this title, $6,000,000 for each of fiscal years 2005 through 2009.

(17) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, $2,496,450,000 for fiscal year 2005, $2,244,550,000 for fiscal year 2006, $2,143,250,000 for fiscal year 2007, $2,192,450,000 for fiscal year 2008, and $2,050,450,000 for fiscal year 2009.

(18) FREIGHT INTERMODAL CONNECTOR PROGRAM.—For the freight intermodal connector program under section 1303 of this title, $250,000,000 for fiscal year 2005, $250,000,000 for fiscal year

2006, $250,000,000 for fiscal year 2007, $250,000,000 for fiscal year 2008, and $250,000,000 for fiscal year 2009.

(19) HIGH RISK RURAL ROAD SAFETY IMPROVEMENT PROGRAM.—For the high risk rural road safety improvement program under section 1403 of this title, $105,000,000 for fiscal year 2005, $110,000,000 for fiscal year 2006, $120,000,000 for fiscal year 2007, $125,000,000 for fiscal year 2008, and $130,000,000 for fiscal year 2009.

(20) HIGHWAY USE TAX EVASION PROGRAM.—For highway use tax evasion projects under section 143 of title 23, United States Code, $12,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $30,000,000 for fiscal year 2006, $20,000,000 for fiscal year 2007, $10,000,000 for fiscal year 2008, and $7,000,000 for fiscal year 2009.

(21) PEDESTRIAN AND CYCLIST EQUITY.—

(A) SAFE ROUTES TO SCHOOL PROGRAM.—For the safe routes to school program under section 1120(a) of this title, $150,000,000 for fiscal year 2005, $175,000,000 for fiscal year 2006, $175,000,000 for fiscal year 2007, $175,000,000 for fiscal year 2008, and $200,000,000 for fiscal year 2009.

(B) NONMOTORIZED PILOT PROGRAM.—For the nonmotorized pilot program under section 1120(b) of this title, $25,000,000 for each of fiscal years 2005 through 2009.

(22) DEDICATED TRUCK LANES.—For dedicated truck lanes under section 1305 of this title, $165,000,000 for each of fiscal years 2005 through 2008 and $170,000,000 for fiscal year 2009.

(23) HIGHWAYS FOR LIFE PROGRAM.—For the Highways for LIFE program under section 1504 of this title, $55,000,000 for fiscal year 2005 and $60,000,000 for each of fiscal years 2006 through 2009.

(24) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209), $115,000,000 for fiscal year 2004, $125,000,000 for fiscal year 2005, $130,000,000 for fiscal year 2006, $130,000,000 for fiscal year 2007, $140,000,000 for fiscal year 2008, and $140,000,000 for fiscal year 2009.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10

percent of the amounts made available for any program under titles I, III, and V of this Act and section 403 of title 23, United States Code, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

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

(A) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting reg-

ulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.

**SEC. 1102. OBLIGATION CEILING.**

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law but subject to subsections (g) and (h), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $33,643,000,000 for fiscal year 2004;

(2) $34,412,000,000 for fiscal year 2005;

(3) $36,287,100,000 for fiscal year 2006;

(4) $37,616,700,000 for fiscal year 2007;

(5) $38,876,400,000 for fiscal year 2008; and

(6) $40,231,500,000 for fiscal year 2009.

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

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

(2) under section 147 of the Surface Transportation Assistance Act of 1978;

(3) under section 9 of the Federal-Aid Highway Act of 1981;

(4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

(5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;

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

(8) under section 105 of title 23, United States Code (but, for each of fiscal years 1998 through 2013), only in an amount equal to $639,000,000 per fiscal year; and

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

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary shall—

(1) not distribute obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) determine the ratio that—

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

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of sub-

section (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 14501 of title 40, United States Code (relating to Appalachian development highway system), and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of

the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

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

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall after August 1 of each of fiscal years 2004 through 2009 revise a distribution of the obligation authority made available under subsection (c) if an amount made available under this section will not be obligated during the fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year. In making the redistribution, the Secretary shall give priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and under title V of this Act; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary

shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highway programs, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (c)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for a section set forth in subsection (c)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) INCREASE IN OBLIGATION LIMIT.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be increased by an amount equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc)) for such fiscal

year. Any such increase shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $390,000,000 for fiscal year 2004;

(2) $395,000,000 for fiscal year 2005;

(3) $395,000,000 for fiscal year 2006;

(4) $395,000,000 for fiscal year 2007;

(5) $395,000,000 for fiscal year 2008; and

(6) $400,000,000 for fiscal year 2009.

**SEC. 1103. APPORTIONMENTS.**

(a) ADMINISTRATIVE EXPENSES.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for purposes described in paragraph (2) $390,000,000 for fiscal year 2004, $395,000,000 for fiscal year 2005, $395,000,000 for fiscal year 2006, $395,000,000 for fiscal year 2007, $395,000,000 for fiscal year 2008, and $400,000,000 for fiscal year 2009.

"(2) USE OF FUNDS.—The amounts authorized to be appropriated by paragraph (1) are authorized for the following purposes:

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

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

(2) in paragraph (3) by striking "sum deducted under" and inserting "amounts authorized to be appropriated by"; and

(3) in paragraph (4)—

(A) by striking "sums deducted under" and inserting "amounts authorized to be appropriated by"; and

(B) by striking "and the Federal Motor Carrier Safety Administration".

(b) NATIONAL HIGHWAY SYSTEM.—Section 104(b) of such title is amended—

(1) by striking "the deduction authorized by subsection (a) and"; and

(2) in paragraph (1)(A)—

(A) by striking ''$36,400,000 for each fiscal year'' and inserting ''$40,000,000 for fiscal year 2004, $40,000,000 for fiscal year 2005, $40,000,000 for fiscal year 2006, $50,000,000 for fiscal year 2007, $50,000,000 for fiscal year 2008, and $50,000,000 for fiscal year 2009''; and

(B) by striking ''$18,800,000 for each of fiscal years 1998 through 2002'' and inserting ''$20,000,000 for fiscal year 2004 and $30,000,000 for each of fiscal years 2005 through 2009''.

(c) CONFORMING AMENDMENTS.—Section 104 of such title is amended—

(1) in subsection (f)(1)—

(A) by striking '', after making the deduction authorized by subsection (a) of this section,''; and

(B) by striking ''remaining''; and

(2) in subsection (i) by striking ''deducted'' and inserting ''authorized to be appropriated''.

(d) PUERTO RICO HIGHWAY PROGRAM.—Section 1214(r) of the Transportation Equity Act for the 21st

Century (112 Stat. 209; 117 Stat. 1114; 118 Stat. 1149) is amended—

(1) in paragraph (1) by striking ''1101(a)(15) for each of fiscal years 1998 through 2005'' and inserting ''1101(a)(24) for each of fiscal years 2004 through 2009 of the Transportation Equity Act: A Legacy for Users''; and

(2) in paragraph (2) by striking ''1101(a)(15) of this Act'' and inserting ''1101(a)(24) of the Transportation Equity Act: A Legacy for Users''.

**SEC. 1104. MINIMUM GUARANTEE.**

To be supplied.

**SEC. 1105. PROJECT APPROVAL AND OVERSIGHT.**

Section 106 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

''(h) OVERSIGHT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title. At a minimum, the program shall be responsive to all areas related to financial integrity and project delivery.

''(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).

"(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the States' practices for estimating project costs, awarding contracts, and reducing project costs.

"(C) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds under this title have sufficient accounting controls to properly manage such Federal funds. The Secretary shall periodically review the States' monitoring of subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of a State's project delivery system, which includes one or more activities that are involved in the life cycle of a project from its conception to its completion.

"(4) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that sub-

recipients of Federal funds under this title have adequate project delivery systems for projects approved under this section. The Secretary shall periodically review the States' monitoring of subrecipients.

"(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law. In addition, the Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

"(i) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision in this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, or any other project in the discretion of the Secretary, shall submit to the Secretary a project management plan and an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—The project management plan shall document the procedures and processes in place to provide timely information to the project decision makers to manage effectively the scope, costs, schedules, and quality, and

the Federal requirements of the project and the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—The financial plan shall be based on detailed estimates of the cost to complete the project. Annual updates shall be submitted based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(j) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the Secretary's request.".

**SEC. 1106. TEMPORARY TRAFFIC CONTROL DEVICES.**

(a) STANDARDS.—Section 109(e) of title 23, United States Code, is amended—

(1) by striking "(e) No funds" and inserting the following:

"(e) INSTALLATION OF SAFETY DEVICES.—

"(1) HIGHWAY AND RAILROAD GRADE CROSSINGS AND DRAWBRIDGES.—No funds"; and

(2) by adding at the end the following:

"(2) TEMPORARY TRAFFIC CONTROL DEVICES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.".

(b) LETTING OF CONTRACTS.—Section 112 of such title is amended—

(1) by striking subsection (f);

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

(3) by adding at the end the following:

"(g) TEMPORARY TRAFFIC CONTROL DEVICES.—

"(1) ISSUANCE OF REGULATIONS.—The Secretary, after consultation with appropriate Federal and State officials, shall issue regulations establishing the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between work-

ers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.

"(2) EFFECTS OF REGULATIONS.—Based on regulations issued under paragraph (1), a State shall—

"(A) develop separate pay items for the use of uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations; and

"(B) incorporate such pay items into contract provisions to be included in each contract entered into by the State with respect to a highway project to ensure compliance with section 109(e)(2).

"(3) LIMITATION.—Nothing in the regulations shall be construed to prohibit a State from implementing standards that are more stringent than those required under the regulations.

"(4) POSITIVE PROTECTIVE MEASURES DEFINED.—In this subsection, the term 'positive protective measures' means temporary traffic barriers,

crash cushions, and other strategies to avoid traffic accidents in work zones, including full road closures.''.

**SEC. 1107. REVENUE ALIGNED BUDGET AUTHORITY.**

(a) ALLOCATION.—Section 110(a)(1) of title 23, United States Code, is amended—

(1) by striking ''2000'' and inserting ''2006'';

(2) by inserting after ''such fiscal year'' the following: ''and the succeeding fiscal year''.

(b) REDUCTION.—Section 110(a)(2) of such title is amended—

(1) by striking ''2000'' and inserting ''2006'';

(2) by striking ''October 1 of the succeeding'' and inserting ''October 15 of such''; and

(3) by inserting after ''Account)'' the following: ''for such fiscal year and the succeeding fiscal year''.

(c) GENERAL DISTRIBUTION.—Section 110(b)(1)(A) of such title is amended by striking ''Transportation Equity Act for the 21st Century'' and inserting ''Transportation Equity Act: A Legacy for Users''.

(d) TECHNICAL AMENDMENT.—Section 110(b)(1)(A) of title 23, United States Code, is amended by striking ''for'' the second place it appears.

**SEC. 1108. EMERGENCY RELIEF.**

(a) IN GENERAL.—Effective October 1, 2004, section 125(c)(1) of title 23, United States Code, is amended by striking ''$100,000,000'' and inserting ''$120,000,000''.

(b) AUTHORIZATIONS OF APPROPRIATIONS FROM GENERAL FUND.—There is authorized to be appropriated for a fiscal year such sums as may be necessary for allocations by the Secretary described in subsections (a) and (b) of sections 125 of title 23, United States Code, if the total of those allocations in such fiscal year are in excess of $120,000,000.

**SEC. 1109. SURFACE TRANSPORTATION PROGRAM.**

Section 133(f)(1) of title 23, United States Code, is amended—

(1) by striking ''1998 through 2000'' and inserting ''2004 through 2006''; and

(2) by striking ''2001 through 2003'' and inserting ''2007 through 2009''.

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

(a) ELIGIBLE ACTIVITIES.—

(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Section 143(b)(2) of title 23, United States Code, is amended by inserting before the period the following: ''; except that of funds so made available for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out inter-

1 governmental enforcement efforts, including research
2 and training''.
3 (2) CONDITIONS ON FUNDS ALLOCATED TO IN-
4 TERNAL REVENUE SERVICE.—Section 143(b)(3) of
5 such title is amended by striking ''The'' and insert-
6 ing ''Except as otherwise provided in this section,
7 the''.
8 (3) LIMITATION ON USE OF FUNDS.—Section
9 143(b)(4) of such title is amended—
10 (A) by striking ''and'' at the end of sub-
11 paragraph (F);
12 (B) by striking the period at the end of
13 subparagraph (G) and inserting a semicolon;
14 and
15 (C) by adding at the end the following:
16 ''(H) to support efforts between States and
17 Indian tribes to address issues related to State
18 motor fuel taxes; and
19 ''(I) to analyze and implement programs to
20 reduce tax evasion associated with foreign im-
21 ported fuel.''.
22 (4) REPORTS.—Section 143(b) of such title is
23 amended by adding at the end the following:
24 ''(9) REPORTS.—The Commissioner of the In-
25 ternal Revenue Service and each State shall submit

to the Secretary an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the annual yield estimated for each project funded under this section.''.

(b) EXCISE FUEL REPORTING SYSTEM.—

(1) IN GENERAL.—Section 143(c)(1) of such title is amended—

(A) by striking ''August 1, 1998,'' and inserting ''90 days after the date of enactment of the Transportation Equity Act: A Legacy for Users,'';

(B) by striking ''development'' and inserting ''completion, operation,''; and

(C) by striking ''an excise fuel reporting system (in this subsection referred to as 'the system')'' and inserting ''an excise summary terminal activity reporting system''.

(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—Section 143(c)(2) of such title is amended—

(A) by striking ''the system'' the first place it appears and inserting ''the excise summary terminal activity reporting system'';

(B) in subparagraph (A) by striking ''develop'' and inserting ''complete'';

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

(D) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(E) by adding at the end the following:

''(D) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for the completion, operation, and maintenance of the system.''; and

(3) FUNDING PRIORITY.—Section 143(c)(3) of such title is amended to read as follows:

''(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the excise summary terminal activity reporting system in accordance with this subsection.''.

(c) REGISTRATION SYSTEM AND ELECTRONIC DATABASE.—Section 143 of such title is further amended by adding at the end the following:

1 "(d) PIPELINE, VESSEL, AND BARGE REGISTRATION
2 SYSTEM.—
3 "(1) IN GENERAL.—Not later than 90 days
4 after the date of enactment of this subsection, the
5 Secretary shall enter into a memorandum of under-
6 standing with the Commissioner of the Internal Rev-
7 enue Service for the purposes of the development,
8 operation, and maintenance of a registration system
9 for pipelines, vessels, and barges, and operators of
10 such pipelines, vessels, and barges, that make bulk
11 transfers of taxable fuel.
12 "(2) ELEMENTS OF MEMORANDUM OF UNDER-
13 STANDING.—The memorandum of understanding
14 shall provide that—
15 "(A) the Internal Revenue Service shall de-
16 velop and maintain the registration system
17 through contracts;
18 "(B) the Commissioner of the Internal
19 Revenue Service shall submit and the Secretary
20 shall approve a budget and project plan for de-
21 velopment, operation, and maintenance of the
22 registration system;
23 "(C) the registration system shall be under
24 the control of the Internal Revenue Service; and

"(D) the registration system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel in accordance with this subsection.

"(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the establishment, operation, and maintenance of an electronic database of heavy vehicle highway use tax payments.

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall establish and maintain the electronic database through contracts;

"(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for establishment, operation, and maintenance of the electronic database;

"(C) the electronic database shall be under the control of the Internal Revenue Service; and

"(D) the electronic database shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to establish, operate, and maintain an electronic database of heavy vehicle highway use tax payments in accordance with this subsection.

"(f) REPORTS.—Not later than March 31 and September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this section related to the excise summary terminal activity reporting system, the pipeline, vessel, and barge registration system, and the heavy vehicle use tax electronic database.".

**SEC. 1111. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2004 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 14501 title 40, United States Code.

(b) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 14501 of title 40, United States Code, and such funds shall be available to construct highways and

access roads under such section and shall remain available until expended.

(c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting ''and the Appalachian development highway system program under section 14501 of title 40'' after ''section 125''.

**SEC. 1112. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**''§ 165. Construction of ferry boats and ferry terminal facilities**

''(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

''(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.

''(c) AVAILABILITY OF AMOUNTS.—Amounts made available to carry out this section shall remain available until expended.

''(d) SET-ASIDE FOR PROJECTS ON NHS.—

''(1) IN GENERAL.—$20,000,000 of the amount made available to carry out this section for each of

fiscal years 2004 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

"(2) ALASKA.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

"(3) NEW JERSEY.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

"(4) WASHINGTON.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.

"(e) APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

"165. Construction of ferry boats and ferry terminal facilities.".

(c) NATIONAL FERRY DATABASE.—

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

(2) CONTENTS.—The database shall contain current information regarding ferry systems, including information regarding routes, vessels, passengers and vehicles carried, funding sources and such other information as the Secretary considers useful.

(3) UPDATE REPORT.—Using information collected through the database, the Secretary shall periodically modify as appropriate the report submitted under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185–186).

(4) REQUIREMENTS.—The Secretary shall—

(A) compile the database not later than 1 year after the date of enactment of this Act and update the database every 2 years thereafter;

(B) ensure that the database is easily accessible to the public;

(C) make available, from the ferry boat and ferry terminal program authorized under section 165 of title 23, United States Code, not more than $500,000 for each of fiscal years 2005 through 2009 to establish the database.

**SEC. 1113. INTERSTATE MAINTENANCE DISCRETIONARY.**

(a) IN GENERAL.—Section 118 of title 23, United States Code, is amended—

(1) by striking subsection (c);

(2) in subsection (e) by inserting ''Special Rules.—'' before ''Funds made''; and

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

(b) CONFORMING AMENDMENT.—Section 103(d)(1) of such title is amended by striking ''or 118(c)''.

(c) TECHNICAL AMENDMENTS.—

(1) SECTION 114.—Section 114(a) of such title is amended by striking ''Except as provided in section 117 of this title, such'' and inserting ''Such''.

(2) SECTION 116.—Section 116(b) of such title is amended by striking ''highway department'' and inserting ''transportation department''.

(3) SECTION 120.—Section 120(e) of such title is amended in the first sentence by striking ''such system'' and inserting ''such highway''.

(4) SECTION 126.—Section 126(a) of such title is amended by inserting ''under'' before ''section 104(b)(3)''.

(5) SECTION 127.—Section 127 of such title is amended by striking ''118(b)(1)'' and inserting ''118(b)(2)''.

(6) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—Section 1212(i) of the Transportation Equity Act for the 21st Century (112 Stat. 196–197) is amended by redesignating subparagraphs (D) and (E) as paragraphs (2) and (3), respectively, and moving such paragraphs 2 ems to the left.

(d) LIMITATION.—The amendments made by this section shall not apply to, or have any affect with respect to, funds made available under section 118 of title 23, United States Code, before the date of enactment of this section.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall take effect on September 30, 2005.

**SEC. 1114. HIGHWAY BRIDGE.**

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

"(d) APPLICATIONS FOR AND APPROVAL OF ASSISTANCE.—

"(1) BRIDGE REPLACEMENT OR REHABILITATION.—Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsections (b) and (c) shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge.

"(2) PREVENTIVE MAINTENANCE, SCOUR MEASURES, AND APPLICATIONS OF CERTAIN COMPOSITIONS.—Whenever any State makes application to the Secretary for assistance in painting, seismic retrofit, or preventive maintenance of, or installing scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventive maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, such structure.

"(3) ELIGIBILITY.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State; except that a State may carry out a project for preventive maintenance on a bridge, seismic retrofit of a bridge, or installing scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.".

(b) BRIDGE DISCRETIONARY SET-ASIDE.—Section 144(g)(1) of such title is amended by adding at the end the following:

"(D) FISCAL YEARS 2004 THROUGH 2009.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2004 through 2009, all but $100,000,000 shall be apportioned as provided in subsection (e). Such $100,000,000 shall be available at the discretion of the Secretary; except that $25,000,000 shall be available only for projects for the seismic retrofit of bridges, and of which $10,000,000 shall be available only for the seismic retrofit of a bridge described in subsection

(l), and except as provided in subparagraph (E).

"(E) GRAVINA ACCESS.—

"(i) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this paragraph, for each of the fiscal years 2005 through 2009, $10,000,000 shall be set aside from the $100,000,000 available at the discretion of the Secretary under subparagraph (D) for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.

"(ii) SCORING.—The project described in this subparagraph shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).".

(c) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of such title is amended—

(1) by striking "15 percent" and inserting "20 percent";

(2) by striking "1987" and inserting "2005";

(3) by striking "2004" the first place it apears and all that follows through "2005," and inserting "2009 for the bridge program,";

(4) by inserting ", perform systematic preventive maintenance," after "paint"; and

(5) by inserting a comma before "to highway bridges".

(d) TECHNICAL AMENDMENT.—Section 144(i) of such title is amended by striking "at the same time" and all that follows through "Congress".

**SEC. 1115. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.**

(a) EXTENSION.—Section 1221(e)(1) of Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 879; 118 Stat. 1149) is amended—

(1) by striking "1999 and" and inserting "1999,"; and

(2) by striking "2004" the first place it appears and all that follows through "2005" and inserting the following: ", and $25,000,000 for fiscal year 2004, $30,000,000 for fiscal year 2005, $35,000,000 for fiscal year 2006, $35,000,000,000 for fiscal year 2007, and $35,000,000 for each of fiscal years 2008 and 2009".

(b) FEDERAL SHARE.—Section 1221(e)(2) of such Act is amended by inserting before the period at the end "; except that such funds shall not be transferable and

the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code''.

(c) PLANNING ACTIVITIES PILOT PROGRAM.—Section 1221 of such Act is amended by adding at the end the following:

''(f) PLANNING ACTIVITIES PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program using funds set aside under paragraph (4) to support planning and public participation activities related to highway and public transportation projects.

''(2) ELIGIBLE ACTIVITIES.—Activities eligible to be carried out under the pilot program may include the following:

''(A) Improving data collection and analysis to improve freight movement, intermodal connections, and transportation access and efficiency for all users, including children, older individuals, individuals with disabilities, low-income individuals, and minority communities.

''(B) Supporting public participation by holding public meetings using an interactive workshop format facilitated by design or planning experts (or both) to consider public input

at the initial stages of project development and during other phases of a project.

"(C) Using innovative planning or design visualization and simulation tools to improve the evaluation of alternatives and their impacts and to enhance public participation in the transportation planning process, including tools having a structure that enables modifications to scenarios and assumptions in real time.

"(D) Enhancing coordination among transportation, land use, workforce development, human service, economic development, and other agencies to strengthen access to job training services, daycare centers, health care facilities, senior centers, public schools, universities, and residential areas, including the use of integrated planning and service delivery, especially for transit dependent and low-income individuals.

"(E) Contracting with nonprofit organizations, universities, and local agencies to deliver community-oriented transportation plans and projects, including public outreach, context sensitive design, transit-oriented development, multimodal corridor investments, commuter

benefits deployment, and brownfield redevelopment.

"(F) Measuring and reporting on the annual performance of the transportation system (or parts of) relative to State or locally-established criteria regarding—

"(i) maintenance and operating costs of the transportation system, vehicle miles traveled, peak-period travel times, transportation choices, and mode shares;

"(ii) location of housing units, jobs, medical facilities, and commercial centers to transit;

"(iii) improvements directed to low-income families and older individuals;

"(iv) transportation-related pollution emissions into the air and water;

"(v) land consumption; and

"(vi) other locally-significant factors.

"(G) Improving regional travel and emission modeling to examine factors not currently considered, such as induced travel and land use effects of transportation alternatives, types of vehicles owned and used by households, time-of-day of travel and linkage of trips to each other

throughout the day, effects of urban design and pedestrian and bicycle environment on travel behavior, and impacts of alternatives on the distribution of benefits and burdens among various groups protected under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(3) FEDERAL SHARE.—Notwithstanding subsection (e)(2), the Federal share of the cost of activities carried out under the pilot program shall be 100 percent.

"(4) SET ASIDE.—The Secretary shall make available $1,500,000 of the amounts made available to carry out this section for each of fiscal years 2005 through 2009 to carry out the pilot program under this subsection.".

**SEC. 1116. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.**

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

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs"—

(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to

guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) FULL PROJECT COSTS.—The term ''full project costs'' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) MAGLEV.—The term ''MAGLEV'' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

(4) STATE.—The term ''State'' has the meaning such term has under section 101(a) of title 23, United States Code.

(b) IN GENERAL.—

(1) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.

(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to

pay eligible project costs of projects authorized by this section.

(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor;

(2) result in an operating transportation facility that provides a revenue producing service; and

(3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for fiscal year 2005 and $20,000,000 for each of fiscal years 2006 through 2009.

(e) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title

23, United States Code; except that the Federal share of the full project costs of an eligible project shall be 80 percent, and such funds shall remain available until expended and shall not be transferable.

**SEC. 1117. RECREATIONAL TRAILS.**

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended by striking ''research and technical'' and all that follows through ''Committee'' and inserting ''research, technical assistance, and training under the recreational trails program''.

(b) PERMISSIBLE USES.—Section 206(d)(2) of such title is amended to read as follows:

''(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

''(A) maintenance and restoration of existing recreational trails;

''(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

''(C) purchase and lease of recreational trail construction and maintenance equipment;

''(D) construction of new recreational trails, except that, in the case of new rec-

1 reational trails crossing Federal lands, con-
2 struction of the trails shall be—
3 ''(i) permissible under other law;
4 ''(ii) necessary and recommended by a
5 statewide comprehensive outdoor recreation
6 plan that is required by the Land and
7 Water Conservation Fund Act of 1965 (16
8 U.S.C. 460l–4 et seq.) and that is in ef-
9 fect;
10 ''(iii) approved by the administering
11 agency of the State designated under sub-
12 section (c)(1); and
13 ''(iv) approved by each Federal agency
14 having jurisdiction over the affected lands
15 under such terms and conditions as the
16 head of the Federal agency determines to
17 be appropriate, except that the approval
18 shall be contingent on compliance by the
19 Federal agency with all applicable laws, in-
20 cluding the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.), the
22 Forest and Rangeland Renewable Re-
23 sources Planning Act of 1974 (16 U.S.C.
24 1600 et seq.), and the Federal Land Policy

and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) operation of educational programs to promote safety and environmental protection as those objectives relate to the use of recreational trails, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(H) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section.".

(c) USE OF APPORTIONMENTS.—Section 206(d)(3) of such title is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) in subparagraph (C) (as so redesignated) by striking "(2)(F)" and inserting "(2)(H)".

(d) FEDERAL SHARE.—Section 206(f) of such title is amended—

(1) in paragraph (1)—

(A) by inserting ''and the Federal share of the administrative costs of a State'' after ''project''; and

(B) by striking ''not exceed 80 percent'' and inserting ''be determined in accordance with section 120(b)'';

(2) in paragraph (2)(A) by striking ''80 percent of'' and inserting ''the amount determined in accordance with section 120(b) for'';

(3) in paragraph (2)(B) by inserting ''sponsoring the project'' after ''Federal agency'';

(4) by striking paragraph (5);

(5) by redesignating paragraph (4) as paragraph (5);

(6) in paragraph (5) (as so redesignated) by striking ''80 percent'' and inserting ''the Federal share as determined in accordance with section 120(b)''; and

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

''(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM

FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section.".

(e) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—Section 206(h)(1) of such title is amended by adding at the end the following:

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—The Secretary may allow pre-approval planning and environmental compliance costs to be credited toward the non-Federal share of the cost of a project described under subsection (d)(2) (other than subparagraph (I)) in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.".

(f) ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.—The Secretary shall encourage

the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under section 206 of title 23, United States Code.

**SEC. 1118. FEDERAL LANDS HIGHWAYS.**

(a) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—Section 202(d)(3) of title 23, United States Code, is amended to read as follows:

"(3) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this title for a highway, road, bridge, parkway, or transit facility project that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, engi-

1 neering, and construction relating to such
2 project.
3 "(B) EXCLUSION OF AGENCY PARTICIPA-
4 TION.—In accordance with subparagraph (A),
5 all funds for a project to which subparagraph
6 (A) applies shall be paid to the Indian tribal
7 government without regard to the organiza-
8 tional level at which the Department of the In-
9 terior has previously carried out, or the Depart-
10 ment of Transportation has previously carried
11 out under the Federal lands highway programs,
12 the programs, functions, services, or activities
13 involved.
14 "(C) CONSORTIA.—Two or more Indian
15 tribes that are otherwise eligible to participate
16 in a project to which this title applies may form
17 a consortium to be considered as a single In-
18 dian tribe for the purpose of participating in
19 the project under this section.
20 "(D) FUNDING.—The amount an Indian
21 tribal government receives for a project under
22 subparagraph (A) shall equal the sum of the
23 funding that the Indian tribal government
24 would otherwise receive for the project in ac-
25 cordance with the funding formula established

1 under this subsection and such additional
2 amount as the Secretary determines equal the
3 amounts that would have been withheld for the
4 costs of the Bureau of Indian Affairs for ad-
5 ministration of the project.

6 ''(E) ELIGIBILITY.—An Indian tribal gov-
7 ernment may receive funding under subpara-
8 graph (A) for a project in a fiscal year if the
9 Indian tribal government demonstrates to the
10 satisfaction of the Secretary financial stability
11 and financial management capability as dem-
12 onstrated in the annual auditing required under
13 the Indian Self-Determination and Education
14 Assistance Act (25 U.S.C. 450 et seq.) and,
15 during the preceding fiscal year, had no uncor-
16 rected significant and material audit exceptions
17 in the required annual audit of the Indian
18 tribe's self-determination contracts or self-gov-
19 ernance funding agreements with any Federal
20 agency.

21 ''(F) ASSUMPTION OF FUNCTIONS AND DU-
22 TIES.—An Indian tribal government receiving
23 funding under subparagraph (A) for a project
24 shall assume all functions and duties that the
25 Secretary of the Interior would have performed

with respect to projects under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

"(G) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such project under this section if such funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

"(H) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary of Transportation or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to

pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.''.

(b) ALASKA NATIVE VILLAGE INVENTORY.—Section 202(d)(2) of such title is amended by adding at the end the following:

''(E) ALASKA NATIVE ROAD INVENTORY.—

''(i) IN GENERAL.—For fiscal year 2005 and each fiscal year thereafter, any allocation of sums authorized to be appropriated for Indian reservation roads in Alaska shall be based on an inventory of roads within the exterior boundaries of village corporation land selected pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that includes all routes previously included in such an inventory. The Secretary of Transportation and the Secretary of the Interior may include, in the inventory of roads, those proposed for inclusion by tribal village governments from among community streets within the village and those proposed primary access routes for inclusion by tribal

village governments, including roads and trails between villages (including links over water), roads and trails to landfills, roads and trails to drinking water sources, roads and trails to natural resources identified for economic development, and roads and trails that provide access to intermodal termini, such as airports, harbors, or boat landings.

"(ii) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this subparagraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.".

(c) GRANTS FOR FINANCING TRANSPORTATION DEBT.—Section 202(d)(2)(A) of such title is amended by inserting before the period at the end the following: "; except that, beginning October 1, 2004, the Secretary may use up to 3 percent of such funds for making grants to Indian tribes for the purpose of financing transportation debt for individual Indian reservation roads subject to all requirements governing Federal assistance for Indian roads under this section and section 204".

(d) DEPUTY ASSISTANT SECRETARY OF TRANSPORTATION FOR TRIBAL GOVERNMENT AFFAIRS.—Section 102 of title 49, United States Code, is amended—

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

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

''(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS.—The Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking related to, or has impact on, projects, programs, or funding associated with the tribal transportation program.''.

(e) ALASKA NATIVE VILLAGE TRANSPORTATION PROGRAM.—

(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this Act, the Secretary and the Denali Commission, in coordination with the Alaska Federation of Natives, shall es-

tablish an Alaska Native Village transportation program to pay the costs of planning, design, construction, and maintenance of road and other surface transportation facilities identified by Alaska Native Villages.

(2) ALASKA NATIVE VILLAGE DEFINED.—In this subsection, the term ''Alaska Native Village'' has the same meaning such term has as used by the Bureau of Indian Affairs in administering the Indian reservation road program under section 202 of title 23, United States Code.

**SEC. 1119. CONSERVATION MEASURES.**

(a) REFUGE ROADS.—Section 204(k)(1) of title 23, United States Code, is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by redesigning subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following:

''(C) construction, maintenance, and improvement of wildlife observation infrastructure; and''; and

(4) in subparagraph (D) (as so redesignated) by striking ''maintenance and improvements'' and

inserting ''construction, maintenance, and improvements''.

(b) FOREST HIGHWAYS.—Of the amounts made available for public lands highways under section 1101—

(1) not to exceed $20,000,000 per fiscal year may be used for the maintenance of forest highways;

(2) not to exceed $2,500,000 per fiscal year may be used to repair culverts and bridges on forest highways to facilitate appropriate fish passage and ensure reasonable flows and to maintain and remove such culverts and bridges as appropriate; and

(3) not to exceed $1,000,000 per fiscal year may be used for signage identifying public hunting and fishing access.

(c) WILDLIFE VEHICLE COLLISION REDUCTION STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as ''wildlife vehicle collisions'').

(2) CONTENTS.—

(A) AREAS OF STUDY.—The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.

(B) METHODS FOR CONDUCTING THE STUDY.—In carrying out the study, the Secretary shall—

(i) conduct a thorough literature review; and

(ii) survey current practices of the Department of Transportation.

(3) CONSULTATION.—In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.

(4) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

(B) CONTENTS.—The report shall include a description of each of the following:

(i) Causes of wildlife vehicle collisions.

(ii) Impacts of wildlife vehicle collisions.

(iii) Solutions to and prevention of wildlife vehicle collisions.

(5) MANUAL.—

(A) DEVELOPMENT.—Based upon the results of the study, the Secretary shall develop a

best practices manual to support State efforts to reduce wildlife vehicle collisions.

(B) AVAILABILITY.—The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).

(C) CONTENTS.—The manual shall include, at a minimum, the following:

(i) A list of best practices addressing wildlife vehicle collisions.

(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.

(iii) Recommendations for addressing wildlife vehicle collisions.

(iv) Guidance for developing a State action plan to address wildlife vehicle collisions

(6) TRAINING.—Based upon the manual developed under paragraph (5), the Secretary shall develop a training course on addressing wildlife vehicle collisions for transportation professionals.

**SEC. 1120. PEDESTRIAN AND CYCLIST EQUITY.**

(a) SAFE ROUTES TO SCHOOL PROGRAM.—

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

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

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

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

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

(3) APPORTIONMENT OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), amounts made available to carry out this subsection for a fiscal year shall

be apportioned among the States in the ratio that—

(i) the total student enrollment in primary and middle schools in each State; bears to

(ii) the total student enrollment in primary and middle schools in all the States.

(B) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this subsection for a fiscal year of less than $2,000,000.

(C) SET-ASIDE.—Before apportioning amounts made available to carry out this subsection under this paragraph for a fiscal year, the Secretary shall set aside not more than 2 percent of such amounts for the administrative expenses of the Secretary in carrying out this subsection.

(D) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this paragraph concerning student enrollments shall be made by the Secretary.

(4) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this subsection shall be

1 administered by the State's department of transpor-
2 tation.
3 (5) ELIGIBLE RECIPIENTS.—Amounts appor-
4 tioned to a State under this subsection shall be used
5 by the State to provide financial assistance to State,
6 local, and regional agencies, including nonprofit or-
7 ganizations, that demonstrate an ability to meet the
8 requirements of this subsection.
9 (6) ELIGIBLE PROJECTS AND ACTIVITIES.—
10 (A) INFRASTRUCTURE-RELATED
11 PROJECTS.—
12 (i) IN GENERAL.—Amounts appor-
13 tioned to a State under this subsection
14 may be used for the planning, design, and
15 construction of infrastructure-related
16 projects that will substantially improve the
17 ability of students to walk and bike to
18 school, including sidewalk improvements,
19 traffic calming and speed reduction im-
20 provements, pedestrian and bicycle cross-
21 ing improvements, on-street bicycle facili-
22 ties, off-street bicycle and pedestrian facili-
23 ties, secure bicycle parking facilities, and
24 traffic diversion improvements in the vicin-
25 ity of schools.

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

(B) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

(i) IN GENERAL.—In addition to projects described in subparagraph (A), amounts apportioned to a State under this subsection may be used for noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

(ii) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this subsection for a fiscal year shall be

1 used for noninfrastructure-related activities
2 under this subparagraph.
3 (C) SAFE ROUTES TO SCHOOL COORDI-
4 NATOR.—Each State receiving an apportion-
5 ment under this subsection for a fiscal year
6 shall use a sufficient amount of the apportion-
7 ment to fund a full-time position of coordinator
8 of the State's safe routes to school program.
9 (7) CLEARINGHOUSE.—
10 (A) IN GENERAL.—The Secretary shall
11 make grants to a national nonprofit organiza-
12 tion engaged in promoting safe routes to
13 schools to—
14 (i) operate a national safe routes to
15 school clearinghouse;
16 (ii) develop information and edu-
17 cational programs on safe routes to school;
18 and
19 (iii) provide technical assistance and
20 disseminate techniques and strategies used
21 for successful safe routes to school pro-
22 grams.
23 (B) FUNDING.—The Secretary shall carry
24 out this paragraph using amounts set aside for

1 administrative expenses under paragraph
2 (3)(C).
3 (8) TASK FORCE.—
4 (A) IN GENERAL.—The Secretary shall es-
5 tablish a national safe routes to school task
6 force composed of leaders in health, transpor-
7 tation, and education, including representatives
8 of appropriate Federal agencies, to study and
9 develop a strategy for advancing safe routes to
10 school programs nationwide.
11 (B) REPORT.—Not later than March 31,
12 2006, the Secretary shall transmit to Congress
13 a report containing the results of the study con-
14 ducted, and a description of the strategy devel-
15 oped, under subparagraph (A) and information
16 regarding the use of funds for infrastructure-re-
17 lated and noninfrastructure-related activities
18 under subparagraphs (A) and (B) of paragraph
19 (6).
20 (C) FUNDING.—The Secretary shall carry
21 out this paragraph using amounts set aside for
22 administrative expenses under paragraph
23 (3)(C).
24 (9) APPLICABILITY OF TITLE 23.—Funds made
25 available to carry out this subsection shall be avail-

able for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project or activity under this section shall be 100 percent. Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under such chapter.

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

(A) IN THE VICINITY OF SCHOOLS.—The term ''in the vicinity of schools'' means, with respect to a school, the area within bicycling and walking distance of the school (approximately 2 miles).

(B) PRIMARY AND MIDDLE SCHOOLS.—The term ''primary and middle schools'' means schools providing education from kindergarten through eighth grade.

(C) STATE.—The term ''State'' has the meaning such term has in section 101(a) of title 23, United States Code.

(b) NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish and carry out a nonmotorized transportation pilot program to construct, in 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers.

(2) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

(3) GRANTS.—In carrying out the program, the Secretary may make grants to State, local, and regional agencies, that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this subsection. An agency that receives a grant under this subsection may suballocate grant funds to a nonprofit organization to carry out the program under this subsection.

(4) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project carried out under this subsection shall be 80 percent, and such funds shall not be transferable and shall remain available until expended.

(5) STATISTICAL INFORMATION.—In carrying out the program, the Secretary shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of biking and walking, and promote better health and a cleaner environment.

(6) REPORTS.—The Secretary shall transmit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

**SEC. 1121. NATIONAL COMMISSIONS.**

(a) NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND.—

(1) ESTABLISHMENT.—There is established a National Commission on Future Revenue Sources to Support the Highway Trust Fund to conduct—

(A) a study evaluating alternative short-term sources of Highway Trust Fund revenue to support the requirements of section 1124; and

(B) a study evaluating alternative long-term sources of revenue to support the Highway Trust Fund, considering the findings, conclusions, and recommendations of a recent study by the Transportation Research Board of the National Academy of Sciences on alternatives to the fuel tax to support highway program financing and other relevant prior research.

(2) FUNCTIONS.—The Commission shall—

(A) develop recommendations to generate Highway Trust Fund revenue necessary to accomplish the requirements of section 1124;

(B) oversee a comprehensive investigation of alternatives to replace the fuel tax as the principal revenue source to support the Highway Trust Fund over at least the next 30 years;

(C) consult with the Secretary of Transportation and the Secretary of the Treasury to

assure that their views concerning essential attributes of Highway Trust Fund revenue alternatives are understood;

(D) assure that State transportation agency views on alternative revenue sources to support State transportation improvement programs are appropriately considered and that any recommended Federal financing strategy take into account State financial requirements; and

(E) make specific recommendations regarding actions that need to be taken to develop alternative revenue sources to support the Highway Trust Fund and when those actions must be taken.

(3) SPECIFIC MATTERS TO BE ADDRESSED.—The study under paragraph (1)(B) shall address specifically—

(A) advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) the time frame within which actions must be taken to transition from the fuel tax to

alternative revenue sources to support the Highway Trust Fund;

(C) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(D) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various aspects of the transition strategy;

(E) recommendations for additional research that may be needed to implement recommended alternatives; and

(F) the extent to which revenues should reflect the relative use of the highway system.

(4) MATTERS TO CONSIDER AND EVALUATE.—To the maximum extent feasible, the Commission, in conducting the study under paragraph (1)(B), shall consider and evaluate other related work that has been done by the Department of Transportation, the Department of Energy, the Transportation Research Board, and others. In developing recommendations under paragraph (2), the Commission shall consider—

(A) the ability to generate sufficient revenues to meet anticipated long term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs, including enforcement, to implement each option;

(D) potential taxpayer privacy concerns;

(E) likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with States tax mechanisms under each alternative.

(5) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of nine members of whom—

(i) three members shall be appointed by the Secretary;

(ii) two members shall be appointed by the Speaker of the House of Representatives;

(iii) one member shall be appointed by the minority leader of the House of Representatives;

(iv) two members shall be appointed by the majority leader of the Senate; and

(v) one member shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Members appointed under subparagraph (A) shall have experience in public finance, surface transportation program administration, managing organizations that use surface transportation facilities, academic research into related issues, or other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(C) TERMS.—Members shall be appointed for the life of the Commission.

(D) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(E) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(6) STAFF.—

(A) IN GENERAL.—The Commission may engage the services of an appropriate organization, agency, or firm to conduct the studies under this subsection, but the Commission shall provide strategic guidance for the studies.

(B) DETAIL STAFF.—Upon request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of Transportation to the Commission to assist the Commission in carrying out its duties under this subsection.

(C) COOPERATION.—The Secretary shall cooperate with the Commission in conducting the studies under this subsection, including providing the Commission with such nonconfidential data and information as necessary for conducting and completing the study.

(7) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Secretary shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out its responsibilities under this subsection.

(8) REPORTS AND RECOMMENDATIONS.—

(A) REVENUE ACTIONS.—Not later than September 30, 2005, the Commission shall transmit to Congress a report on revenue actions that would support the requirements of section 1124.

(B) ALTERNATIVE LONG-TERM SOURCES OF REVENUE.—Not later than September 30, 2006, the Commission shall transmit to Congress a report on the results of the study conducted under paragraph (1)(B), relating to alternative long-term sources of revenue to support the Highway Trust Fund, including recommendations to address the needs identified in the study.

(9) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under paragraph (8)(B). By such 180th day, the Commission shall deliver all

records and papers of the Commission to the Archivist of the United States for deposit in the National Archives.

(10) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $1,500,000 for each of fiscal years 2005 and 2006 to carry out this subsection.

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

(b) DECLARATION OF POLICY REGARDING FUTURE OF THE INTERSTATE HIGHWAY SYSTEM STUDY.—Section 101(b) of title 23, United States Code, is amended by striking the last paragraph and inserting the following:

''It is further declared that it is in the national interest to preserve and enhance the Dwight D. Eisenhower National System of Interstate and Defense Highways to meet the Nation's needs for the 21st century. The current urban and long distance personal travel and freight move-

1 ment demands have surpassed the vision of the original
2 Interstate System and travel demand patterns are ex-
3 pected to change. Continued planning for and investment
4 in the Interstate System is critical to assure it adequately
5 meets the changing travel demands of the future. Among
6 the foremost needs that the Interstate System must pro-
7 vide are safe, efficient, and reliable (1) national and inter-
8 regional personal mobility, (2) flow of interstate com-
9 merce, and (3) travel movements essential for national se-
10 curity. To the maximum extent, actions under this title
11 should address congestion, safety, and freight transpor-
12 tation to provide for a strong and vigorous national econ-
13 omy. The Interstate System is hereby declared to be the
14 Nation's premiere highway system, essential for the Na-
15 tion's economic vitality, national security, and general wel-
16 fare. The Secretary of Transportation is directed to take
17 appropriate actions to preserve and enhance the Interstate
18 System to meet the needs of the 21st century in accord-
19 ance with this title..

20 (c) NATIONAL COMMISSION ON FUTURE OF INTER-
21 STATE HIGHWAY SYSTEM.—

22 (1) ESTABLISHMENT.—There is established a
23 National Commission on the Future of the Dwight
24 D. Eisenhower National System of Interstate and

Defense Highways (in this subsection referred to as the 'Interstate System').

(2) FUNCTION.—The Commission shall—

(A) conduct a study of the current condition and future of the Interstate System and develop a conceptual plan with alternative approaches for the future of the Interstate System to assure that the Interstate System will continue to serve the needs of the Nation;

(B) assure that State transportation agency views are considered; and

(C) make specific recommendations regarding those design standards, Federal policies, and legislative changes that must be made to assure the national interests are served in meeting future Interstate System needs.

(3) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall assure that the study under this subsection specifically addresses the following:

(A) CURRENT CONDITION.—The current condition and performance of the Interstate System, including physical condition of bridges and pavements and operational characteristics and performance, shall be examined, relying primarily on existing data sources.

(B) FUTURE ASSESSMENT.—The future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year horizons.

(4) SPECIFIC ISSUES AND DETAILS TO ADDRESS.—The following specific issues and details shall be addressed as a part of the study under this subsection:

(A) DEMOGRAPHICS.—Expected demographics and business uses that impact transportation.

(B) USAGE.—Expected system use and effects of changing vehicle types, fleet size and weights, and traffic volumes.

(C) NATURAL DISASTER.—Seismic and other vulnerabilities and their potential impacts.

(D) DESIGN STANDARDS.—Desirable design policies and standards for future improvements, including safety improvement and additional access points.

(E) SYSTEM WIDE NEEDS.—Identification of both urban and rural needs.

(F) POTENTIAL SYSTEM EXPANSION, UPGRADES, OR OTHER CHANGES.—Deployment of advanced materials and intelligent technologies;

critical multi-state rural corridors needing capacity, safety, and operational enhancements; urban and multi-state corridor additions; bypasses of major cities that ensure efficient long-haul travel; improvements to inter-modal linkages; strategies to enhance asset preservation; and implementation strategies.

(G) COMMUNITY VALUES.—Consideration of alternative approaches to maintaining or enhancing community values in those neighborhoods adjacent to the Interstate System.

(H) ENVIRONMENTAL ISSUES.—Consideration of alternative approaches to addressing environmental concerns relative to recommended alternatives.

(I) SYSTEM PERFORMANCE.—Evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, system operations and management.

(5) ALTERNATIVES.—A range of policy recommendations shall be developed as a part of the plan under this subsection to address identified future needs of the Interstate System. The alternatives

shall include funding needs and potential approaches to provide those funds.

(6) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of nine members of whom—

(i) three members shall be appointed by the Secretary;

(ii) two members shall be appointed by the Speaker of the House of Representatives;

(iii) one member shall be appointed by the minority leader of the House of Representatives;

(iv) two members shall be appointed by the majority leader of the Senate; and

(v) one member shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Members appointed under subparagraph (A) shall be appointed from among individuals that have a concern for maintaining a strong role for the Interstate System in the future of the Nation and may include representatives from Federal, State, and local governments, other transportation authorities or agencies, and organizations

representing surface transportation owners and operators.

(C) TERMS.—Members shall be appointed for the life of the Commission.

(D) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(E) TRAVEL EXPENSES.—Member shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(7) STAFF.—

(A) IN GENERAL.—The Commission may engage the services of an appropriate organization, agency, or firm to conduct the study under this subsection, but the Commission shall provide strategic guidance for the study.

(B) DETAIL STAFF.—Upon request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of Transportation to the Commis-

1 sion to assist the Commission in carrying out
2 its duties under this subsection.
3 (C) COOPERATION.—The Secretary shall
4 cooperate with the Commission in the study, in-
5 cluding providing the Commission with such
6 nonconfidential data and information as nec-
7 essary for conducting and completing the study.
8 (8) ADMINISTRATIVE SUPPORT SERVICES.—
9 Upon the request of the Commission, the Secretary
10 shall provide to the Commission, on a reimbursable
11 basis, the administrative support and services nec-
12 essary for the Commission to carry out its respon-
13 sibilities under this subsection.
14 (9) REPORT AND RECOMMENDATIONS.—Not
15 later than September 30, 2006, the Commission
16 shall transmit to Congress a final report on the re-
17 sults of the study conducted under this subsection,
18 including recommendations to address the needs
19 identified in the study.
20 (10) TERMINATION.—The Commission shall
21 terminate on the 180th day following the date of
22 transmittal of the report under paragraph (9). By
23 such 180th day, the Commission shall deliver all
24 records and papers of the Commission to the Archi-

vist of the United States for deposit in the National Archives.

(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Funds (other than the Mass Transit Account) to carry out this subsection $1,000,000 for each of fiscal years 2005 and 2006.

(12) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities carried out under this subsection shall be 100 percent and such funds shall remain available until expended.

**SEC. 1122. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V.**

[Reserved]

**SEC. 1123. ROADWAY SAFETY.**

(a) ROAD SAFETY.—

(1) IN GENERAL.—The Secretary shall enter into an agreement to assist in the activities of a national nonprofit organization that is dedicated solely to improving public road safety—

(A) by improving the quality of data pertaining to public road hazards and design features that affect or increase the severity of motor vehicle crashes;

(B) by developing and carrying out a public awareness campaign to educate State and local transportation officials, public safety officials, and motorists regarding the extent to which public road hazards and design features are a factor in motor vehicle crashes; and

(C) by promoting public road safety research and technology transfer activities.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2005 through 2009 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

(A) to operate a national bicycle and pedestrian clearinghouse;

(B) to develop information and educational programs; and

(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2004 through 2009 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

**SEC. 1124. EQUITY REQUIREMENT.**

(a) GENERAL PROVISIONS.—The Secretary may not apportion before August 1, 2006, any funds for any of the programs referred to in subsection (b) for fiscal year

2006 unless, after the date of enactment of this Act, a law has been enacted that—

(1) increases the guaranteed rate of return pursuant to section 105 of title 23, United States Code, to 92 percent in fiscal year 2006, 93 percent in fiscal year 2007, 94 percent in fiscal year 2008, and 95 percent in fiscal year 2009; and

(2) requires that each State receive apportionments for such programs for each of such fiscal years that in the aggregate are at least equal to the greater of—

(A) the State's minimum guaranteed rate of return required under paragraph (1); and

(B) the State's prior fiscal year's apportioned highway funds for programs referred in subsection (b) plus an amount equal to the State's prior year apportioned funds for such programs multiplied by the percentage increase in the consumer price index during the 12-month period ending June 30 of the calendar year in which the fiscal year begins.

(b) APPLICABILITY.—The withholding of apportioned funds under subsection (a) shall apply to the following programs:

(1) The National Highway System program under section 103(b) of title 23, United States Code.

(2) The high priority projects program under section 117 of such title.

(3) The Interstate maintenance program under section 119 of such title.

(4) The surface transportation program under section 133 of such title.

(5) Metropolitan planning under chapter 52 of title 49, United States Code.

(6) The highway bridge replacement and rehabilitation program under section 144 of title 23, United States Code.

(7) The congestion mitigation and air quality improvement program under section 149 of such title.

(8) The recreational trails program under section 206 of such title.

(9) The Appalachian development highway system under subtitle IV of title 40, United States Code.

(10) The freight intermodal connectors program under section 1303 of this Act.

(11) The coordinated border infrastructure program under section 1302 of this Act.

(12) The high risk rural road safety improvement program under section 1403 of this Act.

(13) The safe routes to schools program under section 1120 of this Act.

(14) The minimum guarantee program under section 105 of title 23, United States Code.

(c) CONSIDERATION OF COMMISSION FINDINGS.—In considering a law that increases the guaranteed rate of return referred to in subsection (a), Congress should consider the findings of the report on alternative short-term sources of Highway Trust Fund revenue to be published by the National Commission on Future Revenue Sources to Support the Highway Trust Fund pursuant to section 1121 of this Act.

# Subtitle B—Congestion Relief

**SEC. 1201. MOTOR VEHICLE CONGESTION RELIEF.**

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 138 the following:

**'§ 139. Motor vehicle congestion relief**

'(a) IN GENERAL.—Each State that has an urbanized area with an urbanized area population of over 200,000 individuals shall obligate in each of fiscal years 2005 through 2009 a portion of the State's apportionments under section 104(b) in such fiscal year, as calculated

under subsection (b), for congestion relief activities in such urbanized areas in accordance with this section.

'(b) CALCULATION OF AMOUNT.—The portion of a State's apportionments for a fiscal year to be obligated for congestion relief activities under subsection (a) shall be determined by multiplying—

'(1) the total of amounts apportioned to the State under each of paragraphs (1), (2), (3), and (4) of section 104(b) in such fiscal year; by

'(2) 10 percent; by

'(3) the percentage of the State's population residing in urbanized areas of the State with an urbanized area population of over 200,000 individuals.

'(c) ALLOCATION BETWEEN UNDER ONE AND UNDER THREE CONGESTION RELIEF ACTIVITIES.—Of the total amount of a State's apportionments to be obligated for congestion relief activities for a fiscal year as calculated under subsection (b)—

'(1) 40 percent shall be obligated for under one congestion relief activities;

'(2) 35 percent shall be obligated for under three congestion relief activities; and

'(3) 25 percent shall be obligated at the discretion of the State department of transportation for 1 or more of the following:

1 ‘(A) Under one congestion relief activities.
2 ‘(B) Under three congestion relief activi-
3 ties.
4 ‘(C) Capital costs for transit projects that
5 are eligible for assistance under chapter 53 of
6 title 49.
7 ‘(D) Demand relief projects and activities
8 that shift demand to non-peak hours or to other
9 modes of transportation or that reduce the
10 overall level of demand for roads through such
11 means as telecommuting, ridesharing, alter-
12 native work hour programs, and value pricing.
13 ‘(d) OBLIGATION OF AMOUNTS.—
14 ‘(1) IN GENERAL.—In complying with the re-
15 quirements of this section, the amounts obligated by
16 a State for congestion relief activities under sub-
17 section (a) shall be allocated among the individual
18 programs for which funds are apportioned under
19 sections 104(b)(1), 104(b)(2), 104(b)(3), and
20 104(b)(4).
21 ‘(2) LIMITATION ON STATUTORY CONSTRUC-
22 TION.—Nothing in this subsection shall be construed
23 as requiring a State to obligate proportional or equal
24 amounts under sections 104(b)(1), 104(b)(2),

104(b)(3), and 104(b)(4) for any congestion relief activity under this section.

'(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of this chapter (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project) to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for congestion relief activities under subsection (a).

'(f) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with this section.

'(g) TRANSFERS.—

'(1) IN GENERAL.—A State may transfer a portion of the amount that the State must obligate for under one congestion relief activities in a fiscal year under this section to the amount the State must obligate for under three congestion relief activities under this section if the State certifies to the Secretary that there are no under one congestion relief activities for which such portion can be obligated in such fiscal year and the Secretary does not dis-

approve such transfer within 30 days after the date of such certification.

'(2) LIMITATION.—The amount that a State may transfer in a fiscal year under this subsection may not reduce the amount the State must obligate for under one congestion relief activities to less than 10 percent of the total amount of the State's apportionments to be obligated for congestion relief activities for such fiscal year as calculated under subsection (b).

'(3) TREATMENT.—Amounts transferred by a State under this subsection for a fiscal year shall be included in the amount of the State's apportionments allocated for under three congestion relief activities for such fiscal year under subsection (c)(2).

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

'(1) CONGESTION RELIEF ACTIVITIES.—

'(A) IN GENERAL.—The term ''congestion relief activity'' means any activity, project, or program that has as its primary purpose, as determined by the State transportation department, the relief of motor vehicle congestion.

'(B) INCLUSIONS.—Such term includes the following:

'(i) Relief of motor vehicle congestion through additional capacity, construction of additional lanes, improvements to interchanges, improved access to major terminals, construction of parallel roads, construction of truck only lanes, and major arterial improvements.

'(ii) Transportation systemwide operational improvements targeted at increasing motor vehicle travel reliability through such means as incident management programs, traffic monitoring and surveillance, and traveler information initiatives.

'(iii) Maximizing efficient use of existing motor vehicle travel capacity through such means as reversible lanes, coordinated traffic signalization, and managed lanes or other lane management strategies.

'(C) EXCLUSIONS.—Such term does not include demand relief projects and activities that shift demand to non-peak hours or to other modes of transportation or that reduce the overall level of demand for roads through such means as telecommuting, ridesharing, alternative work hour programs, and value pricing.

'(2) UNDER ONE CONGESTION RELIEF ACTIVITIES.—The term ''under one congestion relief activity'' means a congestion relief activity that—

'(A) will be completed within one year after the date of commencement of onsite improvements;

'(B) has a total projected cost of less than $1,000,000; and

'(C) will improve conditions in the applicable urbanized area or is an element of the congestion management system of the applicable metropolitan planning organization.

'(3) UNDER THREE CONGESTION RELIEF ACTIVITIES.—The term ''under three congestion relief activities'' means congestion relief activities that—

'(A) will be completed within 3 years after the date of commencement of onsite improvements; and

'(B) will improve conditions in the applicable urbanized area or is an element of the congestion management system of the applicable metropolitan planning organization.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter I of such title is amended by inserting after the item relating to section 138 the following:

'139. Motor vehicle congestion relief.'.

(c) MOTOR VEHICLE DEFINED.—Title 23, United States Code, is amended—

(1) in section 154(a)(2), relating to the definition of motor vehicle, by inserting 'streets, roads, and' before 'highways';

(2) by redesignating paragraph (2) of section 154(a) as paragraph (38);

(3) by moving such redesignated paragraph from section 154(a) to the end of section 101(a);

(4) by redesignating paragraphs (3) and (4) of section 154(a) as paragraphs (2) and (3), respectively;

(5) in section 153(i)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(6) in section 164(a)(4) by striking 'means' and all that follows through 'rail line or' and inserting 'does not include'; and

(7) in section 405(f)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5).

**SEC. 1202. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.**

(a) DEFINITIONS.—

(1) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—Section 101(a)(17) of title 23, United States Code, is amended by inserting 'transportation systems management and operations and' after 'associated with'.

(2) OPERATIONAL IMPROVEMENT.—Section 101(a)(18)(A)(i) of such title is amended—

(A) by inserting 'transportation systems management and operations, including' after 'for'; and

(B) by inserting 'equipment and programs for transportation response to natural disasters,' after 'incident management programs,'.

(3) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Section 101(a) of such title is further amended by adding at the end the following:

'(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

'(A) IN GENERAL.—The term ''transportation systems management and operations'' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and inter-

modal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve the security, safety, and reliability of Federal-aid highways.

'(B) INCLUDED ACTIVITIES AND IMPROVEMENTS.—The term includes regional operations collaboration and coordination activities between transportation and public safety agencies and improvements such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic operations measures to improve capacity, traffic signal coordination, optimization of traffic signal timing, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.'.

(b) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of such title is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively; and

(2) by adding at the end the following:

'(14) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, including activities for traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.'.

(c) NATIONAL HIGHWAY SYSTEM ELIGIBILITY.—Section 103(b)(6) of such title is amended by adding at the end the following:

'(Q) Capital, operating, and systems maintenance costs for transportation systems management and operations.'.

(d) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Subchapter I of chapter 1 of such title is further amended by adding at the end the following:

**'§ 166. Transportation systems management and operations**

'(a) AUTHORITY.—The Secretary may—

'(1) encourage transportation system managers, operators, public safety officials, and transportation planners within an urbanized area, who are actively engaged in and responsible for conducting activities relating to day-to-day management, operations, public safety, and planning of transportation facilities

and services, to collaborate and coordinate on a regional level in a continuous and sustained manner for improved transportation systems management and operations, including, at a minimum—

'(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants for how the region's systems should be managed, operated, and measured;

'(B) sharing of information among operators, service providers, public safety officials, and the general public; and

'(C) guiding, in a regionally-coordinated manner, the implementation of regional transportation system management and operations initiatives, including emergency evacuation and response, traffic incident management, technology deployment, and traveler information systems delivery, in a manner consistent with and integrated into the ongoing metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, if required; and

'(2) encourage States to establish a system of basic real-time monitoring capability for the surface

1 transportation system and provide the capability and
2 means to share that data among agencies (including
3 highway, transit, and public safety agencies), juris-
4 dictions (including States, cities, counties, and areas
5 represented by metropolitan planning organizations),
6 private-sector entities, and the traveling public.

7 '(b) EXECUTION.—To support the successful execu-
8 tion of transportation systems management and oper-
9 ations activities, the Secretary may undertake the fol-
10 lowing activities:

11 '(1) Assist and cooperate with other Federal de-
12 partments and agencies, State and local govern-
13 ments, metropolitan planning organizations, private
14 industry representatives, and other interested parties
15 to improve regional collaboration and real-time infor-
16 mation sharing between transportation system man-
17 agers and operators, public safety officials, emer-
18 gency managers, and the general public to increase
19 the security, safety, and reliability of Federal-aid
20 highways.

21 '(2) Issue, if necessary, new guidance or regula-
22 tions for the procurement of transportation system
23 management and operations facilities, equipment,
24 and services, including equipment procured in prepa-
25 ration for natural disasters and emergencies, system

hardware, software, and software integration services.'.

(e) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

'166. Transportation systems management and operations.'.

(f) INTELLIGENT TRANSPORTATION SYSTEM PROCUREMENT POLICY.—

(1) STUDY.—The Secretary shall—

(A) conduct a study of the current policies and practices for the procurement of intelligent transportation system facilities, equipment, and services; and

(B) develop a conceptual plan with alternative approaches for expediting and streamlining such procurements at the State level.

(2) RECOMMENDATIONS.—Based on the results of the study, the Secretary shall make recommendations in the report under paragraph (4) regarding procurement standards, including recommendations regarding any changes in Federal and State statutes, regulations, and policies necessary to ensure that national interests are served in meeting future intelligent transportation system needs.

(3) SPECIFIC MATTERS TO BE ADDRESSED.—The study under this subsection shall specifically address the following:

(A) CURRENT CONDITION.—The current practices and policies relating to procurement of intelligent transportation system facilities, equipment, and services, including equipment procured in preparation for natural disasters and emergencies, system hardware, software, and software integration services.

(B) ASSESSMENT OF NEED FOR POLICY REFORM.—The ability of current practices and policies to achieve the successful implementation of intelligent transportation system goals and the need for national policy reform to expedite and streamline procurements necessary to meet such goals.

(C) ALTERNATIVES.—The range of legislative, regulatory, and policy alternatives to address identified needs and goals, including funding needs.

(D) RECOMMENDATIONS.—Recommendations regarding procurement standards, including recommendations regarding any changes in Federal and State statutes, regulations, and

policies necessary for expedited and streamlined procurements.

(4) REPORT AND RECOMMENDATIONS.—Not later than March 31, 2006, the Secretary shall transmit to the appropriate committees of Congress a final report regarding the results of the study conducted under this subsection and recommendations to address the needs identified in such study.

(5) INITIATION OF RULEMAKING PROCEEDING.—To the extent any recommendation made by the Secretary under this subsection may be implemented by regulation, the Secretary shall initiate a rulemaking proceeding to address such recommendation not later than the 90th day following the date of submission of the report under paragraph (4).

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $1,000,000 in fiscal year 2005 to carry out this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23,

United States Code; except that the Federal share of the cost of the study under this subsection shall be 100 percent and such funds shall remain available until expended.

**SEC. 1203. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the Nation's major highways and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information.

(2) PURPOSES.—The purposes of the real-time system management information program are to—

(A) establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;

(B) identify longer range real-time highway and transit monitoring needs and develop

plans and strategies for meeting such needs; and

(C) provide the capability and means to share that data with State and local governments and the traveling public.

(b) NATIONAL STEERING COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish a national steering committee to assist in the development of data exchange formats under subsection (c).

(2) REPRESENTATIVES.—The national steering committee shall consist of representatives of State transportation departments, metropolitan planning organizations, local governments, nonprofit entities, the private sector, and academia.

(3) PURPOSE.—The purpose of the national steering committee shall be to provide guidance regarding the content and uniformity of data exchange formats.

(c) DATA EXCHANGE FORMATS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish data exchange formats based on recommendations of the steering committee established under subsection (b) to ensure that the data provided by highway and transit monitoring systems, including statewide inci-

1 dent reporting systems, can readily be exchanged across
2 jurisdictional boundaries, facilitating nationwide avail-
3 ability of information.

4 (d) REGIONAL INTELLIGENT TRANSPORTATION SYS-
5 TEM ARCHITECTURE.—

6 (1) ADDRESSING INFORMATION NEEDS.—As
7 State and local governments develop or update re-
8 gional intelligent transportation system architec-
9 tures, described in section 940.9 of title 23, Code of
10 Federal Regulations, such governments shall explic-
11 itly address real-time highway and transit informa-
12 tion needs and the systems needed to meet such
13 needs, including addressing coverage, monitoring
14 systems, data fusion and archiving, and methods of
15 exchanging or sharing highway and transit informa-
16 tion.

17 (2) DATA EXCHANGE.—States shall incorporate
18 the data exchange formats established by the Sec-
19 retary under subsection (c) to ensure that the data
20 provided by highway and transit monitoring systems
21 may readily be exchanged with State and local gov-
22 ernments and may be made available to the traveling
23 public.

24 (e) ELIGIBILITY.—Subject to project approval by the
25 Secretary, a State may obligate funds apportioned to the

State under sections 104(b)(1), 104(b)(2), and 104(b)(3) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements that advance the goals and purposes described in subsection (a).

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for activities and projects under this section.

(g) STATEWIDE INCIDENT REPORTING SYSTEM DEFINED.—In this section, the term 'statewide incident reporting system' means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.

**SEC. 1204. EXPEDITED NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to accelerate the integration, interoperability, and deployment of intelligent transportation systems in order to improve the performance of the surface transportation system in metropolitan and rural areas.

(b) SELECTION OF MODEL PROJECTS.—Under the program, the Secretary may make grants, through competitive solicitation, for projects that will serve as models to improve transportation efficiency, promote surface transportation safety (including safe freight movement), increase traffic flow (including the flow of intermodal travel at ports of entry), reduce emissions of air pollutants, improve traveler information, enhance alternative transportation modes, build on existing intelligent transportation system projects, and promote tourism.

(c) OTHER PROJECTS, PROGRAMS, AND ACTIVITIES.—Under the program, the Secretary may make grants for projects, programs, and activities in metropolitan and rural areas that—

(1) contribute to national deployment goals and objectives outlined in the national intelligent transportation system program plan;

(2) promote cooperation among agencies, jurisdictions, and the private sector, as evidenced by signed memoranda of understanding that clearly define the responsibilities and relations of all parties to a partnership arrangement, including institutional relationships and financial agreements needed to support deployment of intelligent transportation systems;

(3) encourage private sector involvement and financial commitment to such deployment to the maximum extent practicable through innovative financial arrangements, especially public-private partnerships, including arrangements that generate revenue to offset public investment costs;

(4) enhance fully integrated intelligent transportation system deployment;

(5) create technical capacity for effective operations and maintenance of such systems;

(6) improve safety, mobility, geographic and regional diversity, and economic development in deployment of such systems;

(7) advance deployment of the 511 traveler information program; and

(8) advance deployment of other national systems, including a statewide incident reporting sys-

tem, wireless e-911 system, and road weather information system.

(d) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(16) of this Act shall be available for obligation to carry out subsection (c)(7) in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of projects carried out under subsection (c)(7) shall be 80 percent and such funds shall remain available until expended.

**SEC. 1205. INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT.**

(a) PURPOSE.—The purpose of this section is to ensure that a minimum of $2,500,000,000 of the amounts authorized to be appropriated for the National Highway System, Interstate maintenance, surface transportation, and congestion mitigation and air quality improvement programs for fiscal years 2005 through 2009 is utilized to expand deployment of intelligent transportation systems.

(b) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 149 the following:

**'§ 150. Deployment of intelligent transportation systems**

'(a) IN GENERAL.—In each of fiscal years 2005 through 2009, each State shall obligate a portion of the funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for such fiscal year, calculated under subsection (b), for projects described in subsection (c) that support deployment of intelligent transportation systems in the State.

'(b) CALCULATION OF AMOUNT.—The portion of a State's apportionments to be obligated under subsection (a) for projects described in subsection (c) in a fiscal year shall be determined by multiplying $500,000,000 by the ratio that—

'(1) the aggregate of amounts apportioned to the State for such fiscal year under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4); bears to

'(2) the aggregate of amounts apportioned to all States for such fiscal year under such sections.

'(c) INTELLIGENT TRANSPORTATION SYSTEMS DEPLOYMENT PROJECTS.—Projects for which funds must be obligated under this section include the following:

'(1) PERFORMANCE.—Establishment and implementation of operations systems and services that improve performance in the areas of traffic oper-

ations, emergency response to surface transportation incidents, surface transportation incident management, weather event response management by State and local authorities, surface transportation network and facility management, construction and work zone management, and traffic flow information.

'(2) NETWORKS.—Conducting activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information.

'(3) SAFETY.—Implementation of intelligent transportation system technologies that improve highway safety through linkages connecting the vehicle, the infrastructure, and information to the driver.

'(4) OPERATION AND MANAGEMENT.—Provision of services necessary to ensure the efficient operation and management of intelligent transportation systems infrastructure, including costs associated with communications, utilities, rent, hardware, software, labor, administrative costs, training, and technical services.

'(5) INTERAGENCY SUPPORT.—Provision of support for institutional relationships between trans-

portation agencies, police, emergency medical services, private emergency operators, freight operators, and shippers.

'(6) PLANNING.—Conducting cross-jurisdictional planning and deployment of regional transportation systems operations and management approaches.

'(d) OBLIGATION OF AMOUNTS.—

'(1) IN GENERAL.—In complying with the requirements of this section, the amounts obligated by a State for projects under subsection (c) that support deployment of intelligent transportation systems in such State under subsection (a) shall be allocated among the individual programs for which funds are apportioned under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4).

'(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to obligate proportional or equal amounts under sections 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4) for any congestion relief activity under this section.

'(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements

of this chapter (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project) to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects under this section.

'(f) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with this section.'.

(c) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 149 the following:

'150. Deployment of intelligent transportation systems.'.

**SEC. 1206. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS.**

(a) CATEGORICAL EXCLUSIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall initiate a rulemaking process to establish, to the extent appropriate, categorical exclusions for activities that support the deployment of intelligent transportation infrastructure and systems from the requirement that an environmental assessment or an environmental impact statement be prepared under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

(42 U.S.C. 4332) in compliance with the standards for categorical exclusions established by that Act.

(b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

(1) DEVELOPMENT.—The Secretary shall develop a nationwide programmatic agreement governing the review of activities that support the deployment of intelligent transportation infrastructure and systems in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the regulations of the Advisory Council on Historic Preservation.

(2) CONSULTATION.—The Secretary shall develop the agreement under paragraph (1) in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (26 U.S.C. 470i et seq.) and after soliciting the views of other interested parties.

(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term 'intelligent transportation infrastructure and systems' means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in section 5607.

**SEC. 1207. STATE ASSUMPTION OF RESPONSIBILITIES FOR CERTAIN PROGRAMS AND PROJECTS.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**'§ 167. State assumption of responsibilities for certain programs and projects**

'(a) ASSUMPTION OF SECRETARY'S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

'(1) PILOT PROGRAM.—

'(A) ESTABLISHMENT.—The Secretary may establish a pilot program under which States may assume the responsibilities of the Secretary under any Federal laws subject to the requirements of this section.

'(B) FIRST 3 FISCAL YEARS.—In the first 3 fiscal years following the date of enactment of this section, the Secretary may allow up to 5 States to participate in the pilot program.

'(2) SCOPE OF PROGRAM.—Under the pilot program, the Secretary may assign, and a State may assume, any of the Secretary's responsibilities (other than responsibilities relating to federally recognized Indian tribes) for environmental reviews, consultation, or decisionmaking or other actions required

under any Federal law as such requirements apply to the following projects:

'(A) Projects funded under section 104(h).

'(B) Transportation enhancement activities under section 133, as such term is defined in section 101(a)(35).

'(C) Projects as defined in section 101(a)(39) and section 5607 of the Transportation Equity Act: A Legacy for Users.

'(b) AGREEMENTS.—

'(1) IN GENERAL.—The Secretary shall enter into a memorandum of understanding with a State participating in the pilot program setting forth the responsibilities to be assigned under subsection (a)(2) and the terms and conditions under which the assignment is being made.

'(2) CERTIFICATION.—Before the Secretary enters into a memorandum of understanding with a State under paragraph (1), the State shall certify that the State has in effect laws (including regulations) applicable to projects carried out and funded under this title and chapter 53 of title 49 that authorize the State to carry out the responsibilities being assumed.

'(3) MAXIMUM DURATION.—A memorandum of understanding with a State under this section shall be established for an initial period of no more than 3 years and may be renewed by mutual agreement on a periodic basis for periods of not more than 3 years.

'(4) COMPLIANCE.—

'(A) IN GENERAL.—After entering into a memorandum of understanding under paragraph (1), the Secretary shall review and determine compliance by the State with the memorandum of understanding.

'(B) RENEWALS.—The Secretary shall take into account the performance of a State under the pilot program when considering renewal of a memorandum of understanding with the State under the program.

'(c) SELECTION OF STATES FOR PILOT PROGRAM.—

'(1) APPLICATION.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains such information as the Secretary may require. At a minimum, an application shall include—

1 ‘(A) a description of the projects or classes
2 of projects for which the State seeks to assume
3 responsibilities under subsection (a)(2); and
4 ‘(B) a certification that the State has the
5 capability to assume such responsibilities.
6 ‘(2) PUBLIC NOTICE.—Before entering into a
7 memorandum of understanding allowing a State to
8 participate in the pilot program, the Secretary
9 shall—
10 ‘(A) publish notice in the Federal Register
11 of the Secretary’s intent to allow the State to
12 participate in the program, including a copy of
13 the State’s application to the Secretary and the
14 terms of the proposed agreement with the
15 State; and
16 ‘(B) provide an opportunity for public com-
17 ment.
18 ‘(3) SELECTION CRITERIA.—The Secretary may
19 approve the application of a State to assume respon-
20 sibilities under the program only if—
21 ‘(A) the requirements under paragraph (2)
22 have been met; and
23 ‘(B) the Secretary determines that the
24 State has the capability to assume the respon-
25 sibilities.

'(4) OTHER FEDERAL AGENCY VIEWS.—Before assigning to a State a responsibility of the Secretary that requires the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency.

'(d) STATE DEFINED.—With respect to the recreational trails program, the term ''State'' means the State agency designated by the Governor of the State in accordance with section 206(c)(1).

'(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decisionmaking.'.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

'167. State assumption of responsibilities for certain programs and projects.'.

**SEC. 1208. HOV FACILITIES.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**'§ 168. HOV facilities**

'(a) IN GENERAL.—

1 ‘(1) AUTHORITY OF STATE AGENCIES.—A State
2 agency that has jurisdiction over the operation of a
3 HOV facility shall establish the occupancy require-
4 ments of vehicles operating on the facility.
5 ‘(2) OCCUPANCY REQUIREMENT.—Except as
6 otherwise provided by this section, no fewer than 2
7 occupants per vehicle may be required for use of a
8 HOV facility.
9 ‘(b) EXCEPTIONS.—Notwithstanding the occupancy
10 requirements of subsection (a)(2), the following exceptions
11 shall apply with respect to a State agency operating a
12 HOV facility:
13 ‘(1) MOTORCYCLES AND BICYCLES.—
14 ‘(A) IN GENERAL.—Subject to subpara-
15 graph (B), the State agency shall allow motor-
16 cycles and bicycles to use the HOV facility.
17 ‘(B) SAFETY EXCEPTION.—A State agency
18 may restrict use of the HOV facility by motor-
19 cycles or bicycles (or both) if the agency cer-
20 tifies to the Secretary that such use would cre-
21 ate a safety hazard and the Secretary accepts
22 the certification. The Secretary may accept a
23 certification under this subparagraph only after
24 the Secretary publishes notice of the certifi-

1 cation in the Federal Register and provides an
2 opportunity for public comment.
3 '(2) PUBLIC TRANSPORTATION VEHICLES.—The
4 State agency may allow public transportation vehi-
5 cles to use the HOV facility if the agency—
6 '(A) establishes requirements for clearly
7 identifying the vehicles; and
8 '(B) establishes procedures for enforcing
9 the restrictions on the use of the facility by
10 such vehicles.
11 '(3) HIGH OCCUPANCY TOLL VEHICLES.—The
12 State agency may allow vehicles not otherwise ex-
13 empt pursuant to this subsection to use the HOV fa-
14 cility if the operators of such vehicles pay a toll
15 charged by the agency for use of the facility and the
16 agency—
17 '(A) establishes a program that addresses
18 how motorists can enroll and participate in the
19 toll program;
20 '(B) develops, manages, and maintains a
21 system that will automatically collect the toll;
22 and
23 '(C) establishes policies and procedures
24 to—

'(i) manage the demand to use the facility by varying the toll amount that is charged;

'(ii) enforce violations of use of the facility; and

'(iii) permit low-income individuals to pay reduced tolls.

'(4) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

'(A) INHERENTLY LOW-EMISSION VEHICLE.—Before September 30, 2009, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311–93 of title 40, Code of Federal Regulations, and are labeled in accordance with section 88.312–93 of such title, to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

'(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facil-

ity if the operators of such vehicles pay a toll charged by the agency for use of the facility and the agency—

'(i) establishes a program that addresses the selection of vehicles under this paragraph; and

'(ii) establishes procedures for enforcing the restrictions on the use of the facility by such vehicles.

'(C) AMOUNT OF TOLLS.— Tolls charged under subparagraph (B) may be less than tolls charged under paragraph (3).

'(c) REQUIREMENTS APPLICABLE TO TOLLS.—

'(1) IN GENERAL.—Tolls may be charged under subsections (b)(3) and (b)(4) notwithstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129.

'(2) HOV FACILITIES ON THE INTERSTATE SYSTEM.—Notwithstanding section 129, tolls may be charged under subsections (b)(3) and (b)(4) on a HOV facility on the Interstate System.

'(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under the last sentence of section 129(a)(3) with respect to toll revenues collected under subsections (b)(3) and (b)(4), the

State, in the use of tolls revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.

'(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

'(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under subsection (b)(3) or (b)(4) in a fiscal year shall certify to the Secretary that the agency will carry out the following responsibilities with respect to the facility in the fiscal year:

'(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that such vehicles may have on the operation of the facility and adjacent highways.

'(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

'(C) Limiting or discontinuing the use of the facility by such vehicles if the presence of

such vehicles has degraded the operation of the facility.

'(2) DEGRADED FACILITY.—

'(A) IN GENERAL.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 6-month period during morning or evening weekday peak hour periods (or both).

'(B) MINIMUM AVERAGE OPERATING SPEED DEFINED.—In subparagraph (A), the term ''minimum average operating speed'' means—

'(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

'(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

'(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 6 months after the date of enactment of this section, the Adminis-

1 trator of the Environmental Protection Agency shall issue
2 a final rule establishing requirements for certification of
3 vehicles as low emission and energy-efficient vehicles for
4 purposes of this section and requirements for the labeling
5 of such vehicles.

6 '(f) DEFINITIONS.—In this section, the following defi-
7 nitions apply:

8 '(1) ALTERNATIVE FUEL VEHICLE.—The term
9 ''alternative fuel vehicle'' means a vehicle that oper-
10 ates on—

11 '(A) methanol, denatured ethanol, or other
12 alcohols;

13 '(B) a mixture containing at least 85 per-
14 cent of methanol, denatured ethanol, and other
15 alcohols by volume with gasoline or other fuels;

16 '(C) natural gas;

17 '(D) liquefied petroleum gas;

18 '(E) hydrogen;

19 '(F) coal derived liquid fuels;

20 '(G) fuels (except alcohol) derived from bi-
21 ological materials;

22 '(H) electricity (including electricity from
23 solar energy); or

24 '(I) any other fuel that the Secretary pre-
25 scribes by regulation that is not substantially

petroleum and that would yield substantial energy security and environmental benefits.

'(2) HOV FACILITY.—The term ''HOV facility'' means a high occupancy vehicle facility.

'(3) LOW EMISSION AND ENERGY EFFICIENT VEHICLE.—The term ''low emission and energy-efficient vehicle'' means a vehicle that—

'(A) has been certified by the Administrator of the Environmental Protection Agency as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

'(B)(i) has been certified by the Administrator to have a 45-mile-per-gallon or greater fuel economy highway rating; or

'(ii) is an alternative fuel vehicle.

'(4) PUBLIC TRANSPORTATION VEHICLE.—The term ''public transportation vehicle'' means a vehicle that provides public transportation (as defined in section 5302(a) of title 49).

'(5) STATE AGENCY.—The term ''State agency'', as used with respect to a HOV facility, means an agency of a State or local government having ju-

1 risdiction over the operation of the facility and in-
2 cludes a State transportation department.'.
3 (b) CONFORMING AMENDMENTS.—
4 (1) PROGRAM EFFICIENCIES.—Section 102 of
5 title 23, United States Code, is amended by striking
6 subsection (a) and redesignating subsections (b) and
7 (c) as subsections (a) and (b), respectively.
8 (2) CHAPTER ANALYSIS.—The analysis for sub-
9 chapter I of chapter 1 of such title is amended by
10 adding at the end the following:

'168. HOV facilities.'.

11 (c) TECHNICAL AMENDMENT.—Section 102(c) of
12 title 23, United States Code, is amended by striking '10
13 years' and all that follows through 'after' and inserting
14 '10 years (or such longer period as the State requests and
15 the Secretary determines to be reasonable) after'.

16 **SEC. 1209. CONGESTION PRICING PILOT PROGRAM.**

17 (a) ESTABLISHMENT.—Section 1012(b)(1) of the
18 Intermodal Surface Transportation Efficiency Act of 1991
19 (23 U.S.C. 149 note; 105 Stat. 1938) is amended to read
20 as follows:
21 '(1) ESTABLISHMENT..—
22 '(A) IN GENERAL.—The Secretary may
23 enter into cooperative agreements with State
24 and local governments to carry out not more
25 than 25 congestion pricing pilot projects.

'(B) PREVIOUSLY APPROVED PROJECTS.—Projects carried out under paragraph (1) shall include each project approved under this subsection before the date of enactment of the Transportation Equity Act: A Legacy for Users and under which highway tolls are being collected as of such date of enactment.'.

(b) LOW-INCOME DRIVERS.— Section 1012(b)(7) of such Act is amended to read as follows:

'(7) REDUCED TOLLS FOR LOW-INCOME DRIVERS.—Any congestion pricing pilot project carried out under this subsection that involves the collection of highway tolls shall include a program to permit low-income drivers to pay a reduced toll amount.'.

(c) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—At the end of section 1012(b)(8) of such Act add the following:

'(D) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, $3,000,000 per fiscal year shall be available only for congestion pricing pilot projects that do not involve highway tolls.'.

(d) CONFORMING AMENDMENTS.—Section 1012(b) of such Act is amended—

(1) in the subsection heading by striking 'VALUE PRICING' and inserting 'CONGESTION PRICING';

(2) in paragraph (2)—

(A) by striking '(2) Notwithstanding' and inserting the following:

'(2) FEDERAL SHARE; ELIGIBLE COSTS.—Notwithstanding';

(B) in the first sentence by striking 'programs' and inserting 'projects'; and

(C) in the second sentence by striking 'program' and inserting 'project';

(3) in paragraph (3) by striking '(3) Revenues' and inserting the following:

'(3) USE OF REVENUES.—Revenues';

(4) in paragraph (4)—

(A) by striking '(4) Notwithstanding' and inserting the following:

'(4) USE OF TOLLS ON INTERSTATE SYSTEM.—Notwithstanding';

(B) by striking 'value pricing pilot program' and inserting 'congestion pricing pilot project';

(5) in paragraph (5)—

(A) by striking '(5) The Secretary' and inserting the following:

'(5) MONITORING.—The Secretary'; and

(B) by striking 'programs' the first and second place it appears and inserting 'projects'; and

(6) in paragraph (6) by striking 'value pricing pilot program' and inserting 'congestion pricing pilot project'.

**SEC. 1210. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.**

Section 149(b)(5) of title 23, United States Code, is amended by inserting 'improve transportation systems management and operations,' after 'intersections,'.

**SEC. 1211. SPECIAL RULES FOR STATE ASSUMPTION OF RESPONSIBILITIES.**

(a) LIMITATIONS.—Section 167(a) of title 23, United States Code, as added by section 1207(a) of this Act, is amended by adding at the end the following:

'(3) LIMITATIONS.—

'(A) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State that assumes the responsibilities of the Secretary under this section shall be subject to the same procedural and substantive requirements as would apply if the

1 responsibilities were carried out by the Sec-
2 retary. When a State assumes responsibilities
3 for carrying out a Federal law under this sec-
4 tion, the State assents to Federal jurisdiction
5 and shall be solely responsible and solely liable
6 for complying with and carrying out that law
7 instead of the Secretary.

8 '(B) ASSUMPTION OF RESPONSIBILITIES.—
9 Any responsibility of the Secretary not assumed
10 by the State in a memorandum of under-
11 standing shall remain a responsibility of the
12 Secretary.

13 '(C) POWERS OF OTHER AGENCIES.—
14 Nothing in this section preempts or limits any
15 power, jurisdiction, responsibility, or authority
16 of an agency, other than the Department of
17 Transportation, with respect to a project.'.

18 (b) ACCEPTANCE OF FEDERAL COURTS JURISDIC-
19 TION; TERMINATION OF AGREEMENTS.—Section 167(b)
20 of title 23, United States Code, as added by section
21 1207(a) of this Act, is amended by adding at the end the
22 following:

23 '(5) ACCEPTANCE OF FEDERAL COURTS JURIS-
24 DICTION.—A memorandum of understanding with a
25 State under this section shall include a provision

1 under which the State consents to accept the juris-
2 diction of the Federal courts for the compliance, dis-
3 charge, and enforcement of any responsibility of the
4 Secretary that the State may assume under the
5 memorandum.

6 '(6) TERMINATION OF AGREEMENTS.—A memo-
7 randum of understanding with a State under this
8 section shall include a provision authorizing the Sec-
9 retary to terminate the agreement if the Secretary,
10 after providing an opportunity for a hearing, issues
11 a finding that the State is not in compliance with
12 the terms of the agreement.'.

13 (c) STATE SUBJECT TO FEDERAL LAWS.—Section
14 167 of title 23, United States Code, as added by section
15 1207(a) of this Act, is further amended by adding at the
16 end the following:

17 '(f) STATE SUBJECT TO FEDERAL LAWS.—For pur-
18 poses of assuming responsibilities of the Secretary under
19 this section, a State agency entering into a memorandum
20 of understanding under subsection (b) is deemed to be a
21 Federal agency to the extent the State is carrying out the
22 Secretary's responsibilities under the National Environ-
23 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), this
24 title, and any other provision of Federal law.'.

# Subtitle C—Mobility and Efficiency

**SEC. 1301. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.**

(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section. A State must submit an application to the Secretary in order to receive an allocation under this section.

(b) SELECTION PROCESS.—

(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.

(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:

(A) The extent to which the corridor provides a link between 2 existing segments of the Interstate System.

(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

(C) The extent to which commercial vehicle traffic in the corridor—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and

(ii) is projected to increase in the future.

(D) The extent to which international truck-borne commodities move through the corridor.

(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.

(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.

(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.

(H) The extent of leveraging of Federal funds provided to carry out this section, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding.

(c) PERIOD OF AVAILABILITY.—Funds allocated for a project to a State under this section shall remain available for obligation in that State until 6 months from the day on which they are allocated. Sums not obligated within 6 months of the day on which they are allocated shall be available to the Secretary to be allocated for other projects eligible under this section.

(d) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120(b) of title 23, United States Code.

(e) APPLICABILITY OF TITLE 23.—Except as provided in subsections (c) and (d), funds made available by section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(f) STATE DEFINED.—In this section, the term 'State' has the meaning such term has under section 101 of title 23, United States Code.

**SEC. 1302. COORDINATED BORDER INFRASTRUCTURE PROGRAM.**

(a) GENERAL AUTHORITY.—The Secretary shall implement a coordinated border infrastructure program under which the Secretary shall distribute funds to border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.

(b) ELIGIBLE USES.—A State may use funds apportioned under this section only for—

(1) improvements in a border region to existing transportation and supporting infrastructure that facilitate cross-border motor vehicle and cargo movements;

(2) construction of highways and related safety and safety enforcement facilities in a border region

that facilitate motor vehicle and cargo movements related to international trade;

(3) operational improvements in a border region, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border motor vehicle and cargo movement;

(4) modifications to regulatory procedures to expedite safe and efficient cross border motor vehicle and cargo movements; and

(5) international coordination of transportation planning, programming, and border operation with Canada and Mexico relating to expediting cross border motor vehicle and cargo movements.

(c) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion among border States sums authorized to be appropriated to carry out this section for such fiscal year as follows:

(1) 20 percent in the ratio that—

(A) the total number of incoming commercial trucks that pass through the land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of incoming commercial trucks that pass through such ports of

1 entry within the boundaries of all the border
2 States, as determined by the Secretary.
3 (2) 30 percent in the ratio that—
4 (A) the total number of incoming personal
5 motor vehicles and incoming buses that pass
6 through land border ports of entry within the
7 boundaries of a border State, as determined by
8 the Secretary; bears to
9 (B) the total number of incoming personal
10 motor vehicles and incoming buses that pass
11 through such ports of entry within the bound-
12 aries of all the border States, as determined by
13 the Secretary.
14 (3) 25 percent in the ratio that—
15 (A) the total weight of incoming cargo by
16 commercial trucks that pass through land bor-
17 der ports of entry within the boundaries of a
18 border State, as determined by the Secretary;
19 bears to
20 (B) the total weight of incoming cargo by
21 commercial trucks that pass through such ports
22 of entry within the boundaries of all the border
23 States, as determined by the Secretary.
24 (4) 25 percent of the ratio that—

(A) the total number of land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of land border ports of entry within the boundaries of all the border States, as determined by the Secretary.

(d) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent.

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

(1) BORDER REGION.—The term 'border region' means any portion of a border State within 20 miles of an international land border with Canada or Mexico.

(2) BORDER STATE.—The term 'border State' means any State that has an international land border with Canada or Mexico.

(3) COMMERCIAL TRUCK.—The term 'commercial truck' means a commercial motor vehicle as de-

fined in section 31301(4) (other than subparagraph (B)) of title 49, United States Code.

(4) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 101(a) of title 23, United States Code.

(5) STATE.—The term 'State' has the meaning such term has in section 101(a) of such title 23.

**SEC. 1303. FREIGHT INTERMODAL CONNECTORS.**

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish a freight intermodal connector program to improve productivity and improve the efficiency of the transportation of freight, while mitigating congestion in the area of freight intermodal connectors.

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

(A) to facilitate and support intermodal freight transportation initiatives at the State and local levels in order to improve freight intermodal connectors and mitigate the impact of congestion in the area of such connectors; and

(B) to provide capital funding to address infrastructure and freight operational needs at freight intermodal connectors.

(b) STATE RESPONSIBILITIES.—Under the program, each State shall ensure that intermodal freight transportation and trade facilitation and are adequately addressed integrated into the project development process, including transportation planning, through final design and construction of freight related transportation projects.

(c) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Projects eligible for funding under this section may include the construction of and improvements to publicly owned freight intermodal connectors, the provision of access to such connectors, and operational improvements for such connectors (including capital investment for intelligent transportation systems); except that a project located within the boundaries of an intermodal freight facility shall only include highway infrastructure modifications necessary to facilitate direct intermodal access between the connector and the facility.

(2) SPECIAL RULE.—If a State that does not have any freight intermodal connectors within its boundaries or has only freight intermodal connectors within its boundaries that are in good condition and provide an adequate level of service, projects within the boundaries of the State that are eligible for assistance under section 103(b)(6) of title 23, United

States Code, relating to the National Highway System, shall be eligible for funding under this section.

(d) PRIORITY.—Under the program, a State shall give priority to projects on freight intermodal connectors to the National Highway System as identified according to the criteria set forth in the report of the Department of Transportation to Congress entitled 'Pulling Together: The NHS and its Connections to Major Intermodal Terminals'.

(e) APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion among the States sums made available to carry out this section for such fiscal year as follows:

(1) 33.3 percent in the ratio that—

(A) the number of freight intermodal connectors identified in the most recent Intermodal Freight Connectors study of the Federal Highway Administration within the boundaries of a State; bears to

(B) the total number of such connectors within the boundaries of all the States.

(2) 33.3 percent in the ratio that—

(A) the total of each State's annual contributions to the Highway Trust Fund (other

than the Mass Transit Account) attributable to commercial motor vehicles; bears to

(B) the total of such annual contributions by all States.

(3) 33.4 percent in the same ratios as funds are apportioned for the National Highway System under clauses (i), (ii), (iii), and (iv) of section 104(b)(1)(A) of title 23, United States Code.

(f) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent.

(g) UPDATE REPORT.—Not later than August 1, 2005, the Secretary shall publish an update to the report entitled 'Pulling Together: the National Highway System and its Connections to Major Intermodal Terminals'.

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

(1) FREIGHT INTERMODAL CONNECTORS.—The term 'freight intermodal connector' means the roadway that connects to an intermodal freight facility that carries or will carry intermodal traffic.

(2) INTERMODAL FREIGHT FACILITY.—The term 'intermodal freight facility' means a port, airport, truck-rail terminal, and pipeline-truck terminal.

(3) STATE.—The term 'State' has the meaning such term has in section 101(a) of title 23, United States Code.

**SEC. 1304. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.**

(a) FINDINGS.—Congress finds the following:

(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.

(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century, current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.

(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not

easily addressed or funded within existing surface transportation program categories.

(4) Projects of national and regional significance have national and regional benefits, including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.

(5) The benefits of such projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.

(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide grants to qualified entities for projects of national and regional significance.

(c) DEFINITIONS.—

(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

(2) ELIGIBLE PROJECT.—The term 'eligible project' means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.

(3) QUALIFIED ENTITY.—The term 'qualified entity' means a State as defined in section 101(a) of title 23, United States Code.

(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(1) $500,000,000; or

(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

(e) APPLICATIONS.—Each qualified entity seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall—

(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);

(B) conduct a national solicitation for applications; and

(C) award grants on a competitive basis.

(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

(A) is based on the results of preliminary engineering;

(B) is justified based on the project's ability—

(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

(ii) to reduce congestion, including impacts in the State, region, and Nation;

(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;

(iv) to otherwise enhance the national transportation system; and

(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and

(C) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, the Secretary shall consider the extent to which the project—

(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

(B) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(C) helps maintain or protect the environment.

(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.

(5) NON-FEDERAL FINANCIAL COMMITMENT.—

(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

(ii) each proposed non-Federal source of capital and operating financing is stable,

reliable, and available within the proposed project timetable.

(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—

(i) existing financial commitments;

(ii) the degree to which financing sources are dedicated to the purposes proposed;

(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.

(6) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.

(7) PROJECT EVALUATION AND RATING.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended' based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).

(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—

(1) LETTER OF INTENT.—

(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not

more than the amount stipulated as the financial participation of the Secretary in the project.

(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.

(2) FULL FUNDING GRANT AGREEMENT.—

(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).

(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—

(i) establish the terms of participation by the United States Government in a project under this section;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the laws of the United States.

(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may in-

1 clude a commitment, contingent on amounts to
2 be specified in law in advance for commitments
3 under this paragraph, to obligate an additional
4 amount from future available budget authority
5 specified in law. The agreement shall state that
6 the contingent commitment is not an obligation
7 of the Government. Interest and other financing
8 costs of efficiently carrying out a part of the
9 project within a reasonable time are a cost of
10 carrying out the project under a full funding
11 grant agreement, except that eligible costs may
12 not be more than the cost of the most favorable
13 financing terms reasonably available for the
14 project at the time of borrowing. The applicant
15 shall certify, in a way satisfactory to the Sec-
16 retary, that the applicant has shown reasonable
17 diligence in seeking the most favorable financ-
18 ing terms.
19 (3) AMOUNTS.—The total estimated amount of
20 future obligations of the Government and contingent
21 commitments to incur obligations covered by all out-
22 standing letters of intent and full funding grant
23 agreements may be not more than the greater of the
24 amount authorized to carry out this section or an
25 amount equivalent to the last 2 fiscal years of fund-

ing authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.

(h) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code, and chapter 52 of title 49, United States Code.

(2) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiving assistance under this section. A grant for

1 the project is for 80 percent of the project cost, unless
2 the grant recipient requests a lower grant percentage. A
3 refund or reduction of the remainder may be made only
4 if a refund of a proportional amount of the grant of the
5 Government is made at the same time.

6 (j) FISCAL CAPACITY CONSIDERATIONS.—If the Sec-
7 retary gives priority consideration to financing projects
8 that include more than the non-Government share re-
9 quired under subsection (i) the Secretary shall give equal
10 consideration to differences in the fiscal capacity of State
11 and local governments.

12 (k) REPORTS.—

13 (1) ANNUAL REPORT.—Not later than the first
14 Monday in February of each year, the Secretary
15 shall submit to the Committee on Transportation
16 and Infrastructure of the House of Representatives
17 and the Committee on Environment and Public
18 Works of the Senate a report that includes a pro-
19 posal on the allocation of amounts to be made avail-
20 able to finance grants under this section.

21 (2) RECOMMENDATIONS ON FUNDING.—The
22 annual report under this paragraph shall include
23 evaluations and ratings, as required under sub-
24 section (f). The report shall also include rec-
25 ommendations of projects for funding based on the

evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

(l) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.

**SEC. 1305. DEDICATED TRUCK LANES.**

(a) IN GENERAL.—The Secretary shall establish and implement a pilot program to make allocations to States for the construction of projects that separate commercial truck traffic from other motor vehicle traffic. A State must submit an application to the Secretary in order to receive an allocation under this section.

(b) SELECTION PROCESS.—

(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects that provide additional capacity.

(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:

(A) The extent to which the project will improve the safe and efficient movement of freight.

(B) The extent to which the project provides positive separation of commercial trucks from other motor vehicle traffic.

(C) The extent to which the project connects an intermodal freight facility or an international port of entry to the Dwight D. Eisenhower National System of Interstate and Defense Highways by providing limited access lanes that allow commercial truck traffic to enter the Interstate System at the posted speed limit.

(D) The extent to which the project will remove truck traffic from surface streets.

(E) The extent to which travel time is expected to be reduced as a result of the proposed project.

(F) The extent of leveraging of Federal funds provided to carry out this section, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding.

(c) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120(b) of title 23, United States Code.

(d) APPLICABILITY OF TITLE 23.—Except as provided in subsection (d), funds made available by section 1101(a)(22) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(e) DEFINITIONS.—In this section the following definitions apply:

(1) COMMERCIAL TRUCK.—The term 'commercial truck' means a self-propelled or towed vehicle used on highways in commerce principally to transport cargo if the vehicle has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater.

(2) STATE.—The term 'State' has the meaning such term has under section 101 of title 23, United States Code.

**SEC. 1306. TRUCK PARKING FACILITIES.**

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section among States, metropolitan planning organizations, and local governments.

(2) APPLICATIONS.—To be eligible for an allocation under this section, a State, metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

(3) ELIGIBLE PROJECTS.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:

(A) Constructing safety rest areas, as defined in section 120(c) of title 23, United States Code, that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System

to improve access to commercial motor vehicle parking facilities.

(4) PRIORITY.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—

(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;

(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and

(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.

(c) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation

in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the pilot program.

(e) FEDERAL SHARE.—The Federal share of the cost of a project carried out using amounts made available under this section shall be determined in accordance with sections 120(b) and 120(c) of title 23, United States Code.

(f) APPLICABILITY OF TITLE 23.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

# Subtitle D—Highway Safety

**SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

(a) SAFETY IMPROVEMENT PROJECT DEFINED.—Section 101(a)(30) of title 23, United States Code, is amended by inserting 'installs fluorescent, yellow-green signs at pedestrian or bicycle crossings or school zones,' after 'call boxes,'.

(b) OPERATION LIFESAVER.—Section 104(d)(1) of such title is amended—

(1) by striking 'subsection (b)(3) of this section' and inserting 'section 130(f)'; and

(2) by striking '$500,000' and inserting '$600,000'.

(c) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

(1) IN GENERAL.—Section 104(d)(2) of such title is amended—

(A) in subparagraph (A) by striking '$5,250,000' and inserting '$7,500,000 for each of fiscal years 2004 and 2005, $10,000,000 for each of fiscal years 2006 and 2007, and $15,000,000 for each of fiscal years 2008 and 2009'; and

(B) in subparagraph (E)—

(i) by striking 'Not less than $250,000 of such set-aside' and inserting 'Of such set-aside, not less than $875,000 for each of fiscal years 2004 and 2005, $1,500,000 for each of fiscal years 2006 and 2007, and $2,750,000 for each of fiscal years 2008 and 2009'; and

(ii) by striking 'per fiscal year'.

(2) DESIGNATION OF CORRIDORS.—Of the rail corridors selected by the Secretary in accordance with section 104(d)(2) of title 23, United States Code—

(A) the Northern New England High Speed Rail Corridor is expanded to include the train routes from Boston, Massachusetts, to Albany, New York, and from Springfield, Massachusetts, to New Haven, Connecticut; and

(B) the South Central Corridor is expanded to include the train route from Killeen, Texas, to Houston, Texas, via Bryan-College Station.

(d) RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR PROTECTIVE DEVICES.—Section 130(e) of such title is amended—

(A) by striking 'At' and inserting the following:

'(1) IN GENERAL.—At'; and

(B) by adding at the end the following:

'(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this subsection for other purposes by this section.'.

(2) APPORTIONMENT.—Section 130(f) of such title is amended to read as follows:

'(f) APPORTIONMENT.—

'(1) FORMULA.—Fifty percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A), and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

'(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under paragraph (1).

'(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.'.

(3) BIENNIAL REPORT TO CONGRESS.—The third sentence of section 130(g) of such title is amended by striking 'not later than April 1 of each year,' and inserting ', not later than April 1, 2006, and every 2 years thereafter,'.

(4) EXPENDITURE OF FUNDS.—Section 130 of such title is further amended by adding at the end the following:

1 '(k) EXPENDITURE OF FUNDS.—Not more than 2
2 percent of funds apportioned to a State to carry out this
3 section may be used by the State for compilation and anal-
4 ysis of data in support of activities carried out under sub-
5 section (g).'.
6 (e) SURFACE TRANSPORTATION PROGRAM.—
7 (1) IN GENERAL.—Section 133(d) of such title
8 is amended—
9 (A) by striking paragraph (1); and
10 (B) by redesignating paragraphs (2)
11 through (5) as paragraphs (1) through (4), re-
12 spectively; and
13 (C) in paragraph (2) (as so redesig-
14 nated)—
15 (i) in subparagraph (A) by striking
16 '80 percent' and inserting '90 percent';
17 (ii) in subparagraph (B) by striking
18 'tobe' and inserting 'to be'; and
19 (iii) in subparagraph (D) by adding a
20 period at the end.
21 (2) CONFORMING AMENDMENTS.—
22 (A) SECTION 133.—Section 133(e) is
23 amended by striking '(d)(2)' and inserting
24 '(d)(1)' in each of paragraphs (3)(B)(i), (5)(A),
25 and (5)(B).

(B) SECTION 126.—Section 126(b) of such title is amended—

(i) by striking 'to the last sentence of section 133(d)(1) or';

(ii) by striking 'section 133(d)(3)' and inserting 'section 133(d)(2)'; and

(iii) by striking 'or 133(d)(2)'.

(f) HAZARD ELIMINATION PROGRAM.—

(1) PURPOSES.—Section 152(a)(1) of such title is amended—

(A) by striking 'and' after 'bicyclists,'; and

(B) by inserting after 'pedestrians,' the following: 'and the disabled, identify roadway safety improvement needs for such locations, sections, and elements,'.

(2) HAZARDS.—Section 152(a)(2)(A) of such title is amended by inserting 'the disabled,' after 'pedestrians,'.

(3) APPROVAL OF PROJECTS.—Section 152(b) of such title is amended by inserting before the period at the end the following: 'that reduces the likelihood of crashes involving road departures, intersections, pedestrians, the disabled, bicyclists, older drivers, or construction work zones'.

(4) EXPENDITURE OF FUNDS.—Section 152(c) of such title is amended—

(A) in paragraph (2) by striking 'or' at the end;

(B) in paragraph (3) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

'(4) police assistance for traffic and speed management in construction work zones;

'(5) installation of barriers between construction work zones and traffic lanes for the safety of motorists and workers; and

'(6) compilation and analysis of data under subsections (f) and (g) if the funds used for this purpose by a State do not exceed 2 percent of the amount apportioned to such State to carry out this section.'.

(5) APPORTIONMENT.—Section 152(d) of such title is amended to read as follows:

'(d) APPORTIONMENT.—

'(1) FORMULA.—Funds authorized to be appropriated to carry out this section shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A).

1 '(2) MINIMUM APPORTIONMENT.—Notwith-
2 standing paragraph (1), each State shall receive a
3 minimum of ½ of 1 percent of the funds appor-
4 tioned under paragraph (1).
5 '(3) FEDERAL SHARE.—The Federal share pay-
6 able on account of any project financed with funds
7 authorized to be appropriated to carry out this sec-
8 tion shall be 90 percent of the cost thereof.'.
9 (6) BIENNIAL REPORT TO CONGRESS.—
10 (A) IN GENERAL.—Section 152 of such
11 title is amended by adding at the end the fol-
12 lowing:
13 '(i) BIENNIAL REPORT TO CONGRESS.—Not later
14 than 2 years after the date of enactment of this sub-
15 section, and every 2 years thereafter, the Secretary shall
16 transmit to the Committee on Transportation and Infra-
17 structure of the House of Representatives and the Com-
18 mittee on Environment and Public Works of the Senate
19 a report on the results of the program under this section.
20 The report shall include, at a minimum, the following:
21 '(1) A summary of State projects completed
22 under this section categorized by the types of haz-
23 ards and a statement of the cost of such projects.

'(2) An analysis of the effectiveness of such categories of projects in reducing the number and severity of crashes at high hazard locations.

'(3) An assessment of the adequacy of authorized funding for the program and State use of such funding to address the national need for such projects.

'(4) Recommendations for funding and program improvements to reduce the number of high hazard locations.

'(5) An analysis and evaluation of each State program, an identification of any State found not to be in compliance with the schedule of improvements required by subsection (a), and recommendations for future implementation of the hazard elimination program.'.

(B) CONFORMING AMENDMENT.—Section 152(g) of such title is amended by striking the third sentence through the last sentence.

(g) TECHNICAL AMENDMENT.—Section 133(b) of such title is amended by redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(h) EFFECTIVE DATE.—The amendments made by subsections (b)(1), (d), (e), and (f) shall take effect on September 30, 2005.

**SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to decrease the likelihood of worker injury and maintain the free flow of vehicular traffic by requiring workers whose duties place them on or in close proximity to a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high visibility garments. Such regulations may also require such other worker-safety measures for workers with those duties as the Secretary determines appropriate.

**SEC. 1403. HIGH RISK RURAL ROAD SAFETY IMPROVEMENT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish and implement a high risk rural road safety improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State may obligate funds apportioned to it under this section only for construction and operational improvement projects on high risk rural roads and only if the primary purpose of the project is to improve highway safety on a high risk rural road.

(2) SPECIAL RULE.—A State may use funds apportioned to it under this section for any project approved by the Secretary under section 152 of title 23, United States Code, if the State certifies to the Secretary that it has no projects described in paragraph (1).

(c) STATE ALLOCATION SYSTEM.—Each State shall establish a system for allocating funds apportioned to it under this section among projects eligible for assistance under this section that have the highest benefits to highway safety. Such system may include a safety management system established by the State under section 303 of title 23, United States Code, or a survey established pursuant to section 152(a) of such title.

(d) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion among States sums authorized to be appropriated to carry out this section for such fiscal year as follows:

(1) ⅓ in the ratio that—

(A) each State's public road lane mileage for rural minor collectors and rural local roads; bears to

(B) the total public road lane mileage for rural minor collectors and rural local roads of all States.

(2) ⅓ in the ratio that—

(A) the population of areas other than urbanized areas in each State, as shown by the most recent Government decennial census of population; bears to

(B) the population of all areas other than urbanized areas in the United States, as shown by that census.

(3) ⅓ in the ratio that—

(A) the total vehicle miles traveled on public roads in each State; bears to

(B) the total number of vehicle miles traveled on public roads in all States.

(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be 80 percent. Notwithstanding any other provision of law, projects assisted under this section shall be treated as projects on a Federal-aid system under such chapter.

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

(1) HIGH RISK RURAL ROAD.—The term 'high risk rural road' means any roadway functionally classified as a rural major or minor collector or a rural local road—

(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for these functional classes of roadway; or

(B) which will likely have increases in traffic volume that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for these functional classes of roadway.

(2) STATE AND URBANIZED AREA.—The terms 'State' and 'urbanized area' have the meaning such terms have under section 101(a) of title 23, United States Code.

**SEC. 1404. TRANSFERS OF APPORTIONMENTS TO SAFETY PROGRAMS.**

(a) USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.—Section 153(h) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) in the paragraph heading by striking 'THEREAFTER.—' and inserting 'FISCAL YEARS 1995–2004.—'; and

(B) by inserting 'and ending before October 1, 2004,' after 'September 30, 1994,';

(2) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(3) by inserting after paragraph (2) the following:

'(3) FISCAL YEAR 2005 AND THEREAFTER.—On October 1, 2004, and each October 1 thereafter, if a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer from the funds apportioned to the State on that date under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 to the apportionment of the State under section 402 an amount equal to 3 percent of the funds apportioned to the State under such subsections for fiscal year 2003.'; and

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

(A) by striking 'which is determined by multiplying' and inserting 'which, for fiscal year 2005 and each fiscal year thereafter, is determined by multiplying'; and

(B) in subparagraph (B) by striking 'such fiscal year' each place it appears and inserting 'fiscal year 2003'.

(b) OPEN CONTAINER REQUIREMENTS.—Section 154(c) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) in the paragraph heading by striking 'FISCAL YEARS THEREAFTER' and inserting 'FISCAL YEAR 2004' ; and

(B) by striking 'and each October 1 thereafter,';

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(3) by inserting after paragraph (2) the following:

'(3) FISCAL YEAR 2005 AND THEREAFTER.—On October 1, 2004, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer from the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to 3 percent of the funds apportioned to the State under such paragraphs for fiscal year 2003 to be

used or directed as described in subparagraph (A) or (B) of paragraph (1).';

(4) in paragraph (5) (as so redesignated) by striking 'paragraph (3)' and inserting 'paragraph (4)';

(5) in paragraphs (4), (5), and (6) (as so redesignated) by striking 'paragraph (1) or (2)' and inserting 'paragraph (1), (2), or (3)'; and

(6) in paragraph (7)(B) (as so redesignated)—

(A) by striking 'The amount' and inserting 'For fiscal year 2005 and each fiscal year thereafter, the amount'; and

(B) in subclauses (I) and (II) of clause (ii) by striking 'the fiscal year' and inserting 'fiscal year 2003'.

(c) MINIMUM PENALTIES FOR CERTAIN REPEAT OFFENDERS.—Section 164(b) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) in the paragraph heading by striking 'AND FISCAL YEARS THEREAFTER' and inserting 'FISCAL YEAR 2004' ; and

(B) by striking 'and each October 1 thereafter,';

(2) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(3) by inserting after paragraph (2) the following:

'(3) FISCAL YEAR 2005 AND THEREAFTER.—On October 1, 2004, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer from the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to 3 percent of the funds apportioned to the State under such paragraphs for fiscal year 2003 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).';

(4) in paragraph (5) (as so redesignated) by striking 'paragraph (3)' and inserting 'paragraph (4)';

(5) in paragraphs (4), (5), and (6) (as so redesignated) by striking 'paragraph (1) or (2)' and inserting 'paragraph (1), (2), or (3)'; and

(6) in paragraph (7)(B) (as so redesignated)—

(A) by striking 'The amount' and inserting 'For fiscal year 2005 and each fiscal year thereafter, the amount'; and

(B) in subclauses (I) and (II) of clause (ii) by striking 'the fiscal year' and inserting 'fiscal year 2003'.

**SEC. 1405. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.**

Section 157(g)(1) of title 23, United States Code, is amended by striking 'for fiscal year 2004' and all that follows through '2005' and inserting 'and for each of fiscal years 2003, 2004, and 2005'.

**SEC. 1406. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.**

(a) CODIFICATION OF PENALTY.—Section 163 of title 23, United States Code, is amended—

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

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

'(e) PENALTY.—

'(1) IN GENERAL.—On October 1, 2003, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold from amounts apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section

1 104(b) an amount equal to the amount specified in
2 paragraph (2).
3 '(2) AMOUNT TO BE WITHHELD.—If a State is
4 subject to a penalty under paragraph (1), the Sec-
5 retary shall withhold for a fiscal year from the ap-
6 portionments of the State described in paragraph
7 (1) an amount equal to a percentage of the funds
8 apportioned to the State under paragraphs (1), (3),
9 and (4) of section 104(b) for fiscal year 2003. The
10 percentage shall be as follows:
11 '(A) For fiscal year 2004, 2 percent.
12 '(B) For fiscal year 2005, 4 percent.
13 '(C) For fiscal year 2006, 6 percent.
14 '(D) For fiscal year 2007, and each fiscal
15 year thereafter, 8 percent.
16 '(3) FAILURE TO COMPLY.—If, within 4 years
17 from the date that an apportionment for a State is
18 withheld in accordance with this subsection, the Sec-
19 retary determines that the State has enacted and is
20 enforcing a law described in subsection (a), the ap-
21 portionment of the State shall be increased by an
22 amount equal to the amount withheld. If, at the end
23 of such 4-year period, any State has not enacted or
24 is not enforcing a law described in subsection (a)

any amounts so withheld from such State shall lapse.'.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 163(f)(1) of such title, as redesignated by subsection (a)(1) of this section, is amended by striking 'for fiscal year 2004' and all that follows through '2005' and inserting 'and for each of fiscal years 2004 and 2005'.

(c) REPEAL.—Section 351 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (23 U.S.C. 163 note; 114 Stat. 1356A–34) is repealed.

**SEC. 1407. REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED.**

Section 164(a)(5)(A) of title 23, United States Code, is amended to read as follows:

'(A) receive (i) a driver's license suspension for not less than 1 year, or (ii) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the propose of getting to and from work, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;'.

**SEC. 1408. REPAIR OR REPLACEMENT OF HIGHWAY FEATURES ON NATIONAL HIGHWAY SYSTEM.**

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to determine the appropriate conditions under which a State when choosing to repair or replace damaged highway features on the National Highway System with State funds (rather than with available Federal financial assistance) should be required to repair or replace such features with highway features that have been tested, evaluated, and found to be acceptable under the guidelines contained in the report of the Transportation Research Board of the National Research Council entitled 'NCHRP Report 350-Recommended Procedures for the Safety Performance Evaluation of Highway Features'.

(b) MATTERS TO BE CONSIDERED.—The rulemaking proceeding shall cover those highway features that are covered by the guidelines referred to in subsection (a). The conditions to be considered by the Secretary in the rulemaking proceeding shall include types of highway features, cost-effectiveness, and practicality of replacement with highway features that have been found to be acceptable under such guidelines.

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations regarding the conditions under which States

when choosing to repair or replace damaged highway features described in subsection (a) will be required to repair or replace such features with highway features that have been tested, evaluated, and found to be acceptable as described in subsection (a).

# Subtitle E—Construction and Contract Efficiencies

**SEC. 1501. DESIGN–BUILD.**

(a) QUALIFIED PROJECTS.—Section 112(b)(3)(C) of title 23, United States Code, is amended to read as follows:

'(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.'.

(b) EXPERIMENTAL PROCUREMENT.—Section 112(b)(3) of such title is further amended—

(1) by redesigning subparagraph (D) as subparagraph (G); and

(2) by inserting after subparagraph (C) the following:

'(D) EXPERIMENTAL PROCUREMENT.—As part of any experimental program carried out

under this section, the Secretary shall evaluate the use of procurement procedures under this paragraph where subjective evaluation criteria account for the majority of the selection determination.

'(E) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as effecting the authority to carry out any experimental program concerning design-build contracting that is being carried out by the Secretary on the date of enactment of this subparagraph.

'(F) REPORT.—Not later than 3 years after the date of enactment of this subparagraph, the Secretary shall transmit to Congress a report on the effectiveness of design-build contracting procedures in which the majority of the selection determinations are made based on subjective criteria in accordance with subparagraph (D).'.

**SEC. 1502. WARRANTY HIGHWAY CONSTRUCTION PROJECT PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary shall establish and implement a pilot program designed to encourage States

1 to incorporate warranties in the letting of contracts for
2 highway construction projects.
3 (b) MAXIMUM NUMBER OF PROJECTS.—The Sec-
4 retary may allow not more than 15 projects a year to be
5 carried out under the pilot program.
6 (c) FEDERAL SHARE.—The Federal share of the
7 costs of a project under the pilot program may not exceed
8 90 percent.
9 (d) MINIMUM PROJECT COST.—The estimated total
10 cost of a project to be carried out under the pilot program
11 must be greater than $15,000,000.
12 (e) SELECTION PROCESS.—In the selection process
13 for the pilot program, the Secretary shall select, to the
14 extent possible, projects from several different regions of
15 the United States in order to demonstrate the effects that
16 different climates and traffic patterns have on warranty
17 highway construction projects.
18 (f) RULEMAKING.—
19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary
21 shall issue a rule to implement the pilot program.
22 The rule shall include the following factors for eligi-
23 bility of a highway construction project to be in-
24 cluded in the program:

(A) A requirement that the contract for the project must include a long-term limited warranty that is of a duration sufficient to ensure that—

(i) the cost to the State of the project that will be carried out is less than the estimated cost to construct the project without the warranty plus the estimated costs that would be incurred by the State and that would otherwise be covered during the proposed warranty period if a warranty were in effect; and

(ii) the estimated cost to road users during the warranty period is less than such estimated cost without a warranty.

(B) In determining the sufficient duration of a long-term limited warranty under subparagraph (A), the Secretary shall establish separate sufficient durations for different types of projects, such as initial construction, pavement resurfacing and rehabilitation, and pavement markings.

(C) A requirement that the limited warranty must address, at a minimum—

(i) the responsibilities of the warranty provider;

(ii) the responsibilities of the Department of Transportation;

(iii) the terms of the warranty, including duration and, if applicable, traffic volumes and vehicle classification; and

(iv) performance criteria to be met to determine if maintenance is required.

(2) FACTORS TO CONSIDER.—In issuing the rule, the Secretary may consider the following factors as requirements for the warranty contract for eligibility under the pilot program:

(A) A plan to account for inflation during the warranty period.

(B) The frequency of performance assessments performed.

(C) The response time for repairs.

(D) A plan for emergency repairs.

(E) Clearly set out limits of liability under the warranty, if any.

(F) Dispute resolution provisions.

(G) A severability provision.

(H) Other provisions the Secretary considers necessary for carrying out the program.

(g) SAVINGS.—Section 112 of title 23, United States Code, shall apply to the projects carried out under this section unless the Secretary determines that applying such section to such projects is inconsistent with the provisions of this section.

(h) REPORTS.—Not later than 5 years after the date of enactment of this Act and every year thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report outlining activities carried out under the program and the results of the program.

**SEC. 1503. PRIVATE INVESTMENT STUDY.**

(a) STUDY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a comprehensive study of private investment in surface transportation infrastructure.

(b) MATTERS TO BE EVALUATED.—Under the agreement, the National Academy of Sciences shall evaluate the advantages and disadvantages of private investment in surface transportation infrastructure and the impact of such investment on the ability of State and local authorities to use innovative financing, including—

(1) preconstruction funding requirements;

(2) integration of private investment in the transportation planning process;

(3) use of toll revenues by State and local authorities;

(4) use of toll credits by State and local authorities;

(5) requirements for debt financing instruments, reimbursable expenses, and conditions on payments;

(6) limitation on fees charged at federally funded fringe and corridor parking facilities;

(7) revenues needed to provide a reasonable rate of return to private investors;

(8) costs to users of facilities due to imposition of tolls;

(9) sales-in-lease-out arrangement of transportation assets; and

(10) such other matters as the Secretary considers appropriate.

(c) REPORT.—

(1) TO SECRETARY.—Under the agreement, the National Academy of Sciences shall submit to the Secretary a report on the results of the study by such date as the Secretary may require.

(2) TO CONGRESS.—Not later than January 1, 2007, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a copy of the report of the National Academy of Sciences, together with such recommendations as the Secretary considers appropriate.

**SEC. 1504. HIGHWAYS FOR LIFE PILOT PROGRAM.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish and implement a pilot program to be known as the 'Highways for LIFE pilot program'.

(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construc-

tion, reduced congestion from construction, and improved quality and user satisfaction.

(b) PROJECTS.—

(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

(C) meets additional criteria as determined by the Secretary.

(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

(A) an identification and description of the projects to be delivered;

(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

(D) such other information as the Secretary may require.

(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improve-

ments in safety, congestion, quality, and cost-effectiveness;

(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

(D) are or will be ready for construction within 12 months of approval of the project proposal; and

(E) meet such other criteria as the Secretary determines appropriate.

(5) FINANCIAL ASSISTANCE.—

(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than $15,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under 1 or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a

State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.

(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary shall approve at least one project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

(c) TECHNOLOGY PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.

(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—

(1) IN GENERAL.—The Secretary shall conduct a Highways for LIFE technology transfer program.

(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE pilot program. The process may include participation by representatives of State departments of transportation and other interested persons.

(f) PROJECT MONITORING AND EVALUATION.—The Secretary shall monitor and evaluate the effectiveness of any activity carried out under this section.

(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) STATE DEFINED.—In this section, the term 'State' has the meaning such term has under section 101(a) of title 23, United States Code.

# Subtitle F—Finance

**SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.**

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking 'category'; and

(B) by striking 'offered into the capital markets';

(2) by striking paragraph (7);

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

(4) by striking the period at the end of paragraph (8)(B) (as so redesignated) and inserting a semicolon; and

(5) in paragraph (10) (as so redesignated) by striking 'bond' and inserting 'credit'.

(b) DETERMINATION OF ELIGIBILITY.—Section 182(a) of such title is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

'(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement

to make available a Federal credit instrument is entered into under this subchapter.

'(2) APPLICATION.—A State, a local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.';

(2) in paragraph (3)(A)(i) by striking '$100,000,000' and inserting '$50,000,000';

(3) in paragraph (3)(B) by striking '$30,000,000' and inserting '$15,000,000'; and

(4) in paragraph (4)—

(A) by striking 'Project financing' and inserting 'The Federal credit instrument'; and

(B) by inserting before the period at the end 'that also secure the project obligations'.

(c) PROJECT SELECTION.—Section 182(b) of such title is amended—

(1) in paragraph (1) by striking 'criteria' the second place it appears and inserting 'requirements'; and

(2) in paragraph (2)(B) by inserting ', which may be the Federal credit instrument,' after 'obligations'.

(d) SECURED LOANS.—

(1) AGREEMENTS.—Section 183(a)(1) of such title is amended—

(A) in each of subparagraphs (A) and (B) by inserting 'of any project selected under section 602' after 'costs'; and

(B) by striking the semicolon at the end of subparagraph (B) and all that follows through 'under section 602'.

(2) INVESTMENT-GRADE RATING REQUIREMENT.—Section 183(a)(4) of such title is amended—

(A) by striking 'The funding' and inserting 'The execution'; and

(B) by striking the first comma and all that follows through '1 rating agency'.

(3) TERMS AND LIMITATIONS.—Section 183(b) of such title is amended—

(A) in paragraph (2) by inserting 'the lesser of' after 'exceed';

(B) in paragraph (2) by inserting 'or the amount of the senior project obligations' after 'costs';

(C) in paragraph (3)(A)(i) by inserting 'that also secure the senior project obligations' after 'sources'; and

(D) in paragraph (4) by striking 'marketable'.

(4) REPAYMENT.—Section 183(c) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(e) LINES OF CREDIT.—

(1) TERMS AND LIMITATIONS.—Section 184(b) of such title is amended—

(A) in paragraph (3)—

(i) by striking the first comma; and

(ii) by striking 'any debt service reserve fund, and any other available reserve' and inserting 'but not including reasonably required financing reserves';

(B) in paragraph (4)—

(i) by striking 'marketable';

(ii) by striking 'on which' and inserting 'of execution of'; and

(iii) by striking 'is obligated' and inserting 'agreement'; and

(C) in paragraph (5)(A)(i) by inserting 'that also secure the senior project obligations' after 'sources'; and

(2) REPAYMENT.—Section 184(c) of such title is amended—

(A) in paragraph (2)—

(i) by striking 'scheduled';

(ii) by inserting 'be scheduled to' after 'shall'; and

(iii) by striking 'be fully repaid, with interest,' and inserting 'conclude, with full repayment of principal and interest,'; and

(B) by striking paragraph (3).

(f) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to read as follows:

**'§ 185. Program Administration**

'(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instrument made available under this chapter.

'(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal Government of servicing the Federal credit instrument.

'(c) SERVICES.—The Secretary may identify a financial entity to assist the Secretary in servicing a Federal credit instrument. The services—

'(1) shall act as the agent for the Secretary; and

1 ‘(2) shall receive a servicing fee, subject to ap-
2 proval by the Secretary.
3 ‘(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
4 retary may retain the services of one or more expert firms,
5 including counsel, in the field of municipal and project fi-
6 nance to assist in the underwriting and servicing of Fed-
7 eral credit instruments.’.
8 (g) FUNDING.—Section 188 of such title is amended
9 to read as follows:
10 **‘§ 188. Funding**
11 ‘(a) FUNDING.—
12 ‘(1) IN GENERAL.—There are authorized to be
13 appropriated from the Highway Trust Fund (other
14 than the Mass Transit Account) $130,000,000 for
15 fiscal year 2004 and $140,000,000 for each of fiscal
16 years 2005 through 2009 to carry out this chapter.
17 ‘(2) ADMINISTRATIVE COSTS.—From funds
18 made available under paragraph (1), the Secretary
19 may use, for the administration of this subchapter,
20 not more than $3,000,000 for each of fiscal years
21 2004 through 2009.
22 ‘(3) AVAILABILITY.—Amounts made available
23 under paragraph (1) shall remain available until ex-
24 pended.
25 ‘(b) CONTRACT AUTHORITY.—

1 ‘(1) IN GENERAL.—Notwithstanding any other
2 provision of law, approval by the Secretary of a Fed-
3 eral credit instrument that uses funds made avail-
4 able under this chapter shall be deemed to be ac-
5 ceptance by the United States of a contractual obli-
6 gation to fund the Federal credit instrument.
7 ‘(2) AVAILABILITY.—Amounts authorized under
8 this section for a fiscal year shall be available for ob-
9 ligation on October 1 of the fiscal year.
10 ‘(c) LIMITATIONS ON CREDIT AMOUNTS.—For each
11 of fiscal years 2004 through 2009, principal amounts of
12 Federal credit instruments made available under this
13 chapter shall be limited to $2,600,000,000.’.
14 **SEC. 1602. STATE INFRASTRUCTURE BANKS.**
15 (a) IN GENERAL.—Section 189 of title 23, United
16 States Code, is amended to read as follows:
17 **‘§ 189. State infrastructure bank program**
18 ‘(a) DEFINITIONS.—In this section, the following
19 definitions apply:
20 ‘(1) CAPITAL PROJECT.—The term ‘‘capital
21 project’’ has the meaning such term has under sec-
22 tion 5302 of title 49, United States Code.
23 ‘(2) OTHER FORMS OF CREDIT ASSISTANCE.—
24 The term ‘‘other forms of credit assistance’’ includes
25 any use of funds in an infrastructure bank—

1 ‘(A) to provide credit enhancements;
2 ‘(B) to serve as a capital reserve for bond
3 or debt instrument financing;
4 ‘(C) to subsidize interest rates;
5 ‘(D) to insure or guarantee letters of credit
6 and credit instruments against credit risk of
7 loss;
8 ‘(E) to finance purchase and lease agree-
9 ments with respect to transit projects;
10 ‘(F) to provide bond or debt financing in-
11 strument security; and
12 ‘(G) to provide other forms of debt financ-
13 ing and methods of leveraging funds that are
14 approved by the Secretary and that relate to
15 the project with respect to which such assist-
16 ance is being provided.
17 ‘(3) STATE.—The term ‘‘State’’ has the mean-
18 ing such term has under section 401 of this title.
19 ‘(4) CAPITALIZATION.—The term ‘‘capitaliza-
20 tion’’ means the process used for depositing funds as
21 initial capital into a State infrastructure bank to es-
22 tablish the infrastructure bank.
23 ‘(5) COOPERATIVE AGREEMENT.—The term
24 ‘‘cooperative agreement’’ means written consent be-
25 tween a State and the Secretary which sets forth the

manner in which the infrastructure bank established by the State in accordance with this section will be administered.

'(6) LOAN.—The term ''loan'' means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

'(7) GUARANTEE.—The term ''guarantee'' means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

'(8) INITIAL ASSISTANCE.—The term ''initial assistance'' means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

'(9) LEVERAGE.—The term ''leverage'' means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

'(10) LEVERAGED.—The term ''leveraged'', as used with respect to a State infrastructure bank,

means that the bank has total potential liabilities that exceed the capital of the bank.

'(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

'(d) FUNDING.—

'(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

'(A) 10 percent of the funds apportioned to the State for each of fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and

'(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105.

'(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into

a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under each of such sections.

'(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under such subtitle.

'(4) CAPITAL GRANTS.—

'(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.

1 ‘(B) TRANSIT ACCOUNT.—Federal funds
2 deposited into a transit account of a State in-
3 frastructure bank under paragraph (2) shall
4 constitute for purposes of this section a capital-
5 ization grant for the transit account of the
6 bank.
7 ‘(C) RAIL ACCOUNT.—Federal funds de-
8 posited into a rail account of a State infrastruc-
9 ture bank under paragraph 3 shall constitute
10 for purposes of this section a capitalization
11 grant for the rail account of the bank.
12 ‘(5) SPECIAL RULE FOR URBANIZED AREAS OF
13 OVER 200,000.—Funds in a State infrastructure bank
14 that are attributed to urbanized areas of a State
15 with urbanized populations of over 200,000 under
16 section 133(d)(3) may be used to provide assistance
17 with respect to a project only if the metropolitan
18 planning organization designated for such area con-
19 curs, in writing, with the provision of such assist-
20 ance.
21 ‘(6) DISCONTINUANCE OF FUNDING.—If the
22 Secretary determines that a State is not imple-
23 menting the State’s infrastructure bank in accord-
24 ance with a cooperative agreement entered into
25 under subsection (b), the Secretary may prohibit the

1 State from contributing additional Federal funds to
2 the bank.

3 '(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE
4 BANKS.—An infrastructure bank established under this
5 section may make loans or provide other forms of credit
6 assistance to a public or private entity in an amount equal
7 to all or a part of the cost of carrying out a project eligible
8 for assistance under this section. The amount of any loan
9 or other form of credit assistance provided for the project
10 may be subordinated to any other debt financing for the
11 project. Initial assistance provided with respect to a
12 project from Federal funds deposited into an infrastruc-
13 ture bank under this section may not be made in the form
14 of a grant.

15 '(f) ELIGIBLE PROJECTS.—Subject to subsection (e),
16 funds in an infrastructure bank established under this sec-
17 tion may be used only to provide assistance for projects
18 eligible for assistance under this title and capital projects
19 defined in section 5302 of title 49, and any other projects
20 related to surface transportation that the Secretary deter-
21 mines to be appropriate.

22 '(g) INFRASTRUCTURE BANK REQUIREMENTS.—In
23 order to establish an infrastructure bank under this sec-
24 tion, the State establishing the bank shall—

1 ‘(1) deposit in cash, at a minimum, into each
2 account of the bank from non-Federal sources an
3 amount equal to 25 percent of the amount of each
4 capitalization grant made to the State and deposited
5 into such account; except that, if the deposit is into
6 the highway account of the bank and the State has
7 a non-Federal share under section 120(b) that is
8 less than 25 percent, the percentage to be deposited
9 from non-Federal sources shall be the lower percent-
10 age of such grant;
11 ‘(2) ensure that the bank maintains on a con-
12 tinuing basis an investment grade rating on its debt,
13 or has a sufficient level of bond or debt financing in-
14 strument insurance, to maintain the viability of the
15 bank;
16 ‘(3) ensure that investment income derived
17 from funds deposited to an account of the bank
18 are—
19 ‘(A) credited to the account;
20 ‘(B) available for use in providing loans
21 and other forms of credit assistance to projects
22 eligible for assistance from the account; and
23 ‘(C) invested in United States Treasury se-
24 curities, bank deposits, or such other financing
25 instruments as the Secretary may approve to

earn interest to enhance the leveraging of projects assisted by the bank;

'(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

'(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

'(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and

'(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.

'(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of

the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

'(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, shall not apply to funds deposited into an infrastructure bank under this section.

'(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2005 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.'.

(b) PREPARATORY AMENDMENTS.—

(1) SECTION 181.—Section 181 of such title is further amended—

(A) by striking the section designator and heading and inserting the following:

**'§ 181. Generally applicable provisions'**;

(B) by striking 'In this subchapter' and inserting '(a) Definitions.—In this chapter';

(C) in paragraph (5) by striking '184' and inserting '604';

(D) in paragraph (11) (as redesignated by section 1601(a) of this Act) by striking '183' and inserting '603'; and

(E) by adding at the end the following:

'(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.'.

(2) SECTION 182.—Section 182(b)(2)(A)(viii) of such title is further amended by inserting 'and chapter 1' after 'this chapter'.

(3) SECTION 183.—Section 183(a) of such title is further amended—

(A) in paragraph (1) by striking '182' and inserting '602'; and

(B) in paragraph (3) by striking '182(b)(2)(B)' and inserting '602(b)(2)(B)'.

(4) SECTION 184.—Section 184 of such title is further amended—

(A) in subsection (a)(1) by striking '182' and inserting '602';

(B) in subsection (a)(3) by striking '182(b)(2)(B)' and inserting '602(b)(2)(B)'; and

(C) in subsection (b)(10) by striking '183' and inserting '603'.

(5) REFERENCES IN SUBCHAPTER.—Subchapter II of chapter 1 of such title is amended by striking 'this subchapter' each place it appears and inserting 'chapter'.

(6) SUBCHAPTER HEADINGS.—Chapter 1 of such title is further amended—

(A) by striking '**SUBCHAPTER I—GENERAL PROVISIONS**' preceding section 101; and

(B) by striking '**SUBCHAPTER II—INFRASTRUCTURE FINANCE**' preceding section 181.

(c) CHAPTER 6.—Such title is further amended by adding at the end the following:

'CHAPTER 6—INFRASTRUCTURE FINANCE

'Sec.
'601. Generally applicable provisions.
'602. Determination of eligibility and project selection.
'603. Secured loans.
'604. Lines of credit.
'605. Program administration.
'606. State and local permits.
'607. Regulations.
'608. Funding.
'609. State infrastructure bank program.'.

(d) MOVING AND REDESIGNATING.—Such title is further amended—

(1) by redesignating sections 181 through 189 as sections 601 through 609, respectively;

(2) by moving such sections from chapter 1 to chapter 6 (as added by subsection (c)); and

(3) by inserting such sections after the analysis for chapter 6.

(e) ANALYSIS FOR CHAPTER 1 AND TABLE OF CHAPTERS.—

(1) ANALYSIS FOR CHAPTER 1.—The analysis for chapter 1 of such title is amended—

(A) by striking the headings for subchapters I and II; and

(B) by striking the items relating to sections 181 through 189.

(2) TABLE OF CHAPTERS.—The table of chapters for such title is amended by inserting after the item relating to chapter 5 the following:

'6. Infrastructure Finance ..... 601'.

**SEC. 1603. INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION TOLL PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating the facility.

(b) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

(c) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

(1) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.

(2) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under chapter 52 of title 49, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

(3) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

(4) A facility management plan that includes—

(A) a plan for implementing the imposition of tolls on the facility;

(B) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;

(C) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

(D) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

(E) such other information as the Secretary may require.

(d) SELECTION CRITERIA.—The Secretary may approve the application of a State under subsection (c) only if the Secretary determines that—

(1) the State's analysis under subsection (c)(3) is reasonable;

(2) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

(3) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(4) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable;

(5) the State will develop, manage, and maintain a system that will automatically collect the tolls;

(6) in developing the State plan for implementing tolls on the facility, the State includes a program to permit low income drivers to pay a reduced toll amount; and

(7) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

(e) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

(1) excessive congestion;

(2) pavement wear; and

(3) an increased incidence of traffic accidents, injuries, or fatalities.

(f) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

(1) all toll revenues received from operation of the toll facility will be used only for—

(A) debt service;

(B) reasonable return on investment of any private person financing the project; and

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

(2) regular audits will be conducted to ensure compliance with paragraph (1) and the results of such audits will be transmitted to the Secretary.

(g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

(h) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.

(i) INTERSTATE SYSTEM DEFINED.—In this section, the term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code.

(j) REPORT.—Not later than September 30, 2011, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on traffic congestion on, pavement wear of, and incidence of accidents, injuries, and fatalities on public roads adjacent to toll facilities established under this section and section 1604.

(k) REPEAL.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.

**SEC. 1604. INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may

1 permit a State or an interstate compact of States to collect
2 tolls on a highway, bridge, or tunnel on the Interstate Sys-
3 tem for the purpose of constructing Interstate highways.
4 (b) LIMITATION ON NUMBER OF FACILITIES.—The
5 Secretary may permit the collection of tolls under this sec-
6 tion on 3 facilities on the Interstate System.
7 (c) ELIGIBILITY.—To be eligible to participate in the
8 pilot program, a State shall submit to the Secretary an
9 application that contains, at a minimum, the following:
10 (1) An identification of the facility on the Inter-
11 state System proposed to be a toll facility.
12 (2) In the case of a facility that affects a met-
13 ropolitan area, an assurance that the metropolitan
14 planning organization designated under chapter 52
15 of title 49, United States Code, for the area has
16 been consulted concerning the placement and
17 amount of tolls on the facility.
18 (3) An analysis demonstrating that financing
19 the construction of the facility with the collection of
20 tolls under the pilot program is the most efficient
21 and economical way to advance the project.
22 (4) A facility management plan that includes—
23 (A) a plan for implementing the imposition
24 of tolls on the facility;

(B) a schedule and finance plan for the construction of the facility using toll revenues;

(C) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

(D) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

(E) such other information as the Secretary may require.

(d) SELECTION CRITERIA.—The Secretary may approve the application of a State under subsection (c) only if the Secretary determines that—

(1) the State's analysis under subsection (c)(3) is reasonable;

(2) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(3) the State plan for construction of the facility using toll revenues is reasonable;

(4) the State will develop, manage, and maintain a system that will automatically collect the tolls;

(5) in developing the State plan for implementing tolls on the facility, the State includes a program to permit low-income drivers to pay a reduced toll amount; and

(6) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

(e) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

(1) excessive congestion;

(2) pavement wear; and

(3) an increased incidence of traffic accidents, injuries, or fatalities.

(f) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

(1) all toll revenues received from operation of the toll facility will be used only for—

(A) debt service;

(B) reasonable return on investment of any private person financing the project; and

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

(2) regular audits will be conducted to ensure compliance with paragraph (1) and the results of such audits will be transmitted to the Secretary.

(g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

(h) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.

(i) INTERSTATE SYSTEM DEFINED.—In this section, the term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code.

**SEC. 1605. USE OF EXCESS FUNDS.**

Section 106 of title 23, United States Code, is amended by adding at the end the following:

'(i) USE OF EXCESS FUNDS.—

'(1) AUDITS.—A State may audit projects funded with amounts apportioned under sections 104 and 144 to determine whether any amounts obligated for a project are excess funds.

'(2) PLANS FOR USE OF EXCESS FUNDS.—If a State determines, after conducting an audit under paragraph (1), that funds obligated for a project are excess funds, the State may develop a plan for obligating the funds for the design and construction of one or more projects that are eligible for funding under the program for which the funds were originally apportioned.

'(3) CERTIFICATION TO THE SECRETARY.—A State that has developed a plan under paragraph (2) shall transmit to the Secretary a certification that the State has conducted an audit under paragraph (1) and developed the plan in accordance with paragraph (2).

1 '(4) IMPLEMENTATION OF PLANS.—After trans-
2 mitting a certification to the Secretary with respect
3 to a plan under paragraph (3), the State may carry
4 out the plan.
5 '(5) APPLICABILITY OF REQUIREMENTS.—Ex-
6 cess funds used to carry out a project under this
7 section shall be subject to the requirements of this
8 title that are applicable to the program for which the
9 funds were originally apportioned.
10 '(6) EXCESS FUNDS DEFINED.—In this sub-
11 section, the term ''excess funds'' means funds obli-
12 gated for a project that remain available for the
13 project after the project has been completed.'.

14 **SEC. 1606. SPECIAL RULES RELATING TO STATE INFRA-**
15 **STRUCTURE BANK PROGRAM.**

16 (a) INTERSTATE COMPACTS.—Section 189 of title 23,
17 United States Code, as amended by section 1602(a) of this
18 Act, is amended by inserting after subsection (b) the fol-
19 lowing:
20 '(c) INTERSTATE COMPACTS.—
21 '(1) IN GENERAL.—Congress grants consent to
22 2 or more of the States, entering into a cooperative
23 agreement under subsection (a) with the Secretary
24 for the establishment by such States of a multi-State
25 infrastructure bank in accordance with this section,

to enter into an interstate compact establishing such bank in accordance with this section.

'(2) RESERVATION OF RIGHTS.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.'.

(b) APPLICABILITY OF FEDERAL LAW.—Section 189 of title 23, United States Code, as amended by section 1602(a) of this Act, is further amended by inserting after subsection (g) the following:

'(h) APPLICABILITY OF FEDERAL LAW.—

'(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—

'(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and

'(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of

title 49), is not consistent with the objectives of this section.

'(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.'.

# Subtitle G—High Priority Projects

**SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM.**

(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—Section 117(a) of title 23, United States Code, is amended by striking '1602 of the Transportation Equity Act for the 21st Century' and inserting '1701 of the Transportation Equity Act: A Legacy for Users'.

(b) ALLOCATION PERCENTAGES.—Section 117(b) of such title is amended by striking paragraphs (1) through (6) and inserting the following:

'(1) 22.4 percent of such amount shall be available for obligation beginning in fiscal year 2005;

'(2) 20.2 percent of such amount shall be available for obligation beginning in fiscal year 2006;

'(3) 19.3 percent of such amount shall be available for obligation beginning in fiscal year 2007;

'(4) 19.7 percent of such amount shall be available for obligation beginning in fiscal year 2008; and

1 '(5) 18.4 percent of such amount shall be avail-
2 able for obligation beginning in fiscal year 2009.'.
3 (c) FEDERAL SHARE.—Section 117(c) of such title
4 is amended by striking '; except' and all that follows
5 through 'cost thereof'.
6 (d) ADVANCE CONSTRUCTION.—Section 117(e) of
7 such title is amended by striking '1602 of the Transpor-
8 tation Equity Act for the 21st Century' each place it ap-
9 pears and inserting '1701 of the Transportation Equity
10 Act: A Legacy for Users'.
11 (e) AVAILABILITY OF OBLIGATION LIMITATION.—
12 Section 117(g) of such title is amended by striking 'Trans-
13 portation Equity Act for the 21st Century' and inserting
14 'Transportation Equity Act: A Legacy for Users'.
15 (f) FEDERAL-STATE RELATIONSHIP.—Section
16 145(b) of such title is amended—
17 (1) by inserting after 'described in' the fol-
18 lowing: 'section 1702 of the Transportation Equity
19 Act: A Legacy for Users,';
20 (2) by inserting after 'for such projects by' the
21 following: 'section 1101(a)(17) of the Transportation
22 Equity Act: A Legacy for Users,'; and
23 (3) by striking '117 of title 23, United States
24 Code,' and inserting 'section 117 of this title,'.

**SEC. 1702. PROJECT AUTHORIZATIONS.**

Subject to section 117 of title 23, United States Code, the amount listed for each high priority project in the following table shall be available (from amounts made available by section 1101(a)(17) of the Transportation Equity Act: A Legacy for Users) for fiscal years 2005 through 2009 to carry out each such project: To be supplied.

# Subtitle H—Miscellaneous Provisions

**SEC. 1801. BUDGET JUSTIFICATION.**

The Department of Transportation and each agency therein shall submit to the Committee on Transportation and Infrastructure of the House of Representatives a budget justification concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code.

**SEC. 1802. MOTORIST INFORMATION.**

Section 124 of of title I of division F of the Consolidated Appropriations Act, 2004 (118 Stat. 296–297) is repealed.

**SEC. 1803. MOTORIST INFORMATION CONCERNING FULL-SERVICE RESTAURANTS.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall initate a rulemaking to determine whether or not—

(1) full-service restaurants should be given priority on not more than 2 panels of the camping or attractions logo specific service signs in the Manual on Uniform Traffic Control Devices of the Department of Transportation when the food logo specific service sign is fully utilized; and

(2) full service restaurants should be given priority on not more than two panels of the food logo specific service signs in such Manual when the camping or attractions logo specific service signs are fully utilized.

**SEC. 1804. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.**

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) in paragraph (23) by inserting before the period at the end the following: 'and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I–135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Saline, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I–29 in Sioux City, Iowa';

(2) by striking paragraph (34) and inserting the following:

'(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I–10 from San Bernardino to the Arizona State line.';

(3) by adding at the end the following:

'(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.

'(47) Interstate Route 87 from the Quebec border to New York City.

'(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.

'(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.

'(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through

New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.

'(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.

'(52) The route in Arkansas running south and parallel to United States Route 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63.

'(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.

'(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California.'; and

(4) by aligning paragraph (45) with paragraph (46).

**SEC. 1805. ADDITIONS TO APPALACHIAN REGION.**

(a) KENTUCKY.—Section 14102(a)(1)(C) of title 40, United States Code, is amended—

(1) by inserting 'Nicholas,' after 'Morgan,'; and

(2) by inserting 'Robertson,' after 'Pulaski,'.

(b) OHIO.—Section 14102(a)(1)(H) of such title is amended—

(1) by inserting 'Ashtabula,' after 'Adams,';

(2) by inserting 'Fayette,' after 'Coshocton,';

(3) by inserting 'Mahoning,' after 'Lawrence,'; and

(4) by inserting 'Trumbull,' after 'Scioto,'.

(c) TENNESSEE.—Section 14102(a)(1)(K) of such title is amended—

(1) by inserting 'Giles,' after 'Franklin,'; and

(2) by inserting 'Lawrence, Lewis, Lincoln,' after 'Knox,'.

(d) VIRGINIA.—Section 14102(a)(1)(L) of such title is amended—

(1) by inserting 'Henry,' after 'Grayson,'; and

(2) by inserting 'Patrick,' after 'Montgomery,'.

**SEC. 1806. TRANSPORTATION ASSETS AND NEEDS OF DELTA REGION.**

(a) AGREEMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the Delta Regional Authority (referred to in this section as the 'DRA') to conduct a comprehensive study of transportation assets and needs for all modes of transportation (including passenger and freight transportation) in the 8 States comprising the Delta region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri and Tennessee).

(b) CONSULTATION.—Under the agreement, the DRA, in conducting the study, shall consult with the Department of Transportation, State transportation departments, local planning and development districts, local and regional governments, and metropolitan planning organizations.

(c) REPORT.—Under the agreement, the DRA, not later than 24 months after the date of entry into the agreement, shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a final report on the results of the study, together with such recommendation as the DRA considers appropriate.

(d) PLAN.—Under the agreement, the DRA, upon completion of the report, shall establish a regional strategic plan to implement the recommendations of the report.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 for each of the fiscal years 2005 and 2006 to carry out this section.

(2) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended and shall not be transferable.

**SEC. 1807. TOLL FACILITIES WORKPLACE SAFETY STUDY.**

(a) IN GENERAL.—The Secretary shall conduct a study on the safety of highway toll collection facilities, including toll booths, to determine the safety of the facilities for the toll collectors who work in and around the facilities, including consideration of—

(1) the effect of design or construction of the facilities on the likelihood of vehicle collisions with the facilities;

(2) the safety of crosswalks used by toll collectors in transit to and from toll booths;

(3) the extent of the enforcement of speed limits in the vicinity of the facilities;

(4) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching the facilities;

(5) the use of cameras to record traffic violations in the vicinity of the facilities;

(6) the use of traffic control arms in the vicinity of the facilities;

(7) law enforcement practices and jurisdictional issues that affect safety in the vicinity of the facilities; and

(8) the incidence of accidents and injuries in the vicinity of toll booths.

(b) DATA COLLECTION.—As part of the study, the Secretary shall collect data regarding the incidence of accidents and injuries in the vicinity of highway toll collection facilities.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study, together with recommendations for improving toll facilities workplace safety.

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 for fiscal year 2005.

(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; expect that the Federal share of the cost of the project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

**SEC. 1808. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.**

(a) IN GENERAL.—The Secretary shall conduct a demonstration project in the State of Alaska, and a demonstration project in the State of Tennessee, to study the safety impacts, environmental impacts, and cost effectiveness of different pavement marking systems and the effect of State bidding and procurement processes on the quality of pavement marking material employed in highway projects. The demonstration projects shall each include an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches and an evaluation of advanced acrylic waterborne pavement markings.

(b) REPORT.—Not later than June 30, 2009, the Secretary shall transmit to Congress a report on the re-

1 sults of the demonstration projects, together with findings
2 and recommendations on methods that will optimize the
3 cost-benefit ratio of the use of Federal funds on pavement
4 marking.

5 (c) FUNDING.—

6 (1) AUTHORIZATION OF APPROPRIATIONS.—
7 There is authorized to be appropriated to carry out
8 this section, out of the Highway Trust Fund (other
9 than the Mass Transit Account), $1,000,000 per fis-
10 cal year for each of the fiscal years 2005 through
11 2009.

12 (2) CONTRACT AUTHORITY.—Funds authorized
13 to be appropriated by this section shall be available
14 for obligation in the same manner and to the same
15 extent as if such funds were apportioned under
16 chapter 1 of title 23, United States Code; expect
17 that the Federal share of the cost of the demonstra-
18 tion projects shall be 100 percent, and such funds
19 shall remain available until expended and shall not
20 be transferable.

21 **SEC. 1809. WORK ZONE SAFETY GRANTS.**

22 (a) IN GENERAL.—The Secretary shall establish and
23 implement a work zone safety grant program under which
24 the Secretary may make grants to nonprofit organizations

to provide training to prevent or reduce highway work zone injuries and fatalities.

(b) ELIGIBLE ACTIVITIES.—Grants may be made under the program for the following purposes:

(1) Training for construction craft workers on the prevention of injuries and fatalities in highway and road construction.

(2) Development of guidelines for the prevention of highway work zone injuries and fatalities.

(3) Training for State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.

(c) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.

(d) CONSTRUCTION WORK IN ALASKA.—Section 114 of title 23, United States Code, is amended by adding at the end the following:

'(c) CONSTRUCTION WORK IN ALASKA.—

'(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.

'(2) LODGING.—The lodging under paragraph (1) shall be in accordance with section 1910.142 of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).

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

'(A) REMOTE.—The term ''remote'', as used with respect to a project, means that the project is 75 miles or more from the United States Post Office in either Fairbanks, Anchorage, Juno, or Ketchikan, Alaska, or is inaccessible by road in a 2-wheel drive vehicle.

'(B) RESIDENT.—The term ''resident'', as used with respect to a project, means a person

living within 75 miles of the midpoint of the project for at least 12 months.'.

**SEC. 1810. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.**

(a) GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to a State that—

(1) (A) has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways; and

(B) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver and any passengers; or

(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).

(b) ELIGIBLE ACTIVITIES.—A grant received by a State under subsection (a) shall be used by the State—

(1) in the case of a State eligible under subsection (a)(1), for costs of—

(A) collecting and maintaining of data on traffic stops;

(B) evaluating the results of the data; and

(C) developing and implementing programs to reduce the occurrence of racial profiling, including programs to train law enforcement officers; and

(2) in the case of a State eligible under subsection (a)(2), for costs of—

(A) activities to comply with the requirements of subsection (a)(1); and

(B) any eligible activity under paragraph (1).

(c) RACIAL PROFILING.—To meet the requirement of subsection (a)(1), a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops on Federal-aid highways. Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.

(d) LIMITATIONS.—

(1) MAXIMUM AMOUNT OF GRANTS.—The total amount of grants received by a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.

(2) ELIGIBILITY.—A State may not receive a grant under subsection (a)(2) in more than 2 fiscal years.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

**SEC. 1811. AMERICA'S BYWAYS RESOURCE CENTER.**

(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section to the America's

1 Byways Resource Center established pursuant to section
2 1215(b)(1) of the Transportation Equity Act for the 21st
3 Century (112 Stat. 209).

4 (b) TECHNICAL SUPPORT AND EDUCATION.—

5 (1) USE OF FUNDS.—The Center shall use
6 funds allocated to the Center under this section to
7 continue to provide technical support and conduct
8 educational activities for the national scenic byways
9 program established under section 162 of title 23,
10 United States Code.

11 (2) ELIGIBLE ACTIVITIES.—Technical support
12 and educational activities carried out under this sub-
13 section shall provide local officials and organizations
14 associated with National Scenic Byways and All-
15 American Roads with proactive, technical, and on-
16 site customized assistance, including training, com-
17 munications (including a public awareness series),
18 publications, conferences, on-site meetings, and
19 other assistance considered appropriate to develop
20 and sustain such byways and roads.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated out of the Highway Trust
23 Fund (other than the Mass Transit Account) to carry out
24 this section $3,500,000 for each of fiscal years 2004
25 through 2009.

(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be 100 percent and such funds shall remain available until expended and shall not be transferable.

**SEC. 1812. TECHNICAL ADJUSTMENT.**

(a) IN GENERAL.—The donee of the vessel with the Unit Identification Code number 13862 is deemed to be the owner of that vessel free and clear as of September 1, 2000.

(b) FEDERAL CLAIMS.—All Federal claims arising from the donation or use of the vessel described in subsection (a) are permanently extinguished.

**SEC. 1813. ROAD USER CHARGE EVALUATION PILOT PROJECT.**

(a) IN GENERAL.—The Secretary shall carry out a national evaluation pilot project to assess how intelligent transportation system technology can be applied to assess mileage-based road user charges for the purposes of collecting revenues for the Highway Trust Fund.

(b) MATTERS TO BE EVALUATED.—The following matters shall be evaluated under the pilot project:

(1) Technical feasibility of imposing mileage-based road user charges, including cost, reliability, and security of on-board and intelligent transportation systems.

(2) Compatibility of technology for imposing such charges with automobile and truck design.

(3) Design and testing of a collection system for such charges that is secure, low cost, and easy to use.

(4) Methods of ensuring privacy of road users and assessing public attitudes and views of motorists who participate in field tests of the equipment and system.

(c) REPORTS.—The Secretary shall transmit annual reports on the status of the pilot project and, not later than June 30, 2009, a final report on the results of the pilot project, together with findings and recommendations, to the Secretary of the Treasury, the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Finance of the Senate.

(d) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.—There is authorize from the Highway Trust Fund (other than the Mass Transit

Account) to carry out this section $1,000,000 for each of fiscal years 2005 and 2006 and $3,500,000 for each of fiscal years 2007, 2008, and 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except the Federal share of the cost of the pilot project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

**SEC. 1814. THOMAS P. 'TIP' O'NEILL, JR. TUNNEL.**

(a) DESIGNATION.—In honor of his service to the Commonwealth of Massachusetts and the United States of America, and in recognition of his contributions toward the construction of Central Artery Tunnel project in Boston, the northbound and southbound tunnel of Interstate Route 93, located in the city of Boston, which extends north of the intersection of Interstate Route 90 and Interstate Route 93 to the Leonard P. Zakim Bunker Hill Bridge, is designated as the 'Thomas P. ''Tip'' O'Neill, Jr. Tunnel'.

(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the tunnel referred to in subsection (a) shall be

deemed to be a reference to the 'Thomas P. ''Tip'' O'Neill, Jr. Tunnel'.

**SEC. 1815. CONFORMING AMENDMENT FOR TRANSPORTATION PLANNING SECTIONS.**

(a) METROPOLITAN PLANNING.—Section 134 of title 23, United States Code is amended to read as follows:

**'§ 134. Metropolitan planning**

'Metropolitan transportation planning programs funded under section 104(f) shall be carried out in accordance with the metropolitan planning provisions of chapter 52, title 49, United States Code.'.

(b) STATEWIDE PLANNING.—Section 135 of such title is amended to read as follows:

**'§ 135. Statewide planning**

'Statewide transportation planning programs funded under section 104(f) shall be carried out in accordance with the statewide planning provisions of chapter 52, title 49, United States Code.'.

**SEC. 1816. DISTRIBUTION OF METROPOLITAN PLANNING FUNDS WITHIN STATES.**

Section 104(f)(4) of title 23, United States Code, is amended by adding at the end the following: 'Such distribution of funds to metropolitan planning organizations shall be made within 30 days of the date of receipt of such funds from the Secretary.'.

**SEC. 1817. TREATMENT OF OFF RAMP.**

The Harbor Boulevard off ramp from Interstate Route 405 in Costa Mesa, California, is deemed to satisfy the requirements of title 23, United States Code, that govern the approval of the placement of ramps off of a Federal-aid highway.

**SEC. 1818. LOAN FORGIVENESS.**

Debt outstanding as of the date of enactment of this Act for project number Q–DPM–0013(001) carried out under section 108(c) of title 23, United States Code, is deemed satisfied.

**SEC. 1819. LEAD AGENCY DESIGNATION.**

The public entity established under California law in 1989 to acquire rights-of-way in northwestern California to maintain surface transportation infrastructure is hereby designated as the lead agency for the purpose of accepting Federal funds authorized under item 13 of the table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2061).

**SEC. 1820. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES.**

The project agreement for a Federal-aid highway project shall provide that any debris from demolition of a bridge or overpass that is on the Federal-aid highway must be made available for beneficial public use by Federal, State, and local governments. Any additional cost as-

sociated with making available the debris shall be borne by the recipient of the debris.

**SEC. 1821. HUBZONE PROGRAM.**

Section 3(p)(4)(B)(ii) of the Small Business Act (15 U.S.C. 632(p)(4)(B)(ii)) is amended—

(1) in subclause (I) by striking 'or' at the end;

(2) in subclause (II) by striking the period at the end and inserting '; or' ; and

(3) by adding after subclause (II) the following:

'(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(C)(iii) of the Internal Revenue Code of 1986, within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous States.'.

**SEC. 1822. TECHNICAL AMENDMENTS TO TEA 21 PROJECTS.**

The table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 257) is amended—

(1) in item number 35 by adding 'and for other related purposes' after 'Yard';

(2) in item number 78 by striking 'Third' and all that follows through 'Bridge' and inserting 'Bayview Transportation Improvements Project';

(3) in item number 312 by inserting 'through construction' after 'engineering';

(4) in item number 800 by striking 'Fairview Township' and inserting 'or other projects selected by the York County, Pennsylvania MPO';

(5) in item number 820 by striking 'Conduct' and all that follows through 'interchange' and inserting 'Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area';

(6) in item number 897 by striking 'Upgrade' and all that follows through 'interchange' and inserting 'Engineering and construction of a new access road to a development near Interstate 57 and 167th Street in Country Club Hills';

(7) in item number 1121 by striking 'Construct' and all that follows through 'Douglaston Parkway' and inserting 'Provide landscaping along both sides of the Grand Central Parkway from 188th Street to 172nd Street';

(8) in item 1225 by striking 'Construct SR 9 bypass' and inserting 'Study, design, and construct transportation solutions for SR 9 corridor'; and

(9) in item number 1447 strike 'Extend' and all that follows through 'Valparaiso' and insert 'Design and construction of interchange at I–65 and 109th Avenue, Crown Point'.

**SEC. 1823. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.**

(a) GRANTS.—The Secretary shall make grants for fiscal years 2005 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59, created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,000,000 for each of fiscal years 2005 through 2009.

(c) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter

1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

**SEC. 1824. TRANSPORTATION CONFORMITY.**

(a) CONFORMITY REDETERMINATIONS.—Section 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

'(E) The appropriate metropolitan planning organization shall redetermine conformity for existing transportation plans and programs not later than 2 years after the date on which the Administrator—

'(i) finds a motor vehicle emissions budget in a submitted implementation plan to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003); or

'(ii) approves an implementation plan under section 110(k) or promulgates an implementation plan under section 110(c) that establishes a motor vehicle emissions budget where there was no prior budget or that establishes a budget that significantly varies from any motor vehicle emissions budget in effect pursuant to an adequacy determination in accordance with

section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003) or as part of an implementation plan approved or promulgated under section 110.'.

(b) FREQUENCY OF CONFORMITY DETERMINATION UPDATES.—Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4)) is amended follows:

(1) By striking 'one year after the date of enactment of the Clean Air Act Amendments of 1990' and inserting 'one year after the date of enactment of the Transportation Equity Act: A Legacy for Users' .

(2) In subparagraph (B) by amending clause (ii) to read as follows:

'(ii) provide that conformity determinations for transportation plans and programs be determined every 4 years in areas designated as nonattainment or redesignated to attainment (unless a metropolitan planning organization as designated in section 5213(b) of title 49, United States Code, elects to update a transportation plan and program more frequently or is required to determine conformity in accordance with paragraph (2)(E)).'.

(c) TIME HORIZON FOR CONFORMITY DETERMINATIONS IN NONATTAINMENT AREAS.—Subsection (c) of

1 section 176 of the Clean Air Act (42 U.S.C. 7506(c)) is
2 amended by adding the following new paragraph at the
3 end thereof:

4 '(7) TIME HORIZON FOR DETERMINATIONS.—
5 Each conformity determination required under this
6 section for a transportation plan under section
7 5213(g) of title 49 of the United States Code shall
8 require a demonstration of conformity during the pe-
9 riod ending on either the final year of the transpor-
10 tation plan or, at the election of the metropolitan
11 planning organization and an air pollution control
12 agency, as defined in section 302(b), if such air pol-
13 lution control agency is responsible for developing
14 plans or controlling air pollution within the area cov-
15 ered by the transportation plan on the later of the
16 following dates (hereinafter in this paragraph re-
17 ferred to as the ''final transportation conformity
18 date''):

19 '(A) The tenth year of the transportation
20 plan.

21 '(B) The attainment date set forth in the
22 applicable implementation plan for the air pol-
23 lutant concerned.

24 '(C) The year after the completion of a re-
25 gionally significant project, if the project will be

programmed in the transportation improvement program or requires approval before the subsequent conformity determination.

Such conformity determination shall be accompanied by a regional emissions analysis for any years of the transportation plan that extend beyond such final conformity date. In the case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect October 1, 2003), or has approved the revision, the demonstration of conformity (at the election of the metropolitan planning organization and an air pollution control agency, as defined in section 302(b), if such air pollution control agency is responsible for developing plans or controlling pollution within the area covered by the transportation plan) and the metropolitan planning organization shall be required to extend only through the last year of the implementation plan required under section 175A(b).'.

(d) SUBSTITUTION OF TRANSPORTATION CONTROL MEASURES.—Subsection 176(c) of the Clean Air Act (42

1 U.S.C. 7506(c)) is amended by adding at the end the end
2 the following new paragraph:
3 '(8)(A) Transportation control measures that
4 are specified in an implementation plan may be re-
5 placed in the implementation plan with substitute
6 transportation control measures if—
7 '(i) the substitute measures achieve equiva-
8 lent or greater emission reductions than the
9 control measures to be replaced, as determined
10 by the Administrator;
11 '(ii) the substitute measures utilize an
12 emissions impact analysis that is consistent
13 with the current methodology used for evalu-
14 ating replaced control measures in the imple-
15 mentation plan;
16 '(iii) the substitute control measures are
17 implemented not later than the date on which
18 such emission reductions are necessary to
19 achieve the purpose of the implementation plan;
20 '(iv) the substitute control measures were
21 developed with reasonable public notice and the
22 opportunity for comments; and
23 '(v) the metropolitan planning organization
24 finds that adequate funding is included in the
25 transportation improvement program to ensure

timely implementation of the substitute control measures.

'(B) After the requirements of subparagraph (A) are met, a State may adopt the substitute measures in the applicable implementation plan within a reasonable period of time.

'(C) The substitution of a transportation control measure in accordance with this paragraph shall not be contingent on the existence of any provision in the applicable implementation plan that expressly permits such substitution.

'(D) The substitution of a transportation control measure in accordance with this paragraph shall not require—

'(i) a new conformity determination for the transportation plan, or

'(ii) a revision of the applicable implementation plan.

'(E) A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted.

'(F) Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.

Transportation control measures may be added to an implementation plan subject to subparagraphs (B), (C), and (D), on the same basis as if such measures were substitute transportation control measures if such measures do not increase emissions for which limitations have been established in an implementation plan, and such measures meet the requirements of clauses (ii), (iii), (iv), and (v) of subparagraph (A).'.

(e) LAPSE OF CONFORMITY.—Subsection (c) of section 176 of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding the following new paragraphs at the end thereof:

'(9) LAPSE OF CONFORMITY.—If a conformity determination required under this subsection for a transportation plan under section 5213(g) of title 49 of the United States Code or a transportation improvement program under section 5213(h) of title 49 of the United States Code is not made by the applicable deadline and such failure is not corrected by additional measures to either reduce motor vehicle emissions sufficient to demonstrate compliance with the requirements of this subsection within 12 months after such deadline or other measures sufficient to correct such failures, the transportation plan shall lapse.

1 ‘(10) LAPSE.—The term ‘‘lapse’’ means that
2 the conformity determination for a transportation
3 plan or transportation improvement program has ex-
4 pired, and thus there is no currently conforming
5 transportation plan or transportation improvement
6 program.’.

7 **SEC. 1825. ELIGIBILITY TO PARTICIPATE IN WESTERN**
8 **ALASKA COMMUNITY DEVELOPMENT QUOTA**
9 **PROGRAM.**

10 A community is deemed to be eligible to participate
11 in the western Alaska community development quota pro-
12 gram established under section 305(i) of the Magnuson-
13 Stevens Fishery Conservation and Management Act (16
14 U.S.C. 1855(i)) if the community—
15 (1) is listed in table 7 to part 679 of title 50,
16 Code of Federal Regulations, as in effect on March
17 8, 2004; or
18 (2) was determined to be eligible participate in
19 such program by the National Marine Fisheries
20 Service on April 19, 1999.

21 **SEC. 1826. METROPOLITAN REGIONAL FREIGHT AND PAS-**
22 **SENGER TRANSPORTATION STUDY.**

23 (a) IN GENERAL.—The Secretary shall enter into an
24 agreement with a partnership comprised of 2 institutions
25 of higher learning to study metropolitan regional freight

and passenger transportation and system-wide performance utilizing an interdisciplinary technique of supply chain management, geographic information systems, and urban/suburban planning and management.

(b) CONTENTS OF STUDY.—The study under this section shall include, at a minimum, evaluations of—

(1) best practices for regional transportation operations and management;

(2) relationships among truck trip generation and economic activities;

(3) spatial analysis of the distribution of economic activity and transportation investments;

(4) congestion mitigation and management of air quality through the concentration of modeling and technology;

(5) supply chain management and geographic information systems; and

(6) infrastructure management and renewal.

(c) FEDERAL SHARE.—The Federal share of the cost of the study under this section shall be 100 percent.

(d) FUNDING.—Of the amounts made available to carry out section 1305 for each of fiscal years 2005 through 2009, $1,800,000 shall be made available to carry out this section.

**SEC. 1827. INTERMODAL TRANSPORTATION FACILITY EXPANSION.**

Any Federal and non-Federal share provided for the Port of Anchorage for an intermodal transportation marine facility or for access to that facility shall be transferred to and administered by the Administrator of the Maritime Administration.

**SEC. 1828. ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.**

(a) DEFINITION.—Section 101(a) of title 23, United States Code, as amended by section 1202 of this Act, is further amended by adding at the end the following:

'(40) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ''advanced truck stop electrification system'' means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.'.

(b) ELIGIBILITY UNDER STP.—Section 133(b)(6) of such title is amended by inserting ', including advanced truck stop electrification systems' before the period at the end.

**SEC. 1829. TECHNOLOGY.**

States are encouraged to consider using a non-destructive technology able to detect cracks including subsurface flaws as small as 0.005 inches in length or depth in steel bridges.

**SEC. 1830. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.**

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 106 Stat. 1552) is amended by striking '2005' and inserting '2009'.

**SEC. 1831. MOTORCYCLIST ADVISORY COUNCIL.**

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

(1) barrier design;

(2) road design, construction, and maintenance practices; and

(3) the architecture and implementation of intelligent transportation system technologies.

1 (b) COMPOSITION.—The Council shall consist of not
2 more than 10 members of the motorcycling community
3 with professional expertise in national motorcyclist safety
4 advocacy, including—
5 (1) at least—
6 (A) 1 member recommended by a national
7 motorcyclist association;
8 (B) 1 member recommended by a national
9 motorcycle riders foundation;
10 (C) 1 representative of the National Asso-
11 ciation of State Motorcycle Safety Administra-
12 tors;
13 (D) 2 members of State motorcyclists' or-
14 ganizations;
15 (E) 1 member recommended by a national
16 organization that represents the builders of
17 highway infrastructure;
18 (F) 1 member recommended by a national
19 association that represents the traffic safety
20 systems industry; and
21 (G) 1 member of a national safety organi-
22 zation; and
23 (2) at least 1, and not more than 2, motorcy-
24 clists who are traffic system design engineers or
25 State transportation department officials.

**SEC. 1832. SHARING OF MONETARY RECOVERIES.**

Notwithstanding any other provision of law, monetary judgments accruing to the Government from judgments in Federal criminal prosecutions and civil proceedings pertaining to fraud in Federally funded highway and public transportation projects and programs shall be treated as follows:

(1) Any amount less than or equal to the single damages incurred as the result of such fraud shall be credited to the Federal account from which the funds for the project or program that is at issue in the fraud came, except to the extent that such Federal account has been credited as the result of any judgment in favor of a grant recipient.

(2) Any amount in excess of the amount credited pursuant to paragraph (1) shall be shared with the State or other recipient involved if—

(A) the State or other recipient enters into a legally binding agreement with the Secretary to use the funds for a purpose eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code, as the case may be;

(B) the amount to be shared with the State or other recipient is determined by the

Attorney General, in consultation with the Secretary; and

(C) the Attorney General, in consultation with the Secretary, determines that the fraud did not occur as a result of negligent oversight or actual involvement in the fraud by the State or other recipient or any senior official of the State or other recipient.

**SEC. 1833. ELIGIBILITY UNDER CMAQ.**

Section 149(b)(4) of title 23, United States Code is amended by inserting ‘, including advanced truck stop electrification systems,’ after ‘facility or program’.

**SEC. 1834. SPECIAL RULE FOR FISCAL YEAR 2004.**

In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of this title, including an amendment made by this title, that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part V (Public Law 108–310), including any amendment made by such Act, the amount referred to in such Act shall be

the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.

# TITLE II—HIGHWAY SAFETY

**SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, $164,027,000 for fiscal year 2004, $163,680,000 for fiscal year 2005, $229,000,000 for fiscal year 2006, $232,000,000 for fiscal year 2007, $238,000,000 for fiscal year 2008, and $245,000,000 for fiscal year 2009.

(2) OCCUPANT PROTECTION INCENTIVE GRANTS.—For carrying out section 405 of title 23, United States Code, $19,882,000 for fiscal year 2004, $19,840,000 for fiscal year 2005, $136,000,000 for fiscal year 2006, $139,000,000 for fiscal year 2007, $143,000,000 for fiscal year 2008, and $150,000,000 for fiscal year 2009.

(3) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—For carrying out section 410 of title 23, United States

Code, $39,764,000 for fiscal year 2004, $39,680,000 for fiscal year 2005, $129,000,000 for fiscal year 2006, $133,000,000 for fiscal year 2007, $138,000,000 for fiscal year 2008, and $144,000,000 for fiscal year 2009.

(4) STATE TRAFFIC SAFETY INFORMATION IMPROVEMENTS.—For carrying out section 412 of title 23, United States Code, $30,000,000 for fiscal year 2006, $35,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, and $40,000,000 for fiscal year 2009.

(5) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 of title 49, United States Code, by the National Highway Traffic Safety Administration, $3,976,000 for fiscal year 2004, $3,968,000 for fiscal year 2005, and $4,000,000 for each of fiscal years 2006 through 2009.

(6) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2005 of this title, $15,000,000 for each of fiscal years 2006 through 2009.

(b) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2004 through 2009 shall be

available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(c) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (2), (3), or (4) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 410, and 412 of title 23, United States Code.

**SEC. 2002. OCCUPANT PROTECTION INCENTIVE GRANTS.**

(a) GENERAL AUTHORITY.—Section 405(a) of title 23, United States Code, is amended—

(1) in paragraph (2) by striking 'Transportation Equity Act for the 21st Century' and inserting 'Transportation Equity Act: A Legacy for Users';

(2) in paragraph (3) by striking '1997' and inserting '2003'; and

(3) in paragraphs (4)(A), (4)(B), and (4)(C) by inserting after 'years' the following: 'beginning after September 30, 2003,'.

(b) GRANT ELIGIBILITY.—Section 405(b) of title 23, United States Code, is amended by striking 'A State shall

1 become eligible' and inserting the following: 'A State shall
2 be eligible for a grant under this section if the State has
3 a seat belt usage rate of 85 percent or greater as of the
4 date of the grant, as determined by the Secretary. A State
5 shall also become eligible'.

6 (c) GRANT AMOUNTS.—Section 405(c) of title 23,
7 United States Code, is amended—

8 (1) by striking '25 percent' and inserting '100
9 percent'; and

10 (2) by striking '1997' and inserting '2003'.

11 **SEC. 2003. ALCOHOL-IMPAIRED DRIVING COUNTER-**
12 **MEASURES.**

13 (a) GENERAL AUTHORITY.—Section 410(a) of title
14 23, United States Code, is amended—

15 (1) in paragraph (2) by striking 'Transpor-
16 tation Equity Act for the 21st Century' and insert-
17 ing 'Transportation Equity Act: A Legacy for
18 Users';

19 (2) in paragraph (3) by striking '1997' and in-
20 serting '2003'; and

21 (3) in paragraphs (4)(A), (4)(B), and (4)(C) by
22 inserting after 'years' the following: 'beginning after
23 September 30, 2003,'.

24 (b) BASIC GRANT A.—Section 410(b)(1) of title 23,
25 United States Code, is amended—

(1) by striking 'A State shall become eligible' and inserting the following: 'A State shall be eligible for a grant under this paragraph if the State has an alcohol-related fatality rate per 100,000,000 vehicle miles traveled of 0.5 or less as of the date of the grant, as determined by the Secretary using the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration. A State shall also become eligible';

(2) by striking 'at least 5 of' and inserting 'at least 6 of';

(3) in subparagraph (A)—

(A) by striking 'and' at the end of clause (i)(II);

(B) by striking the period at the end of clause (ii) and inserting a semicolon; and

(C) by adding at the end the following:

'(iii) the suspension referred to under clause (i)(I) may allow an individual to operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of

the motor vehicles owned or operated, or both, by the individual; and

'(iv) the suspension and revocation referred to under clause (i)(II) may allow an individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual.';

(4) in subparagraph (B)—

(A) by striking 'may include the issuance' and inserting the following:

'may include—

'(i) the issuance'; and

(B) by striking the period at the end and inserting '; and' and the following:

'(ii) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum, the following:

'(I) the clinical effects of alcohol;

1 ‘(II) methods of preventing sec-
2 ond party sales of alcohol;
3 ‘(III) recognizing signs of intoxi-
4 cation;
5 ‘(IV) methods to prevent under-
6 age drinking;
7 ‘(V) Federal, State, and local
8 laws that are relevant to such per-
9 sonnel.’;
10 (5) by striking subparagraph (F) and inserting
11 the following:
12 ‘(F) OUTREACH PROGRAM.—A judicial and
13 prosecutorial education, training, and outreach
14 program that provides information on the ap-
15 propriateness and effectiveness of sentencing
16 options.’; and
17 (6) by adding at the end the following:
18 ‘(H) SELF-SUSTAINING DRUNK DRIVING
19 PREVENTION PROGRAM.—A self-sustaining
20 drunk driving prevention program under which
21 a significant portion of the fines or surcharges
22 collected from individuals apprehended and
23 fined for operating a motor vehicle while under
24 the influence of alcohol are returned to those
25 communities that have comprehensive programs

for the prevention of such operations of motor vehicles.

'(I) PROGRAMS FOR EFFECTIVE ALCOHOL REHABILITATION.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment for repeat offenders described in subparagraph (A)(i)(II).'.

(c) BASIC GRANT B.—Section 410(b) of title 23, United States Code, is amended—

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

'(2) BASIC GRANT B.—A State shall become eligible for a grant under this paragraph if the State—

'(A) has an alcohol-related fatality rate per 100,000,000 vehicle miles traveled of 0.8 or more as of the date of the grant, as determined by the Secretary using the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and

'(B) establishes, subject to such requirements as the Secretary may prescribe, a task force to evaluate and recommend changes to the State's drunk driving programs.'; and

(2) in paragraph (3)—

(A) by striking '25 percent' and inserting '100 percent'; and

(B) by striking '1997' and inserting '2003'.

(d) SUPPLEMENTAL GRANTS.—Section 410(c) of title 23, United States Code, is amended to read as follows:

'(c) ALLOCATION FOR BASIC GRANTS B.—Not more than $20,000,000 per fiscal year of amounts made available to carry out this section shall be available for making grants under subsection (b)(2).'.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 2005.

**SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.**

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

**'§ 412. State traffic safety information system improvements**

'(a) GENERAL AUTHORITY.—

'(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to—

1 ‘(A) improve the timeliness, accuracy, com-
2 pleteness, uniformity, integration, and accessi-
3 bility of the safety data of the State that is
4 needed to identify priorities for national, State,
5 and local highway and traffic safety programs;
6 ‘(B) evaluate the effectiveness of efforts to
7 make such improvements;
8 ‘(C) link these State data systems, includ-
9 ing traffic records, with other data systems
10 within the State, such as systems that contain
11 medical, roadway, and economic data; and
12 ‘(D) improve the compatibility and inter-
13 operability of the data systems of the State
14 with national data systems and data systems of
15 other States and enhance the ability of the Sec-
16 retary to observe and analyze national trends in
17 crash occurrences, rates, outcomes, and cir-
18 cumstances.
19 ‘(2) USE OF GRANTS.—A State may use a
20 grant received under this section only to implement
21 such programs.
22 ‘(3) MODEL DATA ELEMENTS.—The Secretary,
23 in consultation with States and other appropriate
24 parties, shall determine the model data elements
25 necessary to observe and analyze State and national

trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall certify to the Secretary the State's adoption and use of such model data elements.

'(4) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require ensuring that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this section.

'(5) FEDERAL SHARE.—The Federal share of the cost of implementing in a fiscal year a program of a State pursuant to paragraph (1) shall not exceed 80 percent.

'(b) FIRST-YEAR GRANTS.—To be eligible for a first-year grant under this section, a State shall demonstrate to the satisfaction of the Secretary that the State has—

'(1) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records

1 and public health and injury control data systems;
2 and
3 '(2) developed a multiyear highway safety data
4 and traffic records system strategic plan that ad-
5 dresses existing deficiencies in the State's highway
6 safety data and traffic records system and is ap-
7 proved by the highway safety data and traffic
8 records coordinating committee and—
9 '(A) specifies how existing deficiencies in
10 the State's highway safety data and traffic
11 records system were identified;
12 '(B) prioritizes, based on the identified
13 highway safety data and traffic records system
14 deficiencies, the highway safety data and traffic
15 records system needs and goals of the State, in-
16 cluding the activities described in subsection
17 (a)(1);
18 '(C) identifies performance-based measures
19 by which progress toward those goals will be de-
20 termined;
21 '(D) specifies how the grant funds and any
22 other funds of the State will be used to address
23 needs and goals identified in the multiyear plan;
24 and

'(E) includes a current report on the progress in implementing the multiyear plan that documents progress toward the specified goals.

'(c) SUCCEEDING-YEAR GRANTS.—

'(1) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

'(A) submits an updated multiyear plan that meets the requirements of subsection (b)(2);

'(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

'(C) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan;

'(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

'(E) includes a current report on the progress in implementing the multiyear plan.

1 ‘(d) GRANT AMOUNTS.—
2 ‘(1) IN GENERAL.—The amount of a grant
3 made to a State for a fiscal year under this section
4 shall equal an amount determined by multiplying—
5 ‘(A) the amount appropriated to carry out
6 this section for such fiscal year; by
7 ‘(B) the ratio that the funds apportioned
8 to the State under section 402 for fiscal year
9 2003 bears to the funds apportioned to all
10 States under section 402 for fiscal year 2003.
11 ‘(2) MINIMUM AMOUNT.—Notwithstanding sub-
12 paragraph (A)—
13 ‘(A) a State eligible for a first-year grant
14 under this section shall not receive less than
15 $300,000; and
16 ‘(B) a State eligible for a succeeding-year
17 grant under this section shall not receive less
18 than $500,000.
19 ‘(e) ADMINISTRATIVE EXPENSES.—Funds authorized
20 to be appropriated to carry out this section in a fiscal year
21 shall be subject to a deduction not to exceed 5 percent
22 for the necessary costs of administering the provisions of
23 this section.
24 ‘(f) APPLICABILITY OF CHAPTER 1.—The provisions
25 contained in section 402(d) shall apply to this section.’.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

'412. State traffic safety information system improvements.'.

**SEC. 2005. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

The Secretary shall establish a program to support national impaired driving mobilization and enforcement efforts and national safety belt mobilization and enforcement, including the purchase of national paid advertisement (including production and placement) to support such efforts.

**SEC. 2006. MOTORCYCLE CRASH CAUSATION STUDY.**

(a) IN GENERAL.—Using funds made available to carry out section 403 of title 23, United States Code, the Secretary shall conduct a study of the causes of motorcycle crashes.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

**SEC. 2007. CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.**

(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to States that enact or have enacted and are enforcing a law requiring that children riding in passenger motor vehicles who are too large to be secured in a child safety seat be

1 secured in a child restraint that meets the requirements
2 prescribed by the Secretary under section 3 of Anton's
3 Law (116 Stat. 2772).
4 (b) MAINTENANCE OF EFFORT.—No grant may be
5 made to a State under this section in a fiscal year unless
6 the State enters into such agreements with the Secretary
7 as the Secretary may require to ensure that the State will
8 maintain its aggregate expenditures from all other sources
9 for child safety seat and child booster seat programs at
10 or above the average level of such expenditures in its 2
11 fiscal years preceding the date of enactment of this Act.
12 (c) FEDERAL SHARE.—The Federal share of the cost
13 of implementing and enforcing in a fiscal year a law adopt-
14 ed by a State under subsection (a) shall not exceed—
15 (1) for the first 3 fiscal years for which a State
16 receives a grant under this section, 75 percent; and
17 (2) for the fourth fiscal year for which a State
18 receives a grant under this section, 50 percent.
19 (d) GRANT ELIGIBILITY.—
20 (1) IN GENERAL.—A State is eligible for a
21 grant under this section if the State has in effect
22 and enforces a law described in subsection (a).
23 (2) MAXIMUM PERIOD OF ELIGIBILITY.—No
24 State may receive grants under this section in more

than 4 fiscal years beginning after September 30, 2005.

(e) ELIGIBLE USES OF FUNDS.—A State may use a grant under this section only to carry out child safety seat and child booster seat programs, including the following:

(1) A program to educate the public concerning the proper use and installation of child safety seats and child booster seats.

(2) A program to train child passenger safety professionals, police officers, fire and emergency medical personnel, and educators concerning all aspects of the use of child safety seats and booster seats.

(3) A program to purchase and distribute child safety seats, child booster seats, and other appropriate passenger motor vehicle child restraints to families that cannot otherwise afford such seats or restraints.

(4) A program to support enforcement of child restraint laws.

(f) GRANT AMOUNT.—The amount of a grant to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fis-

1 cal year 2003 under section 402 of title 23, United States
2 Code.
3 (g) ADMINISTRATIVE EXPENSES.—Funds authorized
4 to be appropriated to carry out this section in a fiscal year
5 shall be subject to a deduction not to exceed 2.5 percent
6 for the necessary costs of administering the provisions of
7 this section.
8 (h) APPLICABILITY OF CHAPTER 1.—The provisions
9 contained in section 402(d) of title 23, United States
10 Code, apply to this section.
11 (i) REPORT.—Each State to which a grant is made
12 under this section shall transmit to the Secretary a report
13 documenting the manner in which grant amounts were ob-
14 ligated and expended and identifying the specific programs
15 carried out with or supported by grant funds. The report
16 shall be in a form prescribed by the Secretary and may
17 be combined with other State grant reporting require-
18 ments under of chapter 4 of title 23, United States Code.
19 (j) DEFINITIONS.—In this section, the following defi-
20 nitions apply:
21 (1) CHILD RESTRAINT.—The term 'child re-
22 straint' means any product designed to provide re-
23 straint to a child (including booster seats and other
24 products used with a lap and shoulder belt assem-
25 bly) that meets applicable Federal motor vehicle

safety standards prescribed by the National Highway Traffic Safety Administration.

(2) CHILD SAFETY SEAT.—The term 'child safety seat' has the meaning such term has in section 405(f) of title 23, United States Code.

(3) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the meaning such term has in such section 405(f).

(4) STATE.—The term 'State' has the meaning such term has in section 101 (a) of such title.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for fiscal year 2009.

**SEC. 2008. MOTORCYCLIST SAFETY.**

(a) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will

1 maintain its aggregate expenditures from all the other
2 sources for motorcyclist safety training programs and mo-
3 torcyclist awareness programs at or above the average
4 level of such expenditures in its 2 fiscal years preceding
5 the date of enactment of this Act.

6 (c) MAXIMUM PERIOD OF ELIGIBILITY.—No State
7 may receive grants under this section in more than 4 fiscal
8 years beginning after September 30, 2005.

9 (d) FEDERAL SHARE.—The Federal share of the cost
10 of implementing and enforcing, as appropriate, in a fiscal
11 year a program adopted by a State in accordance with
12 subsection (a) shall not exceed—

13 (1) for the first 3 years for which a State re-
14 ceives a grant under this section, 75 percent; and

15 (2) for the fourth fiscal year for which a State
16 receives a grant under this section, 50 percent.

17 (e) GRANT ELIGIBILITY.—

18 (1) IN GENERAL.—A State becomes eligible for
19 a grant under this section by adopting or dem-
20 onstrating to the satisfaction of the Secretary—

21 (A) for the first fiscal year for which the
22 State will receive a grant under this section, at
23 least 1 of the 6 criteria listed in paragraph (2);

24 (B) for the second, third, and fourth fiscal
25 years for which the State will receive a grant

under this section, at least 2 of the 6 criteria listed in paragraph (2); and

(C) for any subsequent fiscal years for which the State will receive a grant under this section, at least 3 of the 6 criteria listed in paragraph (2).

(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:

(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists, and may include innovative training opportunities to meet unique regional needs.

(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the

number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are used for motorcycle training and safety programs.

(f) ELIGIBLE USES.—

(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safe-

ty training and motorcyclist awareness programs, including—

(A) improvements to motorcyclist safety training curricula;

(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—

(i) procurement or repair of practice motorcycles;

(ii) instructional materials;

(iii) mobile training units; and

(iv) leasing or purchase of facilities for classroom instruction and closed-course skill training;

(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(D) public awareness, public service announcements, and other outreach programs to enhance motorcyclist awareness.

(2) SUBALLOCATIONS OF FUNDS.—An agency that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out under this section.

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

(1) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means a formal program of instruction that—

(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists; and

(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues.

(2) MOTORCYCLIST AWARENESS.—The term 'motorcyclist awareness' means individual or collective awareness of—

(A) the presence of motorcycles on or near roadways; and

(B) safe driving practices that avoid injury to motorcyclists.

(3) MOTORCYCLIST AWARENESS PROGRAM.—The term 'motorcyclist awareness program' means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues.

(4) STATE.—The term 'State' has the same meaning such term has in section 101(a) of title 23, United States Code.

(h) MAXIMUM GRANT AMOUNT.—The amount of a grant made to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

(i) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction by the Secretary not to exceed 5 percent for the necessary costs of administering the provisions of this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section from the Highway Trust Fund (other than the Mass Transit Account) $6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for fiscal year 2009.

(k) APPLICABILITY OF TITLE 23.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.

**SEC. 2009. DRIVER FATIGUE.**

Section 402(a) of title 23, United States Code, is amended—

(1) by striking 'and' before '(6)'; and

(2) by inserting before the period the following: '; and (7) to reduce deaths and injuries resulting from persons driving motor vehicles while fatigued'.

**SEC. 2010. AUTHORIZATION OF APPROPRIATIONS FOR HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for carrying out section 403 of title 23, United States Code, $71,575,000 for fiscal year 2004, $71,424,000 for fiscal year 2005, and $75,000,000 for each of fiscal years 2006 through 2009.

(b) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2004 through 2009 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

**SEC. 2011. SAFETY DATA.**

(a) IN GENERAL.—Using funds made available to carry out section 403 of title 23, United States Code, for

fiscal years 2005 through 2009, the Secretary shall collect data and compile statistics on accidents involving motor vehicles being backed up that result in fatalities and injuries and that occur on public and nonpublic roads and residential and commercial driveways and parking facilities.

(b) REPORT.—Not later than January 1, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on accidents described in subsection (a), including the data collected and statistics compiled under subsection (a) and any recommendations regarding measures to be taken to reduce the number of such accidents and the resulting fatalities and injuries.

# TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

## SEC. 3001. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the 'Federal Public Transportation Act of 2005'.

(b) AMENDMENTS TO TITLE 49, UNITED STATES CODE.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be

made to a section or other provision of title 49, United States Code.

**SEC. 3002. POLICIES, FINDINGS, AND PURPOSES.**

(a) IN GENERAL.—Section 5301(a) is amended to read as follows:

'(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the interest of the United States to foster the development and revitalization of public transportation systems that—

'(1) maximize the safe, secure, and efficient mobility of individuals;

'(2) minimize environmental impacts; and

'(3) minimize transportation-related fuel consumption and reliance on foreign oil.'.

(b) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking 'an urban' and inserting 'a'; and

(2) by striking 'under sections 5309 and 5310 of this title'.

(c) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking 'mass' the first place it appears and inserting 'public'; and

(B) by striking 'public and private mass transportation companies' and inserting 'both public transportation companies and private companies engaged in public transportation';

(2) in paragraph (2)—

(A) by striking 'urban mass' and inserting 'public'; and

(B) by striking 'public and private mass transportation companies' and inserting 'both public transportation companies and private companies engaged in public transportation';

(3) in paragraph (3)—

(A) by striking 'urban mass' and inserting 'public'; and

(B) by striking 'public or private mass transportation companies' and inserting 'public transportation companies or private companies engaged in public transportation'; and

(4) in paragraph (5) by striking 'urban mass' and inserting 'public'.

**SEC. 3003. DEFINITIONS.**

(a) LEAD-IN.—Section 5302(a) is amended in the matter preceding paragraph (1) by striking 'In this chapter' and inserting 'Except as otherwise specifically provided, in this chapter'.

(b) CAPITAL PROJECT.—Section 5302(a)(1) is amended—

(1) in subparagraph (G) by inserting 'construction, renovation, and improvement of intercity bus stations and terminals,' before 'and the renovation and improvement of historic transportation facilities,';

(2) in subparagraph (G)(ii) by inserting '(other than an intercity bus station or terminal)' after 'commercial revenue-producing facility';

(3) by striking 'or' at the end of subparagraph (H);

(4) by striking the period at the end of subparagraph (I) and inserting a semicolon; and

(5) by adding at the end the following:

'(J) crime prevention and security—

'(i) including—

'(I) projects to refine and develop security and emergency response plans;

'(II) projects aimed at detecting chemical and biological agents in public transportation;

'(III) the conduct of emergency response drills with public transpor-

tation agencies and local first response agencies; and

'(IV) security training for public transportation employees; but

'(ii) excluding all expenses related to operations, other than such expenses incurred in conducting activities described in subclauses (III) and (IV);

'(K) establishment of a debt service reserve made up of deposits with a bondholders' trustee in a noninterest bearing account for the purpose of ensuring timely payment of principal and interest on bonds issued by a grant recipient for purposes of financing an eligible project under this chapter; or

'(L) mobility management—

'(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

'(ii) excluding operating public transportation services.'.

(c) INDIVIDUAL WITH A DISABILITY.—Section 5302(a)(5) is amended—

(1) by striking 'HANDICAPPED INDIVIDUAL' in the heading and inserting 'INDIVIDUAL WITH A DISABILITY'; and

(2) by striking 'handicapped individual' and inserting 'individual with a disability'.

(d) MASS TRANSPORTATION.—Section 5302(a)(7) is amended to read as follows:

'(7) MASS TRANSPORTATION.—The term ''mass transportation'' means public transportation.'.

(e) PUBLIC TRANSPORTATION.—Section 5302(a)(10) is amended to read as follows:

'(10) PUBLIC TRANSPORTATION.—The term ''public transportation'' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or sightseeing transportation.'.

(f) URBANIZED AREA.—Section 5302(a)(17) is amended to read as follows:

'(17) URBANIZED AREA.—The term ''urbanized area'' means an area encompassing a population of

at least 50,000 people that has been defined and designated in the latest decennial census as an urbanized area by the Secretary of Commerce.'.

(g) AUTHORITY TO MODIFY DEFINITION.—Section 5302(b) is amended—

(1) by striking 'HANDICAPPED INDIVIDUAL' in the heading and inserting 'INDIVIDUAL WITH A DISABILITY'; and

(2) by striking 'handicapped individual' and inserting 'individual with a disability'.

**SEC. 3004. METROPOLITAN PLANNING.**

Section 5303 is amended to read as follows:

**'§ 5303. Metropolitan planning**

'(a) IN GENERAL.—Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the metropolitan planning provisions of chapter 52.

'(b) CERTIFICATION.—

'(1) IN GENERAL.—The Secretary shall ensure and certify that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable laws of the United States. The Secretary may make the certification only if the organization is complying with chapter 52 and other applicable requirements

of laws of the United States and the organization and chief executive officer have approved a transportation improvement program for the area.

'(2) LIMITATION ON WITHHOLDING CERTIFICATION.—The Secretary may not withhold certification based on the policies and criteria a metropolitan planning organization or mass transportation grant recipient establishes under section 5306(a) for deciding the feasibility of private enterprise participation.'.

**SEC. 3005. STATEWIDE PLANNING.**

(a) IN GENERAL.—Section 5304 is amended to read as follows:

**'§ 5304. Statewide planning**

'Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the statewide planning provisions of chapter 52.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5304 and inserting the following:

'5304. Statewide planning.'.

**SEC. 3006. PLANNING PROGRAMS.**

(a) IN GENERAL.—Section 5305 is amended to read as follows:

**'§ 5305. Planning programs**

'(a) STATE DEFINED.—In this section the term ''State'' means a State of the United States, the District of Columbia, and Puerto Rico.

'(b) GENERAL AUTHORITY.—

'(1) ASSISTANCE.—Under criteria to be established by the Secretary, the Secretary may provide assistance for—

'(A) the development of transportation plans and programs;

'(B) planning, engineering, designing, and evaluating a public transportation project; and

'(C) for other technical studies.

'(2) GRANTS, AGREEMENTS, AND CONTRACTS.—The Secretary may provide assistance under paragraph (1)—

'(A) by making grants to States, authorities of States, metropolitan planning organizations, and local governmental authorities; or

'(B) by making agreements with other departments, agencies, and instrumentalities of the Government.

'(3) ELIGIBLE ACTIVITIES.—Activities eligible for assistance under paragraph (1) include the following:

1 ‘(A) Studies related to management, plan-
2 ning, operations, capital requirements, and eco-
3 nomic feasibility.
4 ‘(B) Evaluating previously financed
5 projects.
6 ‘(C) Peer reviews and exchanges of tech-
7 nical data, information, assistance, and related
8 activities in support of planning and environ-
9 mental analyses among metropolitan planning
10 organizations and other transportation plan-
11 ners.
12 ‘(D) Other similar and related activities
13 preliminary to and in preparation for con-
14 structing, acquiring, or improving the operation
15 of facilities and equipment.
16 ‘(c) PURPOSE.—To the extent practicable, the Sec-
17 retary shall ensure that amounts appropriated or made
18 available under section 5338 to carry out this section and
19 sections 5303 and 5304 are used to support balanced and
20 comprehensive transportation planning that considers the
21 relationships among land use and all transportation
22 modes, without regard to the programmatic source of the
23 planning amounts.
24 ‘(d) METROPOLITAN PLANNING PROGRAM.—
25 ‘(1) APPORTIONMENT TO STATES.—

1 ‘(A) IN GENERAL.—The Secretary shall
2 apportion 80 percent of the amounts made
3 available under subsection (g)(1) among the
4 States to carry out sections 5303 and 5306 in
5 the ratio that—
6 ‘(i) the population of urbanized areas
7 in each State, as shown by the latest avail-
8 able decennial census of population; bears
9 to
10 ‘(ii) the total population of urbanized
11 areas in all States, as shown by that cen-
12 sus.
13 ‘(B) MINIMUM APPORTIONMENT.—Not-
14 withstanding subparagraph (A), a State may
15 not receive less than 0.5 percent of the amount
16 apportioned under this paragraph.
17 ‘(2) ALLOCATION TO MPO’S.—Amounts appor-
18 tioned to a State under paragraph (1) shall be made
19 available within 30 days after allocation to metro-
20 politan planning organizations in the State des-
21 ignated under this section under a formula that—
22 ‘(A) considers population of urbanized
23 areas;

1 ‘(B) provides an appropriate distribution
2 for urbanized areas to carry out the cooperative
3 processes described in this section;
4 ‘(C) the State develops in cooperation with
5 the metropolitan planning organizations; and
6 ‘(D) the Secretary approves.
7 ‘(3) SUPPLEMENTAL AMOUNTS.—
8 ‘(A) IN GENERAL.—The Secretary shall
9 apportion 20 percent of the amounts made
10 available under subsection (g)(1) among the
11 States to supplement allocations made under
12 paragraph (1) for metropolitan planning organi-
13 zations.
14 ‘(B) FORMULA.—The Secretary shall ap-
15 portion amounts referred to in subparagraph
16 (A) under a formula that reflects the additional
17 cost of carrying out planning, programming,
18 and project selection responsibilities under sec-
19 tions 5303 and 5306 in certain urbanized
20 areas.
21 ‘(e) STATE PLANNING AND RESEARCH PROGRAM.—
22 ‘(1) APPORTIONMENT TO STATES.—
23 ‘(A) IN GENERAL.—The Secretary shall
24 apportion the amounts made available under
25 subsection (g)(2) among the States for grants

and contracts to carry out sections 5303 through 5306, 5312, 5315, and 5322 in the ratio that—

'(i) the population of urbanized areas in each State, as shown by the latest available decennial census; bears to

'(ii) the population of urbanized areas in all States, as shown by that census.

'(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

'(2) SUPPLEMENTAL AMOUNTS.—A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts made available under subsection (d).

'(f) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government not to require a State or local match.

'(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section

under section 5338(c) for fiscal years 2004 through 2009—

'(1) 82.72 percent shall be available for the metropolitan planning program under subsection (d); and

'(2) 17.28 percent shall be available to carry out subsection (e).

'(h) AVAILABILITY OF FUNDS.—Funds apportioned under this section in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned that remain unobligated at the end of that period shall be reapportioned among the States.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5305 and inserting the following:

'5305. Planning programs.'.

**SEC. 3007. PRIVATE ENTERPRISE PARTICIPATION.**

(a) SECTION HEADING.—Section 5306 is amended by striking the section heading and inserting the following:

**'§ 5306. Private enterprise participation in planning; relationship to other limitations'**.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5306 and inserting the following:

'5306. Private enterprise participation in planning; relationship to other limitations.'.

**SEC. 3008. URBANIZED AREA FORMULA GRANTS.**

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h) and (k); and

(2) by redesignating subsections (i), (j), (l), (m), and (n) as subsections (h), (i), (j), (k), and (l), respectively.

(b) DEFINITIONS.—Section 5307(a)(2)(A) is amended—

(1) by striking 'a person' and inserting 'an entity'; and

(2) by striking 'section 5305(a) of this title' and inserting 'chapter 52'.

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

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

'(1) GRANTS.—The Secretary may make grants under this section for—

'(A) capital projects and associated capital maintenance items;

'(B) planning;

'(C) transit enhancements; and

'(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000.';

(2) in the heading to paragraph (2) by striking 'FISCAL YEARS 2003 AND 2004 AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005' and inserting 'FISCAL YEARS 2003 THROUGH 2005';

(3) in paragraph (2)(A) by striking 'fiscal year 2003' and all that follows through '2005' and inserting 'fiscal years 2003, 2004, and 2005,';

(4) in paragraph (3) by striking 'section 5305(a) of this title' and inserting 'chapter 52'; and

(5) in paragraph (3)(A) by striking 'section 5303 of this title' and inserting 'chapter 52'.

(d) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A) by inserting ', including safety and security aspects of the program' after 'program';

(2) in subparagraph (H) by striking 'sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title' and inserting 'subsections (a) and (d) of section 5301 and sections 5303 through 5306';

(3) in subparagraph (I) by striking 'and' at the end; and

(4) by adding at the end the following:

'(K) in the case of a recipient for an urbanized area with a population of at least 200,000—

'(i) will expend one percent of the amount the recipient receives each fiscal year under this section for projects for transit enhancements, as defined in section 5302(a); and

'(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and'.

(e) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended to read as follows:

'(e) GOVERNMENT'S SHARE OF COSTS.—

'(1) CAPITAL PROJECTS.—A grant for a capital project (including associated capital maintenance items) under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

'(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

1 '(3) REMAINDER.—The remainder of the net
2 project cost shall be provided—
3 '(A) in cash from sources other than
4 amounts of the Government or revenues from
5 providing public transportation (excluding reve-
6 nues derived from the sale of advertising and
7 concessions);
8 '(B) from an undistributed cash surplus, a
9 replacement or depreciation cash fund or re-
10 serve, or new capital; and
11 '(C) from amounts received under a service
12 agreement with a State or local social service
13 agency or private social service organization.'.
14 (f) REVIEWS, AUDITS, AND EVALUATIONS.—Section
15 5307(h)(1)(A) (as redesignated by subsection (a) of this
16 section) is amended by striking 'shall' and inserting 'may'.
17 (g) RELATIONSHIP TO OTHER LAWS.—Section
18 5307(l) (as redesignated by subsection (a) of this section)
19 is amended—
20 (1) by striking paragraph (1);
21 (2) by redesignating paragraph (2) as para-
22 graph (1);
23 (3) by inserting 'This chapter.—' before 'Sec-
24 tions 5302';
25 (4) by adding at the end the following:

'(2) CHAPTER 15 OF TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5 any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.'; and

(5) by aligning the left margin of paragraph (1) (as so redesignated) with paragraph (2) (as added by paragraph (4) of this subsection).

(h) TREATMENT.—At the end of section 5307, add the following:

'(m) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.'.

**SEC. 3009. CLEAN FUELS FORMULA GRANT PROGRAM.**

Section 5308 is amended to read as follows:

**'§ 5308. Clean fuels formula grant program**

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

'(1) CLEAN FUEL BUS.—The term ''clean fuel bus'' means a passenger vehicle used to provide public transportation that—

'(A) is powered by—

'(i) compressed natural gas;

1 ‘(ii) liquefied natural gas;
2 ‘(iii) biodiesel fuels;
3 ‘(iv) batteries;
4 ‘(v) alcohol-based fuels;
5 ‘(vi) hybrid electric;
6 ‘(vii) fuel cell;
7 ‘(viii) clean diesel, to the extent al-
8 lowed under this section; or
9 ‘(ix) other low or zero emissions tech-
10 nology; and
11 ‘(B) the Administrator of the Environ-
12 mental Protection Agency has certified suffi-
13 ciently reduces harmful emissions.
14 ‘(2) ELIGIBLE PROJECT.—The term ‘‘eligible
15 project’’—
16 ‘(A) means a project in a nonattainment or
17 maintenance area described in paragraph
18 (4)(A) for—
19 ‘(i) purchasing or leasing clean fuel
20 buses, including buses that employ a light-
21 weight composite primary structure;
22 ‘(ii) constructing or leasing clean fuel
23 buses or electrical recharging facilities and
24 related equipment for such buses; or

1 ‘(iii) improving existing public trans-
2 portation facilities to accommodate clean
3 fuel buses; and
4 ‘(B) at the discretion of the Secretary, may
5 include a project located in a nonattainment or
6 maintenance area described in paragraph
7 (3)(A) relating to clean fuel, biodiesel, hybrid
8 electric, or zero emissions technology buses that
9 exhibit equivalent or superior emissions reduc-
10 tions to existing clean fuel or hybrid electric
11 technologies.
12 ‘(3) MAINTENANCE AREA.—The term ‘‘mainte-
13 nance area’’ has the meaning such term has under
14 section 101 of title 23.
15 ‘(4) RECIPIENT.—
16 ‘(A) IN GENERAL.—The term ‘‘recipient’’
17 means a designated recipient (as defined in sec-
18 tion 5307(a)(2)) for an area that, and a recipi-
19 ent for an urbanized area with a population of
20 less than 200,000 that—
21 ‘(i) is designated as a nonattainment
22 area for ozone or carbon monoxide under
23 section 107(d) of the Clean Air Act (42
24 U.S.C. 7407(d)); or

1 ‘(ii) is a maintenance area for ozone
2 or carbon monoxide.
3 ‘(B) SMALLER URBANIZED AREAS.—In the
4 case of an urbanized area with a population of
5 less than 200,000, the State in which the area
6 is located shall act as the recipient for the area
7 under this section.
8 ‘(b) AUTHORITY.—The Secretary shall make grants
9 in accordance with this section to recipients to finance eli-
10 gible projects.
11 ‘(c) APPORTIONMENT OF FUNDS.—
12 ‘(1) FORMULA.—The Secretary shall apportion
13 among recipients amounts made available to carry
14 out this section for a fiscal year. Of such amounts—
15 ‘(A) two-thirds shall be apportioned to re-
16 cipients serving urbanized areas with a popu-
17 lation of at least 1,000,000, of which—
18 ‘(i) 50 percent shall be apportioned so
19 that each such recipient receives a grant
20 under this section in an amount equal to
21 the ratio that—
22 ‘(I) the number of vehicles in the
23 bus fleet of the recipient, weighted by
24 severity of nonattainment for the area
25 served by the recipient; bears to

1 ‘(II) the total number of vehicles
2 in the bus fleets of all such recipients,
3 weighted by severity of nonattainment
4 for all areas served by such recipients;
5 and
6 ‘(ii) 50 percent shall be apportioned
7 so that each such recipient receives a grant
8 under this section in an amount equal to
9 the ratio that—
10 ‘(I) the number of bus passenger
11 miles (as defined in section 5336(c))
12 of the recipient, weighted by severity
13 of nonattainment of the area served
14 by the recipient; bears to
15 ‘(II) the total number of bus pas-
16 senger miles (as defined in section
17 5336(c)) of all such recipients,
18 weighted by severity of nonattainment
19 of all areas served by such recipients;
20 and
21 ‘(B) one-third shall be apportioned to re-
22 cipients serving urbanized areas with a popu-
23 lation of less than 1,000,000, of which—
24 ‘(i) 50 percent shall be apportioned so
25 that each such recipient receives a grant

under this section in an amount equal to the ratio that—

'(I) the number of vehicles in the bus fleet of the recipient, weighted by severity of nonattainment for the area served by the recipient; bears to

'(II) the total number of vehicles in the bus fleets of all such recipients, weighted by severity of nonattainment for all areas served by such recipients; and

'(ii) 50 percent shall be apportioned so that each such recipient receives a grant under this section in an amount equal to the ratio that—

'(I) the number of bus passenger miles (as defined in section 5336(c)) of the recipient, weighted by severity of nonattainment of the area served by the recipient; bears to

'(II) the total number of bus passenger miles (as defined in section 5336(c)) of all such recipients, weighted by severity of nonattainment of all areas served by such recipients.

1 '(2) WEIGHTING OF SEVERITY OF NONATTAIN-
2 MENT.—
3 '(A) IN GENERAL.—For purposes of para-
4 graph (1), subject to subparagraph (B), the
5 number of buses in the bus fleet, or the number
6 of passenger miles, shall be multiplied by a fac-
7 tor of—
8 '(i) 1.0 if, at the time of the appor-
9 tionment, the area is a maintenance area
10 for ozone or carbon monoxide;
11 '(ii) 1.1 if, at the time of the appor-
12 tionment, the area is classified as a mar-
13 ginal ozone nonattainment area under sub-
14 part 2 of part D of title I of the Clean Air
15 Act (42 U.S.C. 7511 et seq.);
16 '(iii) 1.2 if, at the time of the appor-
17 tionment, the area is classified as a mod-
18 erate ozone nonattainment area under sub-
19 part 2 of such part;
20 '(iv) 1.3 if, at the time of the appor-
21 tionment, the area is classified as a serious
22 ozone nonattainment area under subpart 2
23 of such part;
24 '(v) 1.4 if, at the time of the appor-
25 tionment, the area is classified as a severe

ozone nonattainment area under subpart 2 of such part; or

'(vi) 1.5 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under subpart 2 of such part.

'(B) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone under subpart 2 of such part, the area was also classified under subpart 3 of such part as a nonattainment area for carbon monoxide, the weighted nonattainment or maintenance area fleet and passenger miles for the recipient, as calculated under subparagraph (A), shall be further multiplied by a factor of 1.2.

'(d) CLEAN DIESEL BUSES.—Not more than 35 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

'(e) GRANT REQUIREMENTS.—

'(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

'(2) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.

'(f) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

'(1) shall remain available to a project for 1 year after the fiscal year for which the amount is made available or appropriated; and

'(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.'.

**SEC. 3010. CAPITAL INVESTMENT GRANTS.**

(a) SECTION HEADING.—Section 5309 is amended by striking the section heading and inserting the following: **'§ 5309. Capital investment grants'**.

(b) LOANS FOR REAL PROPERTY INTERESTS.—Section 5309 is amended—

(1) in subsections (a)(1) and (a)(2) by striking 'and loans';

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(c) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—Section 5309(b) (as redesignated by subsection (b) of this section) is amended—

(1) by striking 'Except as provided in subsections (b)(2) and (e) of the section, the' and inserting 'The'; and

(2) by striking 'or loan'.

(d) CRITERIA AND FUNDING.—Section 5309 is amended by striking subsections (e) through (p) and inserting the following:

'(e) MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

'(1) FULL FUNDING GRANT AGREEMENT.—A major new fixed guideway capital project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

'(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Sec-

retary, based upon evaluations and considerations set forth in paragraph (3), determines that the proposal is—

'(A) based on the results of an alternatives analysis and preliminary engineering;

'(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, and transit supportive policies, and existing land use; and

'(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension.

'(3) CONSIDERATIONS.—

'(A) RESULTS OF ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a proposed project for purposes of making the finding required by paragraph (2)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

'(B) PROJECT JUSTIFICATION.—In evaluating a proposed project for purposes of making

the finding required by paragraph (2)(B), the Secretary shall—

'(i) consider the direct and indirect costs of relevant alternatives;

'(ii) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed and recognize reductions in local infrastructure costs achieved through compact land use development;

'(iii) identify and consider public transportation supportive existing land use policies and future patterns and the cost of suburban sprawl;

'(iv) consider the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

'(v) consider population density and current transit ridership in the corridor;

'(vi) consider the technical capability of the grant recipient to construct the project;

1 ‘(vii) adjust the project justification to
2 reflect differences in local land, construc-
3 tion, and operating costs; and
4 ‘(viii) consider other factors that the
5 Secretary determines appropriate to carry
6 out this chapter.
7 ‘(C) LOCAL FINANCIAL COMMITMENT.—In
8 evaluating a proposed project under paragraph
9 (2)(C), the Secretary shall require that—
10 ‘(i) the proposed project plan provides
11 for the availability of contingency amounts
12 that the Secretary determines to be reason-
13 able to cover unanticipated cost increases;
14 ‘(ii) each proposed local source of cap-
15 ital and operating financing is stable, reli-
16 able, and available within the proposed
17 project timetable; and
18 ‘(iii) local resources are available to
19 operate the overall proposed public trans-
20 portation system (including essential feeder
21 bus and other services necessary to achieve
22 the projected ridership levels) without re-
23 quiring a reduction in existing public
24 transportation services to operate the pro-
25 posed project.

1 ‘(D) ASSESSMENT OF LOCAL FINANC-
2 ING.—In assessing the stability, reliability, and
3 availability of proposed sources of local financ-
4 ing under paragraph (2)(C), the Secretary shall
5 consider—
6 ‘(i) existing grant commitments;
7 ‘(ii) the degree to which financing
8 sources are dedicated to the purposes pro-
9 posed;
10 ‘(iii) any debt obligation that exists or
11 is proposed by the recipient for the pro-
12 posed project or other public transpor-
13 tation purpose; and
14 ‘(iv) the extent to which the project
15 has a local financial commitment that ex-
16 ceeds the required non-Federal share of
17 the cost of the project.
18 ‘(4) EVALUATION AND RATING OF PROJECTS.—
19 A proposed project under this subsection may ad-
20 vance from alternatives analysis to preliminary engi-
21 neering, and may advance from preliminary engi-
22 neering to final design and construction, only if the
23 Secretary finds that the project meets the require-
24 ments of this section and there is a reasonable likeli-
25 hood that the project will continue to meet such re-

quirements. In making the findings, the Secretary shall evaluate and rate the project as ''highly recommended'', ''recommended'', or ''not recommended'' based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

'(5) MAJOR DEFINED.—In this section, the term ''major'', as used with respect to a new fixed guideway capital project, means the Federal assistance provided or to be provided under this section for the project is $75,000,000 or more.

'(d) CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—

'(1) IN GENERAL.—Subject to the provisions of this subsection, if the Federal assistance provided or to be provided under this section with respect to a new fixed guideway capital project is less than $75,000,000, and not less than $25,000,000, the project shall be subject to the requirements in this subsection.

1 ‘(2) SELECTION CRITERIA.—The Secretary may
2 provide Federal assistance under this subsection
3 with respect to a proposed project only if the Sec-
4 retary finds that the project is—
5 ‘(A) based on the results of planning and
6 alternatives analysis;
7 ‘(B) justified based on a review of its pub-
8 lic transportation supportive land use policies,
9 cost effectiveness, and effect on local economic
10 development; and
11 ‘(C) supported by an acceptable degree of
12 local financial commitment.
13 ‘(3) PLANNING AND ALTERNATIVES.—In evalu-
14 ating a project under paragraph (2)(A), the Sec-
15 retary shall analyze and consider the results of plan-
16 ning and alternatives analysis for the project.
17 ‘(4) PROJECT JUSTIFICATION.—For purposes of
18 making the finding under paragraph (2)(B), the
19 Secretary shall—
20 ‘(A) determine the degree to which the
21 project is consistent with local land use policies
22 and is likely to achieve local developmental
23 goals;

1 ‘(B) determine the cost effectiveness of the
2 project at the time of the initiation of revenue
3 service;
4 ‘(C) determine the degree to which the
5 project will have a positive effect on local eco-
6 nomic development;
7 ‘(D) consider the reliability of the forecasts
8 of costs and ridership associated with the
9 project; and
10 ‘(E) consider other factors that the Sec-
11 retary determines appropriate to carry out this
12 subsection.
13 ‘(5) LOCAL FINANCIAL COMMITMENT.—For
14 purposes of paragraph (2)(C), the Secretary shall re-
15 quire that each proposed local source of capital and
16 operating financing is stable, reliable, and available
17 within the proposed project timetable.
18 ‘(6) ADVANCEMENT OF PROJECT TO DEVELOP-
19 MENT AND CONSTRUCTION.—
20 ‘(A) GENERAL RULE.—A proposed project
21 under this subsection may advance from plan-
22 ning and alternatives analysis to project devel-
23 opment and construction only if—
24 ‘(i) the Secretary finds that the
25 project meets the requirements of this sub-

section and there is a reasonable likelihood that the project will continue to meet such requirements; and

'(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

'(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as ''recommended'' or ''not recommended'' based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection.

'(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Sec-

retary to provide funding for the project in future fiscal years.

'(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as ''recommended'' under this subsection.

'(9) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.

'(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term ''fixed guideway capital project'' includes a corridor-based public transportation bus capital project if the majority of the project's corridor right-of-way is dedicated alignment for exclusive use by public transportation vehicles for all or part of the day.

'(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (c)

and (d) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

'(f) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

'(1) LETTERS OF INTENT.—

'(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

'(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.

'(2) FULL FUNDING GRANT AGREEMENTS.—

1 ‘(A) TERMS.—The Secretary may make a
2 full funding grant agreement with an applicant.
3 The agreement shall—
4 ‘(i) establish the terms of participa-
5 tion by the Government in a project under
6 this section;
7 ‘(ii) establish the maximum amount of
8 Government financial assistance for the
9 project;
10 ‘(iii) cover the period of time for com-
11 pleting the project, including a period ex-
12 tending beyond the period of an authoriza-
13 tion; and
14 ‘(iv) make timely and efficient man-
15 agement of the project easier according to
16 the law of the United States.
17 ‘(B) SPECIAL FINANCIAL RULES.—
18 ‘(i) IN GENERAL.—An agreement
19 under this paragraph obligates an amount
20 of available budget authority specified in
21 law and may include a commitment, con-
22 tingent on amounts to be specified in law
23 in advance for commitments under this
24 paragraph, to obligate an additional

amount from future available budget authority specified in law.

'(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

'(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

'(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

1 ‘(3) EARLY SYSTEM WORK AGREEMENTS.—
2 ‘(A) CONDITIONS.—The Secretary may
3 make an early systems work agreement with an
4 applicant if a record of decision under the Na-
5 tional Environmental Policy Act of 1969 (42
6 U.S.C. 4321 et seq.) has been issued on the
7 project and the Secretary finds there is reason
8 to believe—
9 ‘(i) a full funding grant agreement for
10 the project will be made; and
11 ‘(ii) the terms of the work agreement
12 will promote ultimate completion of the
13 project more rapidly and at less cost.
14 ‘(B) CONTENTS.—
15 ‘(i) IN GENERAL.—A work agreement
16 under this paragraph obligates an amount
17 of available budget authority specified in
18 law and shall provide for reimbursement of
19 preliminary costs of carrying out the
20 project, including land acquisition, timely
21 procurement of system elements for which
22 specifications are decided, and other activi-
23 ties the Secretary decides are appropriate
24 to make efficient, long-term project man-
25 agement easier.

1 '(ii) PERIOD COVERED.—A work
2 agreement under this paragraph shall
3 cover the period of time the Secretary con-
4 siders appropriate. The period may extend
5 beyond the period of current authorization.
6 '(iii) INTEREST AND OTHER FINANC-
7 ING COSTS.—Interest and other financing
8 costs of efficiently carrying out the work
9 agreement within a reasonable time are a
10 cost of carrying out the agreement, except
11 that eligible costs may not be more than
12 the cost of the most favorable financing
13 terms reasonably available for the project
14 at the time of borrowing. The applicant
15 shall certify, in a way satisfactory to the
16 Secretary, that the applicant has shown
17 reasonable diligence in seeking the most
18 favorable financing terms.
19 '(iv) FAILURE TO CARRY OUT
20 PROJECT.—If an applicant does not carry
21 out the project for reasons within the con-
22 trol of the applicant, the applicant shall
23 repay all Government payments made
24 under the work agreement plus reasonable

interest and penalty charges the Secretary establishes in the agreement.

'(4) LIMITATION ON AMOUNTS.—

'(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(b) and 5338(h)(1) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(B) and (m)(2)(B)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

1 ‘(B) OTHER CONTINGENT COMMITMENT
2 AUTHORITY.—The total estimated amount of
3 future obligations of the Government and con-
4 tingent commitments to incur obligations cov-
5 ered by all project construction grant agree-
6 ments and early system work agreements under
7 this subsection for small capital projects de-
8 scribed in subsection (d) may be not more than
9 the greater of the amount allocated under sub-
10 section (m)(2)(A) for such projects or an
11 amount equivalent to the last fiscal year of
12 funding allocated under subsection (m)(2)(A)
13 for such projects, less an amount the Secretary
14 reasonably estimates is necessary for grants
15 under this section for those of such projects
16 that are not covered by an agreement. The total
17 amount covered by new contingent commit-
18 ments included in project construction grant
19 agreements and early systems work agreements
20 for such projects may be not more than a limi-
21 tation specified in law.
22 ‘(C) INCLUSION OF CERTAIN COMMIT-
23 MENTS.—Future obligations of the Government
24 and contingent commitments made against the
25 contingent commitment authority under section

3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125) for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.

'(D) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

'(5) NOTIFICATION OF CONGRESS.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

'(g) GOVERNMENT'S SHARE OF NET PROJECT COST.—

1 '(1) FEDERAL SHARE.—Based on engineering
2 studies, studies of economic feasibility, and informa-
3 tion on the expected use of equipment or facilities,
4 the Secretary shall estimate the net project cost. A
5 grant for the project shall be for 80 percent of the
6 net capital project cost, unless the grant recipient
7 requests a lower grant percentage.
8 '(2) REMAINDER OF NET PROJECT COST.—The
9 remainder of net project costs shall be provided from
10 an undistributed cash surplus, a replacement or de-
11 preciation cash fund or reserve, or new capital.
12 '(3) LIMITATION ON STATUTORY CONSTRUC-
13 TION.—Nothing in this section, including paragraph
14 (1) and subsections (c)(3)(D)(iv) and (c)(4), shall be
15 construed as authorizing the Secretary to require a
16 non-Federal financial commitment for a project that
17 is more than 20 percent of the net capital project
18 cost.
19 '(4) SPECIAL RULE FOR ROLLING STOCK
20 COSTS.—In addition to amounts allowed pursuant to
21 paragraph (1), a planned extension to a fixed guide-
22 way system may include the cost of rolling stock pre-
23 viously purchased if the applicant satisfies the Sec-
24 retary that only amounts other than amounts of the
25 Government were used and that the purchase was

1 made for use on the extension. A refund or reduc-
2 tion of the remainder may be made only if a refund
3 of a proportional amount of the grant of the Govern-
4 ment is made at the same time.

5 '(5) LIMITATION ON APPLICABILITY.—This sub-
6 section does not apply to projects for which the Sec-
7 retary has entered into a full funding grant agree-
8 ment before the date of enactment of the Federal
9 Public Transportation Act of 2005.

10 '(h) FISCAL CAPACITY CONSIDERATIONS.—If the
11 Secretary gives priority consideration to financing projects
12 that include more than the non-Government share re-
13 quired under subsection (g), the Secretary shall give equal
14 consideration to differences in the fiscal capacity of State
15 and local governments.

16 '(i) REPORTS ON NEW STARTS.—

17 '(1) ANNUAL DOT REPORT.—Not later than the
18 first Monday in February of each year, the Sec-
19 retary shall submit to the Committee on Transpor-
20 tation and Infrastructure of the House of Represent-
21 atives and the Committee on Banking, Housing, and
22 Urban Affairs of the Senate a report that includes—

23 '(A) a proposal of allocations of amounts
24 to be available to finance grants for new fixed

1 guideway capital projects among applicants for
2 these amounts;
3 '(B) evaluations and ratings, as required
4 under subsection (c), for each such project that
5 is authorized by the Federal Public Transpor-
6 tation Act of 2005; and
7 '(C) recommendations of such projects for
8 funding based on the evaluations and ratings
9 and on existing commitments and anticipated
10 funding levels for the next 3 fiscal years and for
11 the next 10 fiscal years based on information
12 currently available to the Secretary.
13 '(2) ANNUAL GAO REVIEW.—The Comptroller
14 General shall—
15 '(A) conduct an annual review of—
16 '(i) the processes and procedures for
17 evaluating, rating, and recommending new
18 fixed guideway capital projects; and
19 '(ii) the Secretary's implementation of
20 such processes and procedures; and
21 '(B) report to Congress on the results of
22 such review by May 31 of each year.
23 '(j) UNDERTAKING PROJECTS IN ADVANCE.—
24 '(1) IN GENERAL.—The Secretary may pay the
25 Government's share of the net capital project cost to

a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

'(A) the State or local governmental authority applies for the payment;

'(B) the Secretary approves the payment; and

'(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

'(2) FINANCING COSTS.—

'(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

'(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

1 ‘(C) CERTIFICATION.—The applicant shall
2 certify, in a manner satisfactory to the Sec-
3 retary, that the applicant has shown reasonable
4 diligence in seeking the most favorable financial
5 terms.
6 ‘(3) CAPITAL PROJECT COST INDICES.—The
7 Secretary shall consider changes in capital project
8 cost indices when determining the estimated cost
9 under paragraph (2).
10 ‘(k) BUS AND BUS FACILITIES PROJECTS.—In mak-
11 ing grants under subsections (m)(1)(C) and
12 (m)(2)(B)(iii), the Secretary shall consider the age of
13 buses, bus fleets, related equipment, and bus-related facili-
14 ties.
15 ‘(l) AVAILABILITY OF AMOUNTS.—An amount made
16 available or appropriated under section 5338(b), 5338(g),
17 or 5338(h) for replacement, rehabilitation, and purchase
18 of buses and related equipment and construction of bus-
19 related facilities or for new fixed guideway capital projects
20 shall remain available for 3 fiscal years, including the fis-
21 cal year in which the amount is made available or appro-
22 priated. Any of such amounts that are unobligated at the
23 end of the 3-fiscal-year period shall be deobligated and
24 may be used by the Secretary for any purpose under this
25 section.

1 ‘(m) ALLOCATING AMOUNTS.—
2 ‘(1) FISCAL YEAR 2004.—The total amount of
3 funds made available by or appropriated under sec-
4 tion 5338(b) for fiscal year 2004 shall be allocated
5 as follows:
6 ‘(A) 40 percent for fixed guideway mod-
7 ernization;
8 ‘(B) 40 percent for major new fixed guide-
9 way capital projects; and
10 ‘(C) 20 percent to replace, rehabilitate,
11 and purchase buses and related equipment and
12 to construct bus-related facilities.
13 ‘(2) FISCAL YEARS 2005–2009.—The total
14 amount of funds made available by section 5338(g),
15 and appropriated under section 5338(h), for each of
16 fiscal years 2005 through 2009 shall be allocated in
17 the fiscal year as follows:
18 ‘(A) SMALL CAPITAL PROJECTS.—From
19 funds appropriated under section 5338(h) for
20 new fixed guideway capital projects described in
21 subsection (d)—
22 ‘(i) $135,000,000 in fiscal year 2005;
23 ‘(ii) $175,000,000 in fiscal year 2006;
24 ‘(iii) $200,000,000 in fiscal year
25 2007;

'(iv) $200,000,000 in fiscal year 2008; and

'(v) $225,000,000 in fiscal year 2009.

'(B) REMAINDER.—After the allocation under subparagraph (A), the remainder of such total amount shall be allocated as follows:

'(i) 40 percent for fixed guideway modernization, to be derived from funds made available under section 5338(g).

'(ii) 40 percent for major new fixed capital guideway projects, to be derived from funds appropriated under section 5338(h).

'(iii) 20 percent to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, to be derived from funds made available under section 5338(g).

'(3) FUNDING FOR FERRY BOAT SYSTEMS.—Of the amounts made available under paragraphs (1)(B) and (2)(B)(ii), $10,400,000 shall be available in each of fiscal years 2004 through 2009 for new fixed guideway capital projects in Alaska or Hawaii that are for ferry boats or ferry terminal facilities or that are for approaches to ferry terminal facilities.

Of the amounts made available under paragraphs (1)(C) and (2)(B)(iii), $10,000,000 shall be available in each of fiscal years 2005 through 2009 for ferry boats or ferry terminal facilities.

'(4) FUEL CELL BUS PROGRAM.—Of the amounts made available under subsections (m)(1)(C) and (m)(2)(B)(iii) for a fiscal year, the following amounts shall be set aside for the national fuel cell bus technology development program under section 3039 of the Federal Public Transportation Act of 2005:

'(A) $4,849,950 for fiscal year 2004.

'(B) $10,000,000 for fiscal year 2005.

'(C) $11,000,000 for fiscal year 2006.

'(D) $12,000,000 for fiscal year 2007.

'(E) $13,000,000 for fiscal year 2008.

'(F) $14,000,000 for fiscal year 2009.

'(n) NEW FIXED GUIDEWAY CAPITAL PROJECT DEFINED.—In this section, the term ''new fixed guideway capital project'' means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.'.

(e) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5309 and inserting the following:

'5309. Capital investment grants.'.

(2) SECTION 5328.—Section 5328(a) is amended—

(A) in paragraph (2) by striking '5309(e)' and inserting '5309(c)'; and

(B) in paragraph (4) by striking 'under section 5309(o)(1)' and inserting 'under section 5309(i)(1)'.

**SEC. 3011. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.**

(a) IN GENERAL.—Section 5310 is amended—

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

**'§ 5310. Formula grants for special needs of elderly individuals and individuals with disabilities'**;

(2) by striking subsections (a) through (g) and inserting the following:

'(a) GENERAL AUTHORITY.—

'(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital

1 projects, and operating costs associated with public
2 transportation capital projects, planned, designed,
3 and carried out to meet the special needs of elderly
4 individuals and individuals with disabilities.
5 '(2) SUBRECIPIENTS.—A State that receives a
6 grant under this section may allocate the amounts of
7 the grant to—
8 '(A) a private nonprofit organization if the
9 public transportation service provided under
10 paragraph (1) is unavailable, insufficient, or in-
11 appropriate; or
12 '(B) a governmental authority that—
13 '(i) is approved by the State to coordi-
14 nate services for elderly individuals and in-
15 dividuals with disabilities; or
16 '(ii) certifies that there are not any
17 nonprofit organizations readily available in
18 the area to provide the services described
19 under paragraph (1).
20 '(3) ACQUIRING PUBLIC TRANSPORTATION
21 SERVICES.—A public transportation capital project
22 under this section may include acquisition of public
23 transportation services as an eligible capital expense.
24 '(4) ADMINISTRATIVE EXPENSES.—A State or
25 local governmental authority may use not more than

1 10 percent of the amounts apportioned to the State
2 under this section to administer, plan, and provide
3 technical assistance for a project funded under this
4 section.
5 '(b) APPORTIONMENT AND TRANSFERS.—
6 '(1) APPORTIONMENT.—
7 '(A) FORMULA.—The Secretary shall ap-
8 portion amounts made available to carry out
9 this section under a formula the Secretary ad-
10 ministers that considers the number of elderly
11 individuals and individuals with disabilities in
12 each State.
13 '(B) LOW DENSITY ADJUSTMENT.—In ad-
14 ministering the apportionment formula under
15 subparagraph (A)—
16 '(i) in the case of a State with a popu-
17 lation density of 10 or fewer persons per
18 square mile, the Secretary shall multiply
19 by a factor of 2 the number of elderly indi-
20 viduals and individuals with disabilities in
21 the State (as determined using the most
22 recent decennial United States Census);
23 and
24 '(ii) in the case of a State with a pop-
25 ulation density of more than 10 but equal

to or fewer than 30 persons per square mile, the Secretary shall multiply by a factor of 1.25 the number of elderly individuals and individuals with disabilities in the State (as determined using the most recent decennial United States Census).

'(2) TRANSFERS.—Any State's apportionment remaining available for obligation at the beginning of the 90-day period before the end of the period of availability of the apportionment is available to the State for transfer to supplement amounts apportioned to the State under section 5311(c) or 5336(a)(1), or both. Any funds transferred pursuant to this paragraph shall be made available only for eligible projects as described in this section.

'(c) GOVERNMENT'S SHARE OF COSTS.—

'(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary; except that in the case of a State described in section 120(b)(1) of title 23, such percentage shall be increased in accordance with such section.

'(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not

1 exceed 50 percent of the net operating costs of the
2 project, as determined by the Secretary.
3 '(3) REMAINDER.—The remainder of the net
4 project costs—
5 '(A) may be provided from an undistrib-
6 uted cash surplus, a replacement or depreciation
7 cash fund or reserve, a service agreement
8 with a State or local social service agency or a
9 private social service organization, or new cap-
10 ital; and
11 '(B) may be derived from amounts appro-
12 priated to or made available to a department or
13 agency of the Government (other than the De-
14 partment of Transportation) that are eligible to
15 be expended for transportation.
16 '(4) USE OF CERTAIN FUNDS.—For purposes of
17 paragraph (3)(B), the prohibitions on the use of
18 funds for matching requirements under section
19 403(a)(5)(C)(vii) of the Social Security Act (42
20 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
21 or State funds to be used for transportation pur-
22 poses.
23 '(d) GRANT REQUIREMENTS.—
24 '(1) IN GENERAL.—A grant under this section
25 shall be subject to all requirements of a grant under

section 5307. A grant to a subrecipient under this section shall be subject to such requirements to the extent the Secretary considers appropriate.

'(2) COORDINATION WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336(a)(1) pursuant to subsection (b)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

'(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify that—

'(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

'(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

'(4) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

'(e) STATE PROGRAM.—

'(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.

'(2) SUBMISSION AND APPROVAL.—A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

'(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.'; and

(3) by redesignating subsections (h) through (j) as subsections (g) through (i), respectively.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5310 and inserting the following:

'5310. Formula grants for special needs of elderly individuals and individuals with disabilities.'.

**SEC. 3012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

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

'(1) RECIPIENT.—The term ''recipient'' means a State that receives a Federal transit program grant directly from the Government.

'(2) SUBRECIPIENT.—The term ''subrecipient'' means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a Federal transit program grant indirectly through a recipient.'.

(b) GENERAL AUTHORITY.—Section 5311(b) is amended to read as follows:

'(b) GENERAL AUTHORITY.—

'(1) GRANTS.—Except as provided in paragraph (2), the Secretary may make grants to other than urbanized areas under this section for the following:

'(A) Public transportation capital projects.

'(B) Operating costs of equipment and facilities for use in public transportation.

'(C) Acquisition of public transportation services, including service agreements with private providers of public transportation services.

1 '(2) STATE PROGRAM.—

2 '(A) IN GENERAL.—Amounts made avail-
3 able to carry out this section shall be used for
4 projects included in a State program for public
5 transportation projects, including service agree-
6 ments with private providers of public transpor-
7 tation.

8 '(B) SUBMISSION.—The program shall be
9 submitted annually to the Secretary for ap-
10 proval.

11 '(C) APPROVAL.—The Secretary may ap-
12 prove the program only if the Secretary finds
13 that the program provides a fair distribution of
14 amounts in the State, including Indian reserva-
15 tions, and the maximum feasible coordination of
16 public transportation service assisted under this
17 section with transportation service assisted by
18 other Federal sources.

19 '(3) RURAL TRANSPORTATION ASSISTANCE PRO-
20 GRAM.—

21 '(A) IN GENERAL.—The Secretary shall
22 carry out a rural transportation assistance pro-
23 gram in other than urbanized areas.

24 '(B) GRANTS AND CONTRACTS.—In car-
25 rying out this paragraph, the Secretary may use

not more than 2 percent of the amount made available to carry out this section to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

'(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.'.

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

'(c) APPORTIONMENTS.—

'(1) IN GENERAL.—The Secretary shall apportion amounts made available to carry out this section among the States in the ratio that—

'(A) the population of other than urbanized areas in each State, as shown by the most recent Government decennial census of population; bears to

'(B) the population of all other than urbanized areas in the United States, as shown by that census.

1 '(2) LOW DENSITY ADJUSTMENT.—In admin-
2 istering the apportionment formula under paragraph
3 (1)—
4 '(A) in the case of a State with a popu-
5 lation density of 10 or fewer persons per square
6 mile in other than urbanized areas of the State,
7 the Secretary shall multiply by a factor of 1.5
8 the population of such other than urbanized
9 areas (as determined using the most recent de-
10 cennial United States Census); and
11 '(B) in the case of a State with a popu-
12 lation density of more than 10 but equal to or
13 fewer than 12 persons per square mile in other
14 than urbanized areas of the State, the Sec-
15 retary shall multiply by a factor of 1.25 the
16 population of such other than urbanized areas
17 (as determined using the most recent decennial
18 United States Census).
19 '(3) AVAILABILITY.—The amount apportioned
20 to a State under this subsection may be obligated by
21 the State for 2 fiscal years after the fiscal year in
22 which the amount is apportioned. An amount that is
23 not obligated at the end of that period shall be re-
24 apportioned among the States for the next fiscal
25 year.'.

(d) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) in the subsection heading by inserting ', planning,' after 'administration';

(2) by striking '(1) The Secretary' and inserting 'The Secretary';

(3) by striking paragraph (2); and

(4) by striking 'recipient' and inserting 'subrecipient'.

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1) by striking 'after September 30, 1993,'; and

(2) in paragraph (2) by striking 'A State' and inserting 'After consultation with affected intercity bus service providers, a State'.

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

'(g) GOVERNMENT'S SHARE OF COSTS.—

'(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary; except that in the case of a State described in section 120(b)(1) of title 23, such percent-

1 age shall be increased in accordance with such sec-
2 tion.
3 '(2) OPERATING ASSISTANCE.—A grant made
4 under this section for operating assistance may not
5 exceed 50 percent of the net operating costs of the
6 project, as determined by the Secretary.
7 '(3) REMAINDER.—The remainder of net
8 project costs—
9 '(A) may be provided from an undistrib-
10 uted cash surplus, a replacement or depreciation
11 cash fund or reserve, a service agreement
12 with a State or local social service agency or a
13 private social service organization, or new cap-
14 ital; and
15 '(B) may be derived from amounts appro-
16 priated to or made available to a department or
17 agency of the Government (other than the De-
18 partment of Transportation) that are eligible to
19 be expended for transportation.
20 '(4) USE OF CERTAIN FUNDS.—For purposes of
21 paragraph (3)(B), the prohibitions on the use of
22 funds for matching requirements under section
23 403(a)(5)(C)(vii) of the Social Security Act (42
24 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal

or State funds to be used for transportation purposes.

'(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.'.

(g) RELATIONSHIP TO OTHER LAWS.—Section 5311 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(h) CORRECTION TO CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:

'5311. Formula grants for other than urbanized areas.'.

**SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.**

(a) IN GENERAL.—Section 5312 is amended—

(1) in subsection (a)—

(A) by striking the first parenthetical phrase;

(B) by striking 'or contracts' and inserting ', contracts, cooperative agreements, or other transactions';

(C) by striking 'help reduce urban transportation needs, improve mass transportation service,' and inserting 'improve transportation service';

(D) by striking 'urban' each place it appears; and

(E) by striking 'and demonstration projects' and inserting ', demonstration or deployment projects, or evaluation of technology of national significance';

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively;

(4) in subsection (b)(2) (as so redesignated) by striking 'other agreements' and inserting 'other transactions'; and

(5) in subsection (c)(2) (as so redesignated) by striking 'public and' and inserting 'public or'.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 5312 is amended by striking the section heading and inserting the following:

**'§ 5312. Research, development, demonstration, and deployment projects'**.

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5312 and inserting the following:

'5312. Research, development, demonstration, and deployment projects.'.

**SEC. 3014. COOPERATIVE RESEARCH PROGRAM.**

(a) IN GENERAL.—Section 5313 is amended—

(1) in subsection (a) by striking '(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d) of this title' and inserting 'The amounts made available under paragraphs (1)(C)(iv) and (2)(C) of section 5338(d)';

(2) by striking subsection (b);

(3) in subsection (a)(2) by striking '(2) The' and inserting '(b) Federal Assistance.—The'; and

(4) in subsection (c) by striking 'subsection (a) of'.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 5313 is amended by striking the section heading and inserting the following:

**'§ 5313. Cooperative research program'**.

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5313 and inserting the following:

'5313. Cooperative research program.'.

**SEC. 3015. NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.**

(a) IN GENERAL.—Section 5314 is amended—

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

**'§ 5314. National research and technology programs'**;

(2) in subsection (a)(1)—

(A) by striking 'subsections (d) and (h)(7) of section 5338 of this title' and inserting 'section 5338(d)';

(B) by striking 'and contracts' and inserting ', contracts, cooperative agreements, or other transactions';

(C) by striking '5303–5306,'; and

(D) by striking '5317,';

(3) in subsection (a)(2) by striking 'Of the amounts' and all that follows through '$3,000,000 to' and inserting 'The Secretary shall';

(4) by striking subsection (a)(4)(B);

(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B); and

(6) in subsection (b) by striking 'or contract' and all that follows through 'section,' and inserting ', contract, cooperative agreement, or other transaction under subsection (a) or section 5312,'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5314 and inserting the following:

'5314. National research and technology programs.'.

**SEC. 3016. NATIONAL TRANSIT INSTITUTE.**

Section 5315 is amended—

(1) in subsection (a) by striking 'public mass transportation' and inserting 'public transportation'; and

(2) in subsection (d) by striking 'mass' each place it appears.

**SEC. 3017. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS.**

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

**'§ 5316. Job access and reverse commute formula grants**

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

'(1) ACCESS TO JOBS PROJECT.—The term ''access to jobs project'' means a project relating to the development and maintenance of transportation

1 services designed to transport welfare recipients and
2 eligible low-income individuals to and from jobs and
3 activities related to their employment, including—
4 '(A) transportation projects to finance
5 planning, capital, and operating costs of pro-
6 viding access to jobs under this chapter;
7 '(B) promoting public transportation by
8 low-income workers, including the use of public
9 transportation by workers with nontraditional
10 work schedules;
11 '(C) promoting the use of transit vouchers
12 for welfare recipients and eligible low-income in-
13 dividuals; and
14 '(D) promoting the use of employer-pro-
15 vided transportation, including the transit pass
16 benefit program under section 132 of the Inter-
17 nal Revenue Code of 1986.
18 '(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The
19 term ''eligible low-income individual'' means an indi-
20 vidual whose family income is at or below 150 per-
21 cent of the poverty line (as that term is defined in
22 section 673(2) of the Community Services Block
23 Grant Act (42 U.S.C. 9902(2)), including any revi-
24 sion required by that section) for a family of the size
25 involved.

1 ‘(3) RECIPIENT.—The term ‘‘recipient’’ means
2 a designated recipient (as defined in section
3 5307(a)(2)) and a State that receives a grant under
4 this section directly.
5 ‘(4) REVERSE COMMUTE PROJECT.—The term
6 ‘‘reverse commute project’’ means a public transpor-
7 tation project designed to transport residents of ur-
8 banized areas and other than urbanized areas to
9 suburban employment opportunities, including any
10 projects to—
11 ‘(A) subsidize the costs associated with
12 adding reverse commute bus, train, carpool, van
13 routes, or service from urbanized areas and
14 other than urbanized areas to suburban work-
15 places;
16 ‘(B) subsidize the purchase or lease by a
17 nonprofit organization or public agency of a van
18 or bus dedicated to shuttling employees from
19 their residences to a suburban workplace; or
20 ‘(C) otherwise facilitate the provision of
21 public transportation services to suburban em-
22 ployment opportunities.
23 ‘(5) SUBRECIPIENT.—The term ‘‘subrecipient’’
24 means a State or local governmental authority, non-
25 profit organization, or operator of public transpor-

1 tation services that receives a grant under this sec-
2 tion indirectly through a recipient.
3 '(6) WELFARE RECIPIENT.—The term ''welfare
4 recipient'' means an individual who has received as-
5 sistance under a State or tribal program funded
6 under part A of title IV of the Social Security Act
7 at any time during the 3-year period before the date
8 on which the applicant applies for a grant under this
9 section.
10 '(b) GENERAL AUTHORITY.—
11 '(1) GRANTS.—The Secretary may make grants
12 under this section to a recipient for access to jobs
13 and reverse commute projects carried out by the re-
14 cipient or a subrecipient.
15 '(2) ADMINISTRATIVE EXPENSES.—A recipient
16 may use not more than 10 percent of the amounts
17 apportioned to the recipient under this section to ad-
18 minister, plan, and provide technical assistance for
19 a project funded under this section.
20 '(c) APPORTIONMENTS.—
21 '(1) FORMULA.—The Secretary shall apportion
22 amounts made available to carry out this section as
23 follows:
24 '(A) 60 percent of the funds shall be ap-
25 portioned among designated recipients (as de-

fined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

'(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to

'(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.

'(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

'(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

'(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

'(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

'(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in -each State; bears to

1 ‘(ii) the number of eligible low-income
2 individuals and welfare recipients in other
3 than urbanized areas in all States.
4 ‘(2) USE OF APPORTIONED FUNDS.—Except as
5 provided in paragraph (3)—
6 ‘(A) funds apportioned under paragraph
7 (1)(A) shall be used for projects serving urban-
8 ized areas with a population of 200,000 or
9 more;
10 ‘(B) funds apportioned under paragraph
11 (1)(B) shall be used for projects serving urban-
12 ized areas with a population of less than
13 200,000; and
14 ‘(C) funds apportioned under paragraph
15 (1)(C) shall be used for projects serving other
16 than urbanized areas.
17 ‘(3) EXCEPTIONS.—A State may use funds ap-
18 portioned under paragraphs (1)(B) and (1)(C)—
19 ‘(A) for projects serving areas other than
20 the area specified in paragraph (2)(B) or
21 (2)(C), as the case may be, if the Governor of
22 the State certifies that all of the objectives of
23 this section are being met in the specified area;
24 or

1 ‘(B) for projects anywhere in the State if
2 the State has established a statewide program
3 for meeting the objectives of this section.
4 ‘(d) COMPETITIVE PROCESS FOR GRANTS TO SUB-
5 RECIPIENTS.—
6 ‘(1) AREAWIDE SOLICITATIONS.—A recipient of
7 funds apportioned under subsection (c)(1)(A) shall
8 conduct, in cooperation with the appropriate metro-
9 politan planning organization, an areawide solicita-
10 tion for applications for grants to the recipient and
11 subrecipients under this section.
12 ‘(2) STATEWIDE SOLICITATION.—A recipient of
13 funds apportioned under subsection (c)(1)(B) or
14 (c)(1)(C) shall conduct a statewide solicitation for
15 applications for grants to the recipient and sub-
16 recipients under this section.
17 ‘(3) APPLICATION.—Recipients and subrecipi-
18 ents seeking to receive a grant from funds appor-
19 tioned under subsection (c) shall submit to the re-
20 cipient an application in the form and in accordance
21 with such requirements as the recipient shall estab-
22 lish.
23 ‘(4) GRANT AWARDS.—The recipient shall
24 award grants under paragraphs (1) and (2) on a
25 competitive basis.

1 ‘(e) TRANSFERS.—
2 ‘(1) IN GENERAL.—A State may transfer any
3 funds apportioned to it under subsection (c)(1)(B)
4 or (c)(1)(C), or both, to an apportionment under
5 section 5311(c) or 5336, or both.
6 ‘(2) LIMITED TO ELIGIBLE PROJECTS.—Any
7 apportionment transferred under this subsection
8 shall be made available only for eligible job access
9 and reverse commute projects as described in this
10 section.
11 ‘(3) CONSULTATION.—A State may make a
12 transfer of an amount under this subsection only
13 after consulting with responsible local officials and
14 publicly owned operators of public transportation in
15 each area for which the amount originally was
16 awarded under subsection (d)(4).
17 ‘(f) GRANT REQUIREMENTS.—
18 ‘(1) IN GENERAL.—A grant under this section
19 shall be subject to the requirements of section 5307.
20 ‘(2) FAIR AND EQUITABLE DISTRIBUTION.—A
21 recipient of a grant under this section shall certify
22 to the Secretary that allocations of the grant to sub-
23 recipients are distributed on a fair and equitable
24 basis.
25 ‘(g) COORDINATION.—

1 '(1) IN GENERAL.—The Secretary shall coordi-
2 nate activities under this section with related activi-
3 ties under programs of other Federal departments
4 and agencies.
5 '(2) WITH NONPROFIT PROVIDERS.—A State
6 that transfers funds to an apportionment under sec-
7 tion 5336 pursuant to subsection (e) shall certify to
8 the Secretary that any project for which the funds
9 are requested under this section has been coordi-
10 nated with nonprofit providers of services.
11 '(3) PROJECT SELECTION AND PLANNING.—A
12 recipient of funds under this section shall certify to
13 the Secretary that—
14 '(A) the projects selected were derived
15 from a locally developed, coordinated public
16 transit-human services transportation plan; and
17 '(B) the plan was developed through a
18 process that included representatives of public,
19 private, and nonprofit transportation and
20 human services providers and participation by
21 the public.
22 '(h) GOVERNMENT'S SHARE OF COSTS.—
23 '(1) CAPITAL PROJECTS.—A grant for a capital
24 project under this section may not exceed 80 percent

of the net capital costs of the project, as determined by the Secretary.

'(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

'(3) REMAINDER.—The remainder of the net project costs—

'(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

'(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

'(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal

or State funds to be used for transportation purposes.

'(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

'(i) PROGRAM EVALUATION.—

'(1) COMPTROLLER GENERAL.—Beginning 1 year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—

'(A) conduct a study to evaluate the grant program authorized by this section; and

'(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

'(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of Federal Public Transportation Act of 2005, the Secretary shall—

'(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and

'(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5315 the following:

'5316. Job access and reverse commute formula grants.'.

(c) REPEAL.—Section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 387) is repealed.

**SEC. 3018. NEW FREEDOM PROGRAM.**

(a) IN GENERAL.—Chapter 53 is further amended by inserting after section 5316 the following:

**'§ 5317. New Freedom program**

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

'(1) RECIPIENT.—The term ''recipient'' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

1 ‘(2) SUBRECIPIENT.—The term ‘‘subrecipient’’
2 means a State or local governmental authority, non-
3 profit organization, or operator of public transpor-
4 tation services that receives a grant under this sec-
5 tion indirectly through a recipient.
6 ‘(b) GENERAL AUTHORITY.—
7 ‘(1) GRANTS.—The Secretary may make grants
8 under this section to a recipient for new public
9 transportation services and public transportation al-
10 ternatives beyond those required by the Americans
11 with Disabilities Act of 1990 (42 U.S.C. 12101 et
12 seq.) that assist individuals with disabilities with
13 transportation, including transportation to and from
14 jobs and employment support services.
15 ‘(2) ADMINISTRATIVE EXPENSES.—A recipient
16 may use not more than 10 percent of the amounts
17 apportioned to the recipient under this section to ad-
18 minister, plan, and provide technical assistance for
19 a project funded under this section.
20 ‘(c) APPORTIONMENTS.—
21 ‘(1) FORMULA.—The Secretary shall apportion
22 amounts made available to carry out this section as
23 follows:
24 ‘(A) 60 percent of the funds shall be ap-
25 portioned among designated recipients (as de-

1 fined in section 5307(a)(2)) for urbanized areas
2 with a population of 200,000 or more in the
3 ratio that—
4 '(i) the number of individuals with
5 disabilities in each such urbanized area;
6 bears to
7 '(ii) the number of individuals with
8 disabilities in all such urbanized areas.
9 '(B) 20 percent of the funds shall be ap-
10 portioned among the States in the ratio that—
11 '(i) the number of individuals with
12 disabilities in urbanized areas with a popu-
13 lation of less than 200,000 in each State;
14 bears to
15 '(ii) the number of individuals with
16 disabilities in urbanized areas with a popu-
17 lation of less than 200,000 in all States.
18 '(C) 20 percent of the funds shall be ap-
19 portioned among the States in the ratio that—
20 '(i) the number of individuals with
21 disabilities in other than urbanized areas
22 in each State; bears to
23 '(ii) the number of individuals with
24 disabilities in other than urbanized areas
25 in all States.

1 ‘(2) USE OF APPORTIONED FUNDS.—Except as
2 provided in paragraph (3)—
3 ‘(A) funds apportioned under paragraph
4 (1)(A) shall be used for projects serving urban-
5 ized areas with a population of 200,000 or
6 more;
7 ‘(B) funds apportioned under paragraph
8 (1)(B) shall be used for projects serving urban-
9 ized areas with a population of less than
10 200,000; and
11 ‘(C) funds apportioned under paragraph
12 (1)(C) shall be used for projects serving other
13 than urbanized areas.
14 ‘(3) LOW DENSITY ADJUSTMENT.—
15 ‘(A) SMALLER URBANIZED AREAS.—In ad-
16 ministering the apportionment formula under
17 paragraph (1)(B)—
18 ‘(i) in the case of a State with a popu-
19 lation density of 10 or fewer persons per
20 square mile in other than urbanized areas
21 of the State, the Secretary shall multiply
22 by a factor of 2 the number of individuals
23 with disabilities in urbanized areas of the
24 State with a population of less than

200,000 (as determined using the most recent decennial United States Census); and

'(ii) in the case of a State with a population density of more than 10 but equal to or fewer than 30 persons per square mile, the Secretary shall multiply by a factor of 1.25 the number of individuals with disabilities in urbanized areas of the State with a population of less than 200,000 (as determined using the most recent decennial United States Census).

'(B) OTHER THAN URBANIZED AREAS.—In administering the apportionment formula under paragraph (1)(C)—

'(i) in the case of a State with a population density of 10 or fewer persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.5 the number of individuals with disabilities in other than urbanized areas of the State (as determined using the most recent decennial United States Census); and

'(ii) in the case of a State with a population density of more than 10 but equal

to or fewer than 12 persons per square mile in other than urbanized areas of the State, the Secretary shall multiply by a factor of 1.25 the number of individuals with disabilities in other than urbanized areas of the State (as determined using the most recent decennial United States Census).

'(4) TRANSFERS.—

'(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

'(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.

'(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

'(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

'(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

'(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

'(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

'(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

'(e) GRANT REQUIREMENTS.—

1 '(1) IN GENERAL.—Except as provided in para-
2 graph (2), a grant under this section shall be subject
3 to all the requirements of section 5307.
4 '(2) EMPLOYEE PROTECTIVE ARRANGE-
5 MENTS.—Section 5333(b) shall apply to grants
6 under this section, except that the Secretary of
7 Labor shall utilize, for urbanized areas with a popu-
8 lation of less than 200,000 and for other than ur-
9 banized areas, a special warranty described in sec-
10 tion 215.7 of title 29, Code of Federal Regulations
11 (as in effect on the date of enactment of the Federal
12 Public Transportation Act of 2005), that provides a
13 fair and equitable arrangement to protect the inter-
14 est of employees.
15 '(3) FAIR AND EQUITABLE DISTRIBUTION.—A
16 recipient of a grant under this section shall certify
17 that allocations of the grant to subrecipients are dis-
18 tributed on a fair and equitable basis.
19 '(f) COORDINATION.—
20 '(1) IN GENERAL.—The Secretary shall coordi-
21 nate activities under this section with related activi-
22 ties under programs of other Federal departments
23 and agencies.
24 '(2) WITH NONPROFIT PROVIDERS.—A recipi-
25 ent that transfers funds to an apportionment under

1 section 5336 pursuant to subsection (c)(2) shall cer-
2 tify that the project for which the funds are re-
3 quested under this section has been coordinated with
4 nonprofit providers of services.

5 '(3) PROJECT SELECTION AND PLANNING.—A
6 recipient of funds under this section shall certify
7 that—

8 '(A) the projects selected were derived
9 from a locally developed, coordinated public
10 transit-human services transportation plan; and

11 '(B) the plan was developed through a
12 process that included representatives of public,
13 private, and nonprofit transportation and
14 human services providers and participation by
15 the public.

16 '(g) GOVERNMENT'S SHARE OF COSTS.—

17 '(1) CAPITAL PROJECTS.—A grant for a capital
18 project under this section may not exceed 80 percent
19 of the net capital costs of the project, as determined
20 by the Secretary.

21 '(2) OPERATING ASSISTANCE.—A grant made
22 under this section for operating assistance may not
23 exceed 50 percent of the net operating costs of the
24 project, as determined by the Secretary.

1 '(3) REMAINDER.—The remainder of the net
2 project costs—
3 '(A) may be provided from an undistrib-
4 uted cash surplus, a replacement or depreciation
5 cash fund or reserve, a service agreement
6 with a State or local social service agency or a
7 private social service organization, or new cap-
8 ital; and
9 '(B) may be derived from amounts appro-
10 priated to or made available to a department or
11 agency of the Government (other than the De-
12 partment of Transportation) that are eligible to
13 be expended for transportation.
14 '(4) USE OF CERTAIN FUNDS.—For purposes of
15 paragraph (3)(B), the prohibitions on the use of
16 funds for matching requirements under section
17 403(a)(5)(C)(vii) of the Social Security Act (42
18 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
19 or State funds to be used for transportation pur-
20 poses.
21 '(5) LIMITATION ON OPERATING ASSISTANCE.—
22 A recipient carrying out a program of operating as-
23 sistance under this section may not limit the level or
24 extent of use of the Government grant for the pay-
25 ment of operating expenses.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5316 the following:

'5317. New freedom program.'.

**SEC. 3019. BUS TESTING FACILITY.**

(a) IN GENERAL.—Section 5318 is amended—

(1) by striking subsection (a) and inserting the following:

'(a) FACILITY.—The Secretary of Transportation shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.';

(2) in subsection (d) by striking 'under section 5309(m)(1)(C) of this title' and inserting 'to carry out this section'; and

(3) by striking subsection (e) and inserting the following:

'(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).'.

(b) CONFORMING AMENDMENT.—Section 5323(c) is repealed.

**SEC. 3020. BICYCLE FACILITIES.**

The first sentence of section 5319 is amended—

(1) by striking '5309(h),' and inserting '5309(g),'; and

(2) by striking 'and 5311' and inserting '5311, and 5320'.

**SEC. 3021. TRANSIT IN THE PARKS PILOT PROGRAM.**

(a) IN GENERAL.—Section 5320 is amended to read as follows:

**'§ 5320. Transit in the parks pilot program**

'(a) PUBLIC TRANSPORTATION DEFINED.—In this section, the term ''public transportation'' means general or special transportation to the public by a conveyance that is publicly or privately owned. Such term does not include schoolbus or charter transportation but does include sightseeing transportation.

'(b) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary of Transportation and the Secretary of the Interior shall enter into a memorandum of understanding to establish a transit in the parks pilot program in accordance with the requirements of this section.

'(c) PURPOSE.—The purpose of the pilot program shall be to encourage and promote the development of transportation systems described in section 5301(a) within

1 units of the National Park System to improve visitor mo-
2 bility and enjoyment (including visitors with disabilities),
3 reduce pollution and congestion, and enhance resource
4 protection through the use of public transportation.

5 '(d) ADMINISTRATION OF PROGRAM.—The program
6 shall be administered by the Secretary of Transportation,
7 in consultation with the Secretary of the Interior.

8 '(e) MEMORANDUM OF UNDERSTANDING.—

9 '(1) PLANNING.—The memorandum of under-
10 standing under subsection (b) shall include transpor-
11 tation planning procedures that are consistent with
12 the metropolitan and statewide planning processes
13 required under chapter 52.

14 '(2) PROGRAMS.—The memorandum of under-
15 standing shall include descriptions of programs and
16 activities eligible for assistance under the pilot pro-
17 gram.

18 '(3) EXCEPTIONS.—The memorandum of un-
19 derstanding shall limit or modify the applicability of
20 the provisions referred to in subsection (f) to the ex-
21 tent necessary to carry out the objectives of this sec-
22 tion and to be compatible with the laws and regula-
23 tions governing units of the National Park System.

24 '(f) ELIGIBLE USE OF FUNDS.—Except as provided
25 under subsection (e)(3), the Secretary may provide funds

1 made available to carry out this section to the Secretary
2 of the Interior under interagency agreements for the fol-
3 lowing purposes:

4 '(1) PLANNING, ENGINEERING, DESIGN, AND
5 EVALUATION.—Planning, engineering, design, and
6 evaluation of public transportation projects in units
7 of the National Park System, and for technical stud-
8 ies, in accordance with section 5305(b)(2).

9 '(2) PUBLIC TRANSPORTATION CAPITAL
10 PROJECTS.—Public transportation capital projects
11 (as defined in section 5302(a)(1)) for such units in
12 accordance with all the terms and conditions to
13 which a grant is made under subsections (a), (b),
14 (c), and (d) of section 5307 and such other terms
15 and conditions as are determined by the Secretary.
16 The Secretary of the Interior shall act as the des-
17 ignated recipient for the purposes of subsection
18 (a)(2) of section 5307.

19 '(3) OPERATING COSTS.—Operating costs of
20 equipment and facilities used in public transpor-
21 tation for such units.

22 '(g) GOVERNMENT'S SHARE OF COSTS.—

23 '(1) CAPITAL PROJECTS.—The Government
24 share of the cost of any capital project or activity

under this section shall be 100 percent of the costs of the project, as determined by the Secretary.

'(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

'(h) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, modifying, or repealing any provision of law applicable to units of the National Park System.'.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by striking the item relating to section 5320 and inserting the following:

'5320. Transit in the parks pilot program.'.

**SEC. 3022. HUMAN RESOURCE PROGRAMS.**

Section 5322 is amended—

(1) by inserting '(a) In General.—' before 'The Secretary'; and

(2) by adding at the end the following:

'(b) GRANTS TO HIGHER LEARNING INSTITUTIONS.—

'(1) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to nonprofit institutions of higher learning—

1 ‘(A) to conduct research and investigations
2 into the theoretical or practical problems of
3 public transportation; and
4 ‘(B) to train individuals to conduct further
5 research or obtain employment in an organiza-
6 tion that plans, builds, operates, or manages a
7 public transportation system.
8 ‘(2) RESEARCH AND INVESTIGATIONS.—Re-
9 search and investigations under this subsection
10 include—
11 ‘(A) the design and use of public transpor-
12 tation systems and public roads and highways;
13 ‘(B) the interrelationship between various
14 modes of urban, suburban, rural, and intercity
15 transportation;
16 ‘(C) the role of transportation planning in
17 overall urban planning;
18 ‘(D) public preferences in transportation;
19 ‘(E) the economic allocation of transpor-
20 tation resources; and
21 ‘(F) the legal, financial, engineering, and
22 esthetic aspects of public transportation.
23 ‘(3) PREFERENCE.—When making a grant
24 under this subsection, the Secretary shall give pref-
25 erence to an institution that brings together knowl-

edge and expertise in the various social science and technical disciplines related to public transportation problems.

'(c) FELLOWSHIPS.—

'(1) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the public transportation field.

'(2) TERMS.—

'(A) PERIOD OF TRAINING.—A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the public transportation industry.

'(B) SELECTION OF INDIVIDUALS.—The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation.

'(C) AMOUNT.—A grant for a fellowship may not be more than the lesser of $65,000 or 75 percent of—

1 ‘(i) tuition and other charges to the
2 fellowship recipient;
3 ‘(ii) additional costs incurred by the
4 training institution and billed to the grant
5 recipient; and
6 ‘(iii) the regular salary of the fellow-
7 ship recipient for the period of the fellow-
8 ship to the extent the salary is actually
9 paid or reimbursed by the grant recipient.’.

10 **SEC. 3023. GENERAL PROVISIONS ON ASSISTANCE.**

11 (a) INTERESTS IN PROPERTY.—Section 5323(a)(1) is
12 amended—
13 (1) in the matter preceding subparagraph (A)—
14 (A) by striking ‘private mass transpor-
15 tation company’ each place it appears and in-
16 serting ‘private company engaged in public
17 transportation’;
18 (B) by striking ‘mass transportation equip-
19 ment or a mass transportation facility’ and in-
20 serting ‘a public transportation facility or
21 equipment’; and
22 (C) by striking ‘mass transportation com-
23 pany’ and inserting ‘public transportation com-
24 pany’; and

(2) in subparagraph (B) by striking 'private mass transportation companies' and inserting 'private companies engaged in public transportation'.

(b) NOTICE AND PUBLIC HEARING.—Section 5323(b) is amended—

(1) in paragraph (1)—

(A) by striking '(1) An application' and inserting the following:

'(1) APPLICATIONS.—An application';

(B) in the matter preceding subparagraph (A) by striking 'or loan'; and

(C) by moving subparagraphs (A) through (D) 2 ems to the right;

(2) in paragraph (2) by striking '(2) Notice of' and inserting the following:

'(2) NOTICE.—Notice of'; and

(3) by adding at the end the following:

'(3) ENVIRONMENTAL RECORD.—An applicant shall include in the environmental record for a project under this chapter evidence that the applicant has complied with the requirements of subparagraphs (A) through (D) of paragraph (1).'.

(c) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—Section 5323(d) is amended—

(1) by striking '(1) Financial assistance' and inserting the following:

'(1) AGREEMENTS.—Financial assistance'; and

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

'(2) VIOLATIONS.—

'(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

'(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

'(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.'.

(d) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—Section 5323(e) is amended to read as follows:

1 ‘(e) BOND PROCEEDS ELIGIBLE FOR LOCAL
2 SHARE.—
3 ‘(1) USE AS LOCAL MATCHING FUNDS.—Not-
4 withstanding any other provision of law, a recipient
5 of assistance under section 5307 or 5309 may use
6 the proceeds from the issuance of revenue bonds as
7 part of the local matching funds for a capital
8 project.
9 ‘(2) MAINTENANCE OF EFFORT.—The Sec-
10 retary shall approve of the use of the proceeds from
11 the issuance of revenue bonds for the remainder of
12 the net project cost only if the Secretary finds that
13 the aggregate amount of financial support for public
14 transportation in the urbanized area provided by the
15 State and affected local governmental authorities
16 during the next 3 fiscal years, as programmed in the
17 State transportation improvement program under
18 chapter 52 is not less than the aggregate amount
19 provided by the State and affected local govern-
20 mental authorities in the urbanized area during the
21 preceding 3 fiscal years.
22 ‘(3) DEBT SERVICE RESERVE.—The Secretary
23 may reimburse an eligible recipient for deposits of
24 bond proceeds in a debt service reserve that recipient
25 established pursuant to section 5302(a)(1)(K) from

amounts made available to the recipient under section 5307 or 5309, or both; except that such reimbursement in a fiscal year may not exceed 10 percent of the amounts made available to the recipient under section 5307 in such fiscal year.'.

(e) SCHOOLBUS TRANSPORTATION.—Section 5323(f) is amended—

(1) by striking '(1) Financial assistance' and inserting the following:

'(1) AGREEMENTS.—Financial assistance';

(2) in paragraph (1) by moving subparagraphs (A), (B), and (C) 2 ems to the right; and

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

'(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.'.

(f) BUYING BUSES UNDER OTHER LAWS.—Section 5323(g) is amended by striking '103(e)(4)' each place it appears and inserting '133'.

(g) BUY AMERICA.—

(1) PUBLIC INTEREST WAIVER.—Section 5323(j) is amended—

(A) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(B) by inserting after paragraph (2) the following:

'(3) WRITTEN JUSTIFICATION FOR PUBLIC INTEREST WAIVER.—When issuing a waiver based on a public interest determination under paragraph (2)(A), the Secretary shall issue a detailed written justification as to why the waiver is in the public interest. The Secretary shall publish such justification in the Federal Register and provide the public with a reasonable period of time for notice and comment.'.

(2) INELIGIBILITY FOR CONTRACTS.—Section 5323(j)(6) (as so redesignated) is amended by striking 'Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)' and inserting 'Federal Public Transportation Act of 2004'.

(3) ADMINISTRATIVE REVIEW.—Section 5323(j) is amended by adding at the end the following:

'(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5, United States Code.'.

(4) REPEAL OF GENERAL WAIVER.—Subsections (b) and (c) of Appendix A of section 661.7 of title 49, Code of Federal Regulations, shall cease to be in effect beginning on the date of enactment of this Act.

(h) GRANT REQUIREMENTS.—Section 5323(o) is amended by striking 'the Transportation Infrastructure Finance and Innovation Act of 1998' and inserting 'chapter 6 (other than section 609) of title 23'.

**SEC. 3024. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

(a) IN GENERAL.—Section 5324 is amended to read as follows:

**'§ 5324. Special provisions for capital projects**

'(a) RELOCATION PROGRAM REQUIREMENTS.—Financial assistance may be provided under section 5309 only if the Secretary decides that—

'(1) an adequate relocation program is being carried out for families displaced by a project; and

'(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area gen-

erally not less desirable for public utilities and public and commercial facilities, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.

'(b) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

'(1) COOPERATION AND CONSULTATION.—In carrying out the policy of section 5301(e), the Secretary shall cooperate and consult with the Secretaries of the Interior, Health and Human Services, and Housing and Urban Development and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

'(2) PUBLIC PARTICIPATION IN ENVIRONMENTAL REVIEWS.—In performing environmental reviews, the Secretary shall review each transcript of a hearing submitted under section 5323(b) to establish that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

'(A) the environmental impact of the proposal;

1 ‘(B) adverse environmental effects that
2 cannot be avoided;
3 ‘(C) alternatives to the proposal; and
4 ‘(D) irreversible and irretrievable impacts
5 on the environment.
6 ‘(3) APPROVAL OF APPLICATIONS FOR ASSIST-
7 ANCE.—
8 ‘(A) FINDINGS BY THE SECRETARY.—The
9 Secretary may approve an application for finan-
10 cial assistance for a capital project in accord-
11 ance with this chapter only if the Secretary
12 makes written findings, after reviewing the ap-
13 plication and the transcript of any hearing held
14 before a State or local governmental authority
15 under section 5323(b), that—
16 ‘(i) an adequate opportunity to
17 present views was given to all parties hav-
18 ing a significant economic, social, or envi-
19 ronmental interest;
20 ‘(ii) the preservation and enhancement
21 of the environment and the interest of the
22 community in which the project is located
23 were considered; and
24 ‘(iii) no adverse environmental effect
25 is likely to result from the project, or no

feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

'(B) HEARING.—If a hearing has not been conducted or the Secretary decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

'(C) AVAILABILITY OF FINDINGS.—The Secretary's findings under subparagraph (A) shall be made a matter of public record.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5324 and inserting the following:

'5324. Special provisions for capital projects.'.

**SEC. 3025. CONTRACT REQUIREMENTS.**

(a) IN GENERAL.—Section 5325 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

'(a) COMPETITION.—Recipients of Federal assistance under this chapter shall conduct all procurement transactions involving such assistance in a manner providing full and open competition, as determined by the Secretary.

1 '(b) ARCHITECTURAL, ENGINEERING, AND DESIGN
2 CONTRACTS.—
3 '(1) PROCEDURES FOR AWARDING CONTRACT.—
4 A contract or requirement for program management,
5 architectural engineering, construction management,
6 a feasibility study, and preliminary engineering, de-
7 sign, architectural, engineering, surveying, mapping,
8 or related services for a project for which Federal
9 assistance is provided under this chapter shall be
10 awarded in the same way as a contract for architec-
11 tural and engineering services is negotiated under
12 chapter 11 of title 40 or an equivalent qualifications-
13 based requirement of a State.
14 '(2) EFFECT OF STATE LAWS.—This subsection
15 does not apply to the extent a State has adopted, be-
16 fore the date of enactment of the Federal Public
17 Transportation Act of 2005, by law a formal proce-
18 dure for procuring those services.
19 '(3) ADMINISTRATION OF CONTRACTS.—When
20 awarding such contracts, recipients of assistance
21 under this chapter shall maximize efficiencies of ad-
22 ministration by accepting nondisputed audits con-
23 ducted by other governmental agencies as follows:
24 '(A) PERFORMANCE OF AUDITS.—Any con-
25 tract or subcontract awarded under this chapter

shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulation (part 31 of title 48, Code of Federal Regulations).

'(B) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for one-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

'(C) APPLICATION OF RATES.—Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings.

'(D) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient of funds requesting or using the cost and rate data described in paragraph (3) shall notify any affected firm before such request or use. Such data shall be con-

fidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency that is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.'; and

(2) by adding at the end the following:

'(d) DESIGN-BUILD SYSTEM PROJECTS.—

'(1) DEFINITION.—In this section, the term ''design-build system project'' means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

'(2) FINANCIAL ASSISTANCE.—Government financial assistance under this chapter may be made available for the capital costs of a design-build system project after the recipient complies with Government requirements.

1 ‘(e) MULTIYEAR ROLLING STOCK.—
2 ‘(1) CONTRACTS.—A recipient procuring rolling
3 stock with Government financial assistance under
4 this chapter may make a multiyear contract to buy
5 the rolling stock and replacement parts under which
6 the recipient has an option to buy additional rolling
7 stock or replacement parts for not more than 5
8 years after the date of the original contract.
9 ‘(2) COOPERATION AMONG RECIPIENTS.—The
10 Secretary shall allow at least 2 recipients to act on
11 a cooperative basis to procure rolling stock in com-
12 pliance with this subsection and other Government
13 procurement requirements.
14 ‘(f) ACQUIRING ROLLING STOCK.—A recipient of fi-
15 nancial assistance under this chapter may enter into a
16 contract to expend that assistance to acquire rolling
17 stock—
18 ‘(1) based on—
19 ‘(A) initial capital costs; or
20 ‘(B) performance, standardization, life
21 cycle costs, and other factors; or
22 ‘(2) with a party selected through a competitive
23 procurement process.
24 ‘(g) EXAMINATION OF THE RECORDS.—Upon re-
25 quest, the Secretary, the Comptroller General, or a rep-

resentative of the Secretary or the Comptroller General shall have access to and the right to examine and inspect all records, documents, papers, including contracts, related to a project for which a grant is made under this chapter.

'(h) GRANT PROHIBITIONS.—A grant may not be used to support a procurement that uses an exclusionary or discriminatory specification.'.

(b) CONFORMING AMENDMENTS.—Section 5326, and the item relating to section 5326 in the analysis for chapter 53, are repealed.

**SEC. 3026. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.**

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) by striking 'and' at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting '; and'; and

(3) by adding at the end the following:

'(13) safety and security management.'.

(b) LIMITATIONS.—Section 5327(c) is amended to read as follows:

'(c) LIMITATIONS.—

1 '(1) LIMITATIONS ON USE OF AVAILABLE
2 AMOUNTS.—The Secretary may use not more than
3 .5 percent of amounts made available for a fiscal
4 year to carry out section 5311, not more than .75
5 percent of amounts made available for a fiscal year
6 to carry out section 5307, and not more than 1 per-
7 cent of amounts made available for a fiscal year to
8 carry out section 5309 to make contracts for the fol-
9 lowing activities:
10 '(A) To oversee the construction of a major
11 project.
12 '(B) To review and audit the safety and se-
13 curity, procurement, management, and financial
14 compliance of a recipient or subrecipient of
15 funds under sections 5307, 5309, and 5311.
16 '(C) To provide technical assistance to cor-
17 rect deficiencies identified in compliance reviews
18 and audits carried out under this section.
19 '(2) LIMITATIONS ON APPLICABILITY.—Sub-
20 sections (a), (b), and (e) do not apply to contracts
21 under this section for activities described in para-
22 graphs (1)(B) and (1)(C).
23 '(3) GOVERNMENT'S SHARE OF COSTS.—The
24 Government shall pay the entire cost of carrying out
25 a contract under this subsection.'.

**SEC. 3027. INVESTIGATIONS OF SAFETY AND HAZARDS.**

(a) IN GENERAL.—Section 5329 is amended to read as follows:

**'§ 5329. Investigation of safety and hazards**

'(a) IN GENERAL.—The Secretary may investigate safety and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

'(b) PLANS FOR ELIMINATING, MITIGATING, OR CORRECTING HAZARDS.—If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

'(c) WITHHOLDING FINANCIAL ASSISTANCE.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5329 and inserting the following:

'5329. Investigation of safety and hazards.'.

**SEC. 3028. STATE SAFETY OVERSIGHT.**

(a) IN GENERAL.—Section 5330 is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

**'§ 5330. State safety oversight**

'(a) APPLICATION.—This section applies only to—

'(1) States that have rail fixed guideway public transportation systems not subject to regulation by the Federal Railroad Administration; and

'(2) States that are designing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.';

(2) in subsection (d) by inserting 'shall ensure uniform safety standards and enforcement and' after 'affected States'; and

(3) by striking subsection (f).

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5330 and inserting the following:

'5330. State safety oversight.'.

**SEC. 3029. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.**

(a) DEFINITIONS.—Section 5331(a)(3) is amended by striking the period at the end and inserting the fol-

lowing: 'or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.'.

(b) TECHNICAL CORRECTIONS.—Subsections (b)(1) and (g) of section 5331 are each amended by striking 'or section 103(e)(4) of title 23'.

(c) REGULATIONS.—Section 5331(f) is amended by striking paragraph (3).

**SEC. 3030. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

Section 5333(b)(1) is amended by striking '5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)' each place it appears and inserting '5316, 5317, 5318, 5320, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), 5338(g), and 5338(h)'.

**SEC. 3031. ADMINISTRATIVE PROCEDURES.**

Section 5334 is amended—

(1) in subsection (a)—

(A) by striking 'and' at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting '; and'; and

(C) by adding at the end the following:

'(11) issue regulations as necessary to carry out the purposes of this chapter.';

(2) by striking subsection (i);

(3) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(4) by inserting after subsection (a) the following:

'(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

'(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

'(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.';

(5) in subsection (c)(4) (as redesignated by paragraph (3) of this section)—

(A) by striking 'subsections (h) and (i)' and inserting 'subsection (i)'; and

(B) by striking '5323(c), 5323(e), 5324(c),'; and

(6) by adding at the end of subsection (c) (as redesignated by paragraph (3) of this section) the following:

'(5) NONREGULATORY SUBSTANTIVE POLICY STATEMENTS.—The Secretary shall provide notice and an opportunity for public comment at least 60 days before issuing any nonregulatory substantive policy statements (regardless of the form of issuance), including guidance, policy statements, and regulatory interpretations.'.

**SEC. 3032. NATIONAL TRANSIT DATABASE.**

(a) IN GENERAL.—Section 5335 is amended—

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

**'§ 5335. National transit database'**;

(2) by striking subsection (b); and

(3) in subsection (a)—

(A) by striking '(1) To help' and inserting 'To help'; and

(B) by striking '(2) The Secretary' and inserting '(b) Reporting and Uniform Systems.—The Secretary'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5335 and inserting the following:

'5335. National transit database.'.

**SEC. 3033. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.**

(a) DISTRIBUTION.—Section 5337 is amended—

(1) by striking the section designation and all that follows before paragraph (1) of subsection (a) and inserting the following:

**'§ 5337. Apportionment based on fixed guideway factors**

'(a) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization under sections 5338(b) and 5338(g) as follows:';

(2) in subsection (a) by striking '(e)(1)' each place it appears and inserting '(e)'; and

(3) in subsection (a) by striking '(e)(2)' each place it appears and inserting '(e)'.

(b) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—Section 5337(e) is amended by striking paragraph (1) and all that follows through '(2) Other Standards.—'.

(c) CONFORMING AMENDMENT.—The item relating to section 5337 in the table of sections for chapter 53 is amended to read as follows:

'5337. Apportionment based on fixed guideway factors.'.

**SEC. 3034. AUTHORIZATIONS.**

Section 5338 is amended to read as follows:

**'§ 5338. Authorizations**

'(a) FORMULA GRANTS.—

'(1) FISCAL YEAR 2004.—

'(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, 5311, 5316, 5317, and 5318 of this chapter, 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program), and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393) $3,132,304,000 for fiscal year 2004.

'(B) FROM GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5308, 5310, 5311, 5316, and 5318 of this chapter, 1118(b) of the Transportation Equity Act: A Legacy for Users

(relating to the nonmotorized transportation pilot program), and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393) $783,076,000 for fiscal year 2004.

'(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

'(i) $4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

'(ii) $125,000,000 shall be available to provide job access and reverse commute formula grants under section 5316;

'(iii) $50,000,000 shall be available to provide clean fuels formula grants under section 5308;

'(iv) $8,000,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

'(v) $3,100,000 shall be available to carry out bus testing under section 5318;

'(vi) $93,110,751 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

'(vii) $297,954,404 shall be available to provide financial assistance for other than urbanized areas under section 5311; and

'(viii) $3,333,364,895 shall be available to provide financial assistance for urbanized areas under section 5307, subject to section 3041(h) of the Federal Public Transportation Act of 2005.

'(2) FISCAL YEARS 2005 THROUGH 2009.—

'(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, 5311, 5316, 5317, 5318, and 5320 of this chapter, section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392–393), and section 1118(b) of the Transportation Equity

Act: A Legacy for Users (relating to the non-motorized transportation pilot program)—

'(i) $4,133,500,000 for fiscal year 2005;

'(ii) $4,592,000,000 for fiscal year 2006;

'(iii) $4,898,000,000 for fiscal year 2007;

'(iv) $5,223,000,000 for fiscal year 2008; and

'(v) $5,570,000,000 for fiscal year 2009.

'(B) ALLOCATION OF FUNDS FOR BUS TESTING AND OVER-THE-ROAD BUS ACCESSIBILITY.—Of the aggregate of amounts made available by this paragraph for a fiscal year—

'(i) $3,100,000 shall be available to carry out section 5318; and

'(ii) $8,000,000 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

'(C) ALLOCATION OF FUNDS FOR CLEAN FUELS FORMULA GRANT PROGRAM.—Of the aggregate of amounts made available by this para-

graph, $75,000,000 for fiscal year 2005 and $100,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 shall be available to carry out section 5308.

'(D) ALLOCATION OF FUNDS FOR JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $150,000,000 for fiscal year 2005, $175,000,000 for fiscal year 2006, $200,000,000 for fiscal year 2007, $200,000,000 for fiscal year 2008, and $200,000,000 for fiscal year 2009 shall be available to carry out section 5316.

'(E) ALLOCATION OF FUNDS FOR NEW FREEDOM PROGRAM.—Of the aggregate of amounts made available by this paragraph, $95,000,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $105,000,000 for fiscal year 2007, $115,000,000 for fiscal year 2008, and $125,000,000 for fiscal year 2009 shall be available to carry out section 5317.

'(F) ALLOCATION OF FUNDS FOR TRANSIT IN THE PARKS PILOT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $8,000,000 for fiscal year 2005,

$16,000,000 for fiscal year 2006, $16,000,000 for fiscal year 2007, $16,000,000 for fiscal year 2008, and $16,000,000 for fiscal year 2009 shall be available to carry out section 5320.

'(G) ALLOCATION OF FUNDS FOR NONMOTORIZED TRANSPORTATION PILOT PROGRAM.—Of the aggregate of amounts made available by this paragraph, $4,000,000 for fiscal year 2005, $4,000,000 for fiscal year 2006, $4,000,000 for fiscal year 2007, $8,000,000 for fiscal year 2008, and $8,000,000 for fiscal year 2009 shall be available to carry out section 1118(b) of the Transportation Equity Act: A Legacy for Users (relating to the nonmotorized transportation pilot program).

'(H) ALLOCATION OF FUNDS FOR THE ALASKA RAILROAD.—Of the aggregate of amounts made available by this paragraph, $10,000,000 for fiscal year 2005, $11,000,000 for fiscal year 2006, $12,000,000 for fiscal year 2007, $13,000,000 for fiscal year 2008, and $14,000,000 for fiscal year 2009 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307.

'(I) REMAINDER.—Of the remainder of the aggregate amounts made available by this paragraph for a fiscal year after the allocations under subparagraphs (B) through (H) for such fiscal year—

'(i) 2.5 percent shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

'(ii) 8.0 percent shall be available to provide financial assistance for other than urbanized areas under section 5311; and

'(iii) 89.5 percent shall be available to provide financial assistance for urbanized areas under section 5307, subject to section 3041(h) of the Federal Public Transportation Act of 2005.

'(b) CAPITAL PROGRAM GRANTS IN FISCAL YEAR 2004.—

'(1) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309, $2,499,504,000 for fiscal year 2004.

'(2) FROM GENERAL FUND.—In addition to amounts made available by paragraph (1), there is

1 authorized to be appropriated to carry out section
2 5309, $624,876,200 for fiscal year 2004.
3 '(c) PLANNING.—
4 '(1) FISCAL YEAR 2004.—
5 '(A) FROM TRUST FUND.—There shall be
6 available from the Mass Transit Account of the
7 Highway Trust Fund to carry out sections
8 5303, 5304, and 5305, $72,660,000 for fiscal
9 year 2004.
10 '(B) FROM GENERAL FUND.—In addition
11 to amounts made available by subparagraph
12 (A), there is authorized to be appropriated to
13 carry out sections 5303, 5304, and 5305,
14 $18,165,000 for fiscal year 2004.
15 '(2) FISCAL YEARS 2005 THROUGH 2009.—
16 '(A) FROM THE TRUST FUND.—There
17 shall be available from the Mass Transit Ac-
18 count of the Highway Trust Fund to carry out
19 sections 5303, 5304, and 5305—
20 '(i) $96,875,000 for fiscal year 2005;
21 '(ii) $103,325,000 for fiscal year
22 2006;
23 '(iii) $110,200,000 for fiscal year
24 2007;

1 ‘(iv) $117,537,500 for fiscal year
2 2008; and
3 ‘(v) $125,362,500 for fiscal year
4 2009.
5 ‘(B) ALLOCATION OF FUNDS.—Of the
6 funds made available by this paragraph for a
7 fiscal year—
8 ‘(i) 82.72 percent shall be available
9 for metropolitan planning under sections
10 5303, 5304, and 5305 (other than
11 5305(e)); and
12 ‘(ii) 17.28 percent shall be available
13 for State planning under section 5305(e).
14 ‘(d) RESEARCH.—
15 ‘(1) FISCAL YEAR 2004.—
16 ‘(A) FROM TRUST FUND.—There shall be
17 available from the Mass Transit Account of the
18 Highway Trust Fund to carry out sections
19 5311(b), 5312, 5313, 5314, 5315, 5322, and
20 5335, $41,888,000 for fiscal year 2004.
21 ‘(B) FROM GENERAL FUND.—In addition
22 to amounts made available by subparagraph
23 (A), there is authorized to be appropriated to
24 carry out sections 5311(b), 5312, 5313, 5314,

5315, 5322, and 5335, $10,472,000 for fiscal year 2004.

'(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated pursuant to this paragraph for fiscal year 2004—

'(i) not less than $4,500,000 shall be available to carry out programs under the National Transit Institute under section 5315;

'(ii) not less than $3,500,000 shall be available to carry out section 5335;

'(iii) not less than $3,500,000 shall be available to carry out section 5314(a)(2); and

'(iv) not less than $8,860,000 shall be available to carry out section 5313(a).

'(2) FISCAL YEARS 2005 THROUGH 2009.—

'(A) FROM THE GENERAL FUND.—There is authorized to be appropriated to carry out sections 5312, 5313, 5314, 5315, 5322, and 5335—

'(i) $54,500,000 for fiscal year 2005;

'(ii) $57,000,000 for fiscal year 2006;

'(iii) $59,500,000 for fiscal year 2007;

1 ‘(iv) $62,000,000 for fiscal year 2008;
2 and
3 ‘(v) $64,500,000 for fiscal year 2009.
4 ‘(B) ALLOCATION OF FUNDS.—Of the
5 funds appropriated pursuant to this paragraph
6 for a fiscal year—
7 ‘(i) not less than $4,500,000 shall be
8 available to carry out programs under the
9 National Transit Institute under section
10 5315;
11 ‘(ii) not less than $3,500,000 shall be
12 available to carry out section 5335; and
13 ‘(iii) not less than $3,500,000 shall be
14 available to carry out section 5314(a)(2).
15 ‘(C) TRANSIT COOPERATIVE RESEARCH
16 PROGRAM.—Of the funds appropriated pursu-
17 ant to this paragraph, $9,000,000 for fiscal
18 year 2005, $9,500,000 for fiscal year 2006,
19 $10,000,000 for fiscal year 2007, $10,500,000
20 for fiscal year 2008, and $11,000,000 for fiscal
21 year 2009 shall be available to carry out section
22 5313(a).
23 ‘(D) REMAINDER.—The remainder of the
24 funds appropriated pursuant to this paragraph
25 for a fiscal year after the allocations under sub-

paragraphs (A) and (B) for such fiscal year shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

'(e) UNIVERSITY TRANSPORTATION RESEARCH.—

'(1) FISCAL YEAR 2004.—

'(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506, $6,400,000 for fiscal year 2004.

'(B) FROM GENERAL FUND.—In addition to amounts made available by subparagraph (A), there is authorized to be appropriated to carry out sections 5505 and 5506, $1,600,000 for fiscal year 2004.

'(2) FISCAL YEARS 2005 THROUGH 2009.—Subject to paragraph (3), there is authorized to be appropriated to carry out sections 5505 and 5506, $8,000,000 for each of fiscal years 2005 through 2009.

'(3) FUNDING OF UNIVERSITY TRANSPORTATION CENTERS.—

'(A) IN GENERAL.—Of the amounts made available by and appropriated under paragraphs

(1) and (2) $2,000,000 for each of fiscal years 2004, 2005, and 2006 shall be available for the institution identified in section 5505(j)(3)(E), as so in effect.

'(B) USE OF FUNDS.—Funds made available for the institution identified in subparagraph (A)(iii) shall be used to make grants under 5506(f)(5) for that institution

'(C) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.

'(f) ADMINISTRATION.—

'(1) FISCAL YEAR 2004.—

'(A) FROM TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334, $60,044,000 for fiscal year 2004.

'(B) FROM GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5334, $15,011,000 for fiscal year 2004.

1 ‘(2) FISCAL YEARS 2005 THROUGH 2009.—There
2 are authorized to be appropriated to carry out sec-
3 tion 5334—
4 ‘(A) $78,000,000 for fiscal year 2005;
5 ‘(B) $80,000,000 for fiscal year 2006;
6 ‘(C) $82,000,000 for fiscal year 2007;
7 ‘(D) $84,000,000 for fiscal year 2008; and
8 ‘(E) $86,000,000 for fiscal year 2009.
9 ‘(g) TRUST FUND CAPITAL PROGRAM GRANTS.—
10 There shall be available from the Mass Transit Account
11 of the Highway Trust Fund to carry out sections
12 5309(m)(2)(B)(i) and 5309(m)(2)(B)(iii)—
13 ‘(1) $1,884,255,000 for fiscal year 2005;
14 ‘(2) $2,080,005,000 for fiscal year 2006;
15 ‘(3) $2,210,580,000 for fiscal year 2007;
16 ‘(4) $2,366,677,500 for fiscal year 2008; and
17 ‘(5) $2,518,882,500 for fiscal year 2009.
18 ‘(h) GENERAL FUND CAPITAL PROGRAM GRANTS.—
19 There are authorized to be appropriated to carry out sec-
20 tions 5309(m)(2)(A) and 5309(m)(2)(B)(ii)—
21 ‘(1) $1,391,170,000 for fiscal year 2005;
22 ‘(2) $1,561,670,000 for fiscal year 2006;
23 ‘(3) $1,673,720,000 for fiscal year 2007;
24 ‘(4) $1,777,785,000 for fiscal year 2008; and
25 ‘(5) $1,904,255,000 for fiscal year 2009.

'(i) GRANTS AS CONTRACTUAL OBLIGATIONS.—

'(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(l)(A), (a)(2), (b)(1), (c)(2), (d)(1)(A), (e)(1)(A), (f)(1)(A), or (g) is a contractual obligation of the Government to pay the Government's share of the cost of the project.

'(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(l)(B), (b)(2), (c)(1)(B), (d)(1)(B), (d)(2), (e)(1)(B), (e)(2), (f)(1)(B), (f)(2), or (h) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

'(j) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a) through (h) shall remain available until expended.'.

**SEC. 3035. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

(a) IN GENERAL.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392) is amended—

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

**'SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.'**;

(2) by striking subsection (e) and inserting the following:

'(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section. The Federal share of the costs for a project shall not exceed 80 percent of the project cost.'; and

(3) by striking subsection (g) and inserting the following:

'(g) FUNDING.—

'(1) INTERCITY, FIXED ROUTE OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

'(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.'.

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century (112 Stat. 107) is amended by striking the item relating to section 3038 and inserting the following:

'3038. Over-the-road bus accessibility program.'.

**SEC. 3036. UPDATED TERMINOLOGY.**

(a) AMENDMENTS TO CHAPTER 53.—Chapter 53 is amended—

(1) in the chapter heading by striking '**MASS**' and inserting '**PUBLIC**';

(2) in section 5310(h) by striking 'Mass' and inserting 'Public';

(3) in the subsection heading for section 5331(b) by striking 'Mass' and inserting 'Public'; and

(4) by striking 'mass' each place it appears in such chapter before 'transportation' and inserting

'public', except in sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and 5323(a)(1)(B).

(b) TABLE OF CHAPTERS.—The table of chapters for subtitle III is amended in the item relating to chapter 53 by striking 'mass' and inserting 'public'.

**SEC. 3037. PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.**

(a) EXISTING FULL FUNDING GRANT AGREEMENTS.—The following projects are authorized for final design and construction for existing full funding grant agreements in not less than the amount specified for each fiscal year:

(1) Baltimore—Central LRT Double Tracking $39,367,154 for fiscal year 2004, $28,777,920 for fiscal year 2005, and $12,655,664 for fiscal year 2006.

(2) Chicago—Chicago Transit Authority Douglas Branch Reconstruction $83,655,202 for fiscal year 2004, $84,320,000 for fiscal year 2005, and $45,825,190 for fiscal year 2006.

(3) Chicago—Chicago Transit Authority Ravenswood Expansion Project $9,841,789 for fiscal year 2004, $39,680,000 for fiscal year 2005, $40,000,000 for fiscal year 2006, $40,000,000 for

fiscal year 2007, $40,000,000 for fiscal year 2008, and $65,152,615 for fiscal year 2009.

(4) Cleveland—Euclid Corridor Transportation Project $10,825,967 for fiscal year 2004, $24,800,000 for fiscal year 2005, and $24,974,513 for fiscal year 2006.

(5) Dallas—North Central LRT Extension $29,684,097 for fiscal year 2004.

(6) Denver Southeast Corridor LRT $78,734,308 for fiscal year 2004, $79,360,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, and $77,192,758 for fiscal year 2008.

(7) Fort Lauderdale—Tri-Rail Commuter Rail Upgrade $18,118,733 for fiscal year 2004 and $11,318,230 for fiscal year 2005.

(8) Los Angeles—Metro Gold Line Eastside Extension $59,520,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, $80,000,000 for fiscal year 2008, and $80,000,000 for fiscal year 2009.

(9) Memphis—Medical Center Extension $9,101,281 for fiscal year 2004.

(10) Metra North Central Corridor Commuter Rail $19,177,300 for fiscal year 2004, $20,000,000

for fiscal year 2005, and $20,613,452 for fiscal year 2006.

(11) Metra Southwest Corridor Commuter Rail $15,000,000 for fiscal year 2004, $20,000,000 for fiscal year 2005, and $7,281,395 for fiscal year 2006.

(12) Metra Union Pacific West Line Extension $17,000,000 for fiscal year 2004, $12,000,000 for fiscal year 2005, and $14,285,749 for fiscal year 2006.

(13) Minneapolis—Hiawatha Corridor LRT $73,793,730 for fiscal year 2004 and $33,428,865 for fiscal year 2005.

(14) New Jersey Urban Core—Hudson-Bergen LRT MOS–2 $98,417,885 for fiscal year 2004, $99,200,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, and $53,202,995 for fiscal year 2008.

(15) New Jersey Urban Core—Newark-Elizabeth Rail Link MOS–1 $22,209,000 for fiscal year 2004, $316,907 for fiscal year 2005, and $1,025,169 for fiscal year 2006.

(16) New Orleans MOS–1 Canal Street $22,922,877 for fiscal year 2004 and $16,613,047 for fiscal year 2005.

(17) Phoenix—Central Phoenix/East Valley LRT $74,400,000 for fiscal year 2005, $90,000,000 for fiscal year 2006, $90,000,000 for fiscal year 2007, $90,000,000 for fiscal year 2008, and $90,000,000 for fiscal year 2009.

(18) Pittsburgh—Stage II LRT Reconstruction $31,733,314 for fiscal year 2004 and $1,131,666 for fiscal year 2005.

(19) Portland—Interstate MAX LRT Extension $76,273,861 for fiscal year 2004, $23,292,160 fiscal year 2005, and $18,292,550 for fiscal year 2006.

(20) Salt Lake City—Medical Center $30,178,231 for fiscal year 2004 and $8,765,421 for fiscal year 2005.

(21) San Diego—Mission Valley East LRT Extension $63,971,625 for fiscal year 2004, $80,896,880 fiscal year 2005, and $8,353,424 for fiscal year 2006.

(22) San Diego—Oceanside Escondido Rail Corridor $47,240,585 for fiscal year 2004, $54,560,000 fiscal year 2005, and $12,211,061 for fiscal year 2006.

(23) San Francisco—BART Extension to San Francisco Airport $98,417,890 for fiscal year 2004,

$99,200,000 fiscal year 2005, and $82,655,680 for fiscal year 2006.

(24) San Juan—Tren Urbano $19,683,577 for fiscal year 2004, $44,263,040 fiscal year 2005, and $10,555,900 for fiscal year 2006.

(25) Seattle—Central Link Initial Segment LRT $73,813,414 for fiscal year 2004, $79,360,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, $70,000,000 for fiscal year 2008, and $24,668,149 for fiscal year 2009.

(26) Washington DC/MD—Largo Metrorail Extension $63,971,625 for fiscal year 2004 and $76,156,450 for fiscal year 2005.

(b) FINAL DESIGN AND CONSTRUCTION.—The following projects are authorized for final design and construction for fiscal years 2004 through 2009 under paragraphs (1)(B), (2)(A), and (2)(B)(ii) of section 5309(m) of title 49, United States Code: **[**To be supplied**]**

(c) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—The following projects are authorized for alternatives analysis and preliminary engineering for fiscal years 2004 through 2009 under paragraphs (1)(B), (2)(A), and (2)(B)(ii) of section 5309(m) of title 49, United States Code: **[**To be supplied**]**

(d) RULES RELATING TO FUNDING.—

(1) SUBSECTION (A) PROJECTS.—

(A) IN GENERAL.—The Secretary is authorized to expend funds made available under section 5309(m) of title 49, United States Code, for final design and construction of projects authorized by subsection (a) as existing full funding grant agreements.

(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (a): $1,065,923,445 for fiscal year 2004, $1,071,360,586 for fiscal year 2005, $729,169,747 for fiscal year 2006, $490,000,000 for fiscal year 2007, $410,395,753 for fiscal year 2008, and $259,820,764 for fiscal year 2009.

(2) SUBSECTION (B) PROJECTS.—

(A) IN GENERAL.—Projects authorized by subsection (b) for final design and construction are also authorized for alternatives analysis and preliminary engineering.

(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by

subsection (b): $30,584,075 for fiscal year 2004, $186,149,050 for fiscal year 2005, $683,631,289 for fiscal year 2006, $1,024,856,176 for fiscal year 2007, $1,199,242,825 for fiscal year 2008, and $1,456,006,690 for fiscal year 2009.

(C) PRIORITY.—In making funds available under subparagraph (B), the Secretary shall first make such funds available for any full funding grant agreement executed by the Secretary in fiscal year 2005 after the date of enactment of this Act and for any full funding grant agreement executed by the Secretary in the amount indicated in fiscal years 2005 through 2009 in the amount indicated in the 'Schedule of Federal Funds for the Project' included in such agreement.

(3) SUBSECTION (C) PROJECTS.—

(A) IN GENERAL.—Effective October 1, 2006, projects authorized by subsection (c) for alternatives analysis and preliminary engineering are also authorized for final design and construction.

(B) MAXIMUM FUNDING LEVELS.—The Secretary shall make available not more than

the following amounts for projects authorized by subsection (c): $95,348,480 for fiscal year 2004, $109,348,664 for fiscal year 2005, and $122,852,264 for fiscal year 2006.

(C) MAXIMUM FUNDING LEVELS FOR ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In fiscal years 2007, 2008, and 2009, the Secretary shall make available not more than the following amounts for projects authorized by subsection (b), and projects authorized by subsection (c), to conduct alternatives analysis and preliminary engineering activities: $131,726,624 in fiscal year 2007, $139,968,572 in fiscal year 2008, and $149,984,996 in fiscal year 2009.

(e) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (112 Stat. 380; 105 Stat. 2122) is amended—

(1) by striking 'associated components to and at the contiguous New Jersey Meadowlands Sports Complex),' and inserting 'to and at the contiguous New Jersey Meadowlands Sports Complex), including a connection to the Hudson River Waterfront

Transportation System, the Lackawanna Cutoff,'; and

(2) by striking 'in Lakewood to Freehold to Matawan or Jamesburg, New Jersey, as described in section 3035(p) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131)' and inserting 'from Lakehurst to the Northeast Corridor or the New Jersey Coast Line'.

(f) NEW JERSEY TRANS-HUDSON MIDTOWN CORRIDOR.—Project elements of the New Jersey Trans-Hudson Midtown Corridor advanced with 100 percent non-Federal funds shall be given consideration by the Federal Transit Administration when evaluating the local share and mobility improvements of the project in the new starts rating process, including the purchase of bilevel rail equipment.

**SEC. 3038. PROJECTS FOR BUS AND BUS-RELATED FACILITIES.**

Of the amounts made available to carry out section 5309(m)(2)(B)(iii) of title 49, United States Code, for each of fiscal years 2006 through 2008, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year: **[**To be supplied**]**

**SEC. 3039. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the 'program') to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.

(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 4 geographically diverse nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant's—

(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

(2) financing plan and cost share potential;

(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liq-

uid-fueled fuel cell technologies, that may be viable for public transportation systems; and

(4) other criteria that the Secretary determines are necessary to carry out the program.

(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 10 years.

(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

(2) such other terms and conditions as are determined by the Secretary.

**SEC. 3040. HIGH-INTENSITY SMALL-URBANIZED AREA FORMULA GRANT PROGRAM.**

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

(1) ELIGIBLE AREA.—The term 'eligible area' means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

(2) PERFORMANCE CATEGORY.—The term 'performance category' means each of the following:

(A) Passenger miles traveled per vehicle revenue mile.

(B) Passenger miles traveled per vehicle revenue hour.

(C) Vehicle revenue miles per capita.

(D) Vehicle revenue hours per capita.

(E) Passenger miles traveled per capita.

(F) Passengers per capita.

(b) GENERAL AUTHORITY.—In order to address the needs of small urbanized areas with unusually high levels of public transportation service, the Secretary shall make capital and operating grants under this section to eligible

recipients described in subsection (d) for use in eligible areas.

(c) APPORTIONMENT.—

(1) APPORTIONMENT FORMULA.—Funds made available for grants under this section in a fiscal year shall be apportioned among eligible areas in the ratio that—

(A) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

(B) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

(2) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under section 5336 of title 49, United States Code.

(d) ELIGIBLE RECIPIENT.—Grant amounts apportioned to an eligible area under this section shall be made

available to a public transportation agency or other governmental entity in the eligible area for obligation in the eligible area.

(e) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL GRANTS.—A grant for a capital project under this section (including associated capital maintenance items) shall be for 80 percent of the net capital costs of the project, as determined by the Secretary. The recipient may provide additional local matching amounts for such projects.

(2) OPERATING GRANTS.—A grant under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER.—The remainder of the net project costs may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) PERIOD OF AVAILABILITY.—Funds apportioned under this section to an eligible area shall remain available for obligation in that eligible area for a period of 3 years after the last day of the fiscal year for which the funds are apportioned. Any amounts so apportioned that remain unobligated at the end of that period shall be added to

1 the amount that may be apportioned under this section
2 in the next fiscal year.
3 (g) APPLICATION OF OTHER SECTIONS.—Sections
4 5302, 5318, 5323, 5332, 5333, and 5336(e) of title 49,
5 United States Code, apply to this section and to a grant
6 made under this section.
7 (h) FUNDING.—Of the amounts made available to
8 carry out section 5307 of title 49, United States Code,
9 $38,000,000 for fiscal year 2005, $41,000,000 for fiscal
10 year 2006, $44,000,000 for fiscal year 2007, $47,000,000
11 for fiscal year 2008, and $50,000,000 for fiscal year 2009
12 shall be available to carry out this section.
13 (i) TECHNICAL AMENDMENTS.—Section 5336 is
14 amended—
15 (1) in subsection (a)—
16 (A) by striking 'of this title' and inserting
17 'to carry out section 5307'; and
18 (B) in paragraph (2) by inserting before
19 the period at the end the following: ', except
20 that the amount apportioned to the Anchorage
21 urbanized area under subsection (b) shall be
22 available to the Alaska Railroad for any costs
23 related to its passenger operations';

(2) in subsection (b)(1) by inserting 'and the Alaska Railroad passenger operations' after 'recipient';

(3) in subsection (j) by striking 'a grant made under' each place it appears and inserting 'a grant made with funds apportioned under'; and

(4) in subsection (k)(1) by striking 'section 5302(a)(13) of this title' and inserting 'section 5302(a)'.

**SEC. 3041. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.**

(a) IN GENERAL.—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary as follows:

(1) SAFETY AND EMERGENCY PREPAREDNESS.—

(A) IN GENERAL.—For carrying out safety and emergency preparedness research activities consisting of technical assistance, training, and data analysis and reporting to improve public transportation system safety and security and emergency preparedness—

(i) $7,000,000 for fiscal year 2005;

(ii) $7,400,000 for fiscal year 2006;

(iii) $7,800,000 for fiscal year 2007;

(iv) $8,200,000 for fiscal year 2008; and

(v) $8,700,000 for fiscal year 2009.

(B) PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.—

(i) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.

(ii) ALTERNATIVE ROUTES.—For each system described in clause (i) the study shall identify—

(I) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and

(II) transit routes that, if disrupted, do not have sufficient transit alternatives available.

(iii) REPORT.—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study and evaluation, together with such recommendations as the Academy considers appropriate.

(iv) FUNDING.—Of the amounts made available under section 5338(d) of title 49, United States Code, $250,000 shall be available for each of fiscal years 2005 and 2006 to carry out this subparagraph.

(2) EQUIPMENT AND INFRASTRUCTURE.—For carrying out equipment and infrastructure research

activities on public transportation and infrastructure technologies and methods and voluntary industry standards development—

(A) $5,700,000 for fiscal year 2005;

(B) $6,200,000 for fiscal year 2006;

(C) $6,550,000 for fiscal year 2007;

(D) $6,900,000 for fiscal year 2008; and

(E) $7,200,000 for fiscal year 2009.

(3) PUBLIC TRANSPORTATION OPERATIONS EFFICIENCY.—For carrying out public transportation operations efficiency research activities on high-performance public transportation services and other innovations in fleet operations and maintenance—

(A) $4,700,000 for fiscal year 2005;

(B) $4,900,000 for fiscal year 2006;

(C) $5,200,000 for fiscal year 2007;

(D) $5,500,000 for fiscal year 2008; and

(E) $5,800,000 for fiscal year 2009.

(4) ENERGY INDEPENDENCE AND ENVIRONMENTAL PROTECTION.—

(A) IN GENERAL.—For carrying out energy independence and environmental protection research activities on improved public transportation energy use and propulsion systems and public transportation oriented development—

(i) $3,700,000 for fiscal year 2005;

(ii) $3,900,000 for fiscal year 2006;

(iii) $4,150,000 for fiscal year 2007;

(iv) $4,300,000 for fiscal year 2008; and

(v) $4,300,000 for fiscal year 2009.

(B) TRANSIT-ORIENTED DEVELOPMENT CENTER.—Of the funds allocated for each of fiscal years 2005 through 2009 under subparagraph (A), not less than $1,000,000 shall be made available by the Secretary for establishment and operation of a national center for transit-oriented development—

(i) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;

(ii) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and

(iii) to provide research support and technical assistance to public transportation agencies, metropolitan planning

1 agencies, and other persons regarding
2 transit-oriented development.
3 (5) MOBILITY MANAGEMENT.—
4 (A) IN GENERAL.—or carrying out re-
5 search activities on mobility management, as
6 described in section 5302(a)(1) of title 49,
7 United States Code—
8 (i) $7,000,000 for fiscal year 2005;
9 (ii) $7,400,000 for fiscal year 2006;
10 (iii) $7,800,000 for fiscal year 2007;
11 (iv) $8,200,000 for fiscal year 2008;
12 and
13 (v) $8,700,000 for fiscal year 2009.
14 (B) TRANSPORTATION EQUITY RESEARCH
15 PROGRAM.—Of the funds allocated for each of
16 fiscal years 2005 through 2009 under subpara-
17 graph (A), not less than $1,000,000 shall be
18 made available by the Secretary for research
19 and demonstration activities that focus on the
20 impacts that transportation planning, invest-
21 ment, and operations have on low-income and
22 minority populations that are transit dependent.
23 Such activities shall include the development of
24 strategies to advance economic and community
25 development in low-income and minority com-

1 munities and the development of training pro-
2 grams that promote the employment of low-in-
3 come and minority community residents on
4 Federal-aid transportation projects constructed
5 in their communities.
6 (6) PUBLIC TRANSPORTATION CAPACITY BUILD-
7 ING.—
8 (A) IN GENERAL.—For carrying out public
9 transportation capacity building activities con-
10 sisting of workforce and industry development,
11 the International Mass Transportation Pro-
12 gram, and technology transfer and industry
13 adoption activities—
14 (i) $2,400,000 for fiscal year 2005;
15 (ii) $2,500,000 for fiscal year 2006;
16 (iii) $2,600,000 for fiscal year 2007;
17 (iv) $2,700,000 for fiscal year 2008;
18 and
19 (v) $3,000,000 for fiscal year 2009.
20 (B) TRANSIT CAREER LADDER TRAINING
21 PROGRAM.—Of the funds allocated for each fis-
22 cal year under subparagraph (A), not less than
23 $1,000,000 shall be available for a nationwide
24 career ladder job training partnership program
25 for public transportation employees to respond

to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.

(7) STRATEGIC PLANNING AND PERFORMANCE MEASURES.—For carrying out strategic planning and performance measures consisting of policy and program development, research program planning and performance, evaluation, and industry outreach—

(A) $3,500,000 for fiscal year 2005;

(B) $3,700,000 for fiscal year 2006;

(C) $4,000,000 for fiscal year 2007;

(D) $4,200,000 for fiscal year 2008; and

(E) $4,300,000 for fiscal year 2009.

(b) REMAINDER.—After making allocations under subsection (a) of this section and section 5338(d)(2) of title 49, United States Code, the remainder of funds made available by section 5338(d)(2) of such title for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year shall be allocated at the discretion of the Secretary to other transit research, devel-

opment, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.

**SEC. 3042. RELATIONSHIP TO OTHER LAWS.**

Section 5323(l) is amended to read as follows:

'(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, when a false or fraudulent statement or related act within the meaning of such section 1001 is made in connection with a Federal transit program.'.

**SEC. 3043. COOPERATIVE PROCUREMENT.**

(a) REVIEW OF COOPERATIVE PROCUREMENT; AUTHORITY TO INCREASE FEDERAL SHARE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall undertake a 30-day review of efforts to use cooperative procurement to determine whether benefits are sufficient to formally incorporate cooperative procurement into the mass transit program. In particular the Secretary shall review the progress made under the pilot program authorized under section 166 of division F of the Consolidated Appropriations Act, 2004 (49 U.S.C. 5397 note; 118 Stat.

309), based on experience to date in the pilot program and any available reports to Congress submitted under such section 166. The Secretary shall also consider information gathered from grantees about cooperative procurement, whether or not related to the pilot program.

(2) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the results of the review required under paragraph (1), including a finding of sufficient benefit or insufficient benefit and the reasons for that finding.

**SEC. 3044. OBLIGATION CEILING.**

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,266,000,000 for fiscal year 2004;

(2) $7,646,300,000 for fiscal year 2005;

(3) $8,482,000,000 for fiscal year 2006;

(4) $9,042,000,000 for fiscal year 2007;

(5) $9,639,000,000 for fiscal year 2008; and

(6) $10,277,000,000 for fiscal year 2009.

**SEC. 3045. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall ensure that the total apportionments and allocations made to a designated grant recipient under section 5338 of title 49, United States Code, for fiscal year 2005 shall be reduced by the amount apportioned to such designated recipient pursuant to section 8 of the Surface Transportation Extension Act of 2004, Part V.

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 2005 to reflect the method for apportioning funds in section 5337(a) of title 49, United States Code.

**SEC. 3046. SPECIAL RULE FOR FISCAL YEAR 2004.**

In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of this title, including an amendment made by this title,

that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part IV (Public Law 108–280), including any amendment made by such Act, the amount referred to in such Act shall be the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.

# TITLE IV—MOTOR CARRIER TRANSPORTATION AND SAFETY

## Subtitle A—Commercial Motor Vehicle Safety

**SEC. 4101. AUTHORIZATION OF APPROPRIATIONS.**

(a) ADMINISTRATIVE EXPENSES.—Section 31104 of title 49, United States Code, is amended by adding the following at the end:

'(i) ADMINISTRATIVE EXPENSES.—

'(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

1 ‘(A) $173,450,000 for fiscal year 2004;
2 ‘(B) $254,849,000 for fiscal year 2005;
3 ‘(C) $215,000,000 for fiscal year 2006;
4 ‘(D) $230,000,000 for fiscal year 2007;
5 ‘(E) $234,000,000 for fiscal year 2008;
6 and
7 ‘(F) $240,000,000 for fiscal year 2009.
8 ‘(2) USE OF FUNDS.—The funds authorized by
9 this subsection shall be used for personnel costs; ad-
10 ministrative infrastructure; rent; information tech-
11 nology; programs for research and technology, infor-
12 mation management, regulatory development (in-
13 cluding a medical review board), the administration
14 of the performance and registration information sys-
15 tem management, and outreach and education; other
16 operating expenses; and such other expenses as may
17 from time to time become necessary to implement
18 statutory mandates of the Administration not fund-
19 ed from other sources.
20 ‘(3) PERIOD OF AVAILABILITY.—The amounts
21 made available under this section shall remain avail-
22 able until expended.
23 ‘(4) INITIAL DATE OF AVAILABILITY.—Author-
24 izations from the Highway Trust Fund (other than
25 the Mass Transit Account) to carry out subtitle IV,

1 part B, and subtitle VI, part B, of this title, or the
2 provisions of title IV of the Transportation Equity
3 Act: A Legacy for Users, shall be available for obli-
4 gation on the date of their apportionment or alloca-
5 tion or on October 1 of the fiscal year for which they
6 are authorized, whichever occurs first.

7 '(5) CONTRACT AUTHORITY.—Approval by the
8 Secretary of a grant with funds made available
9 under paragraph (4) imposes upon the United
10 States a contractual obligation for payment of the
11 Government's share of costs incurred in carrying out
12 the objectives of the grant.'.

13 (b) GRANT PROGRAMS.—There are authorized to be
14 appropriated from the Highway Trust Fund (other than
15 the Mass Transit Account) the following sums for the fol-
16 lowing Federal Motor Carrier Safety Administration pro-
17 grams:

18 (1) For commercial driver's license program im-
19 provement grants under section 31313 of title 49,
20 United States Code $26,000,000 for each of fiscal
21 years 2006 and 2009.

22 (2) For border enforcement grants under sec-
23 tion 31107 of such title—

24 (A) $32,000,000 for fiscal year 2006;

25 (B) $32,000,000 for fiscal year 2007;

(C) $32,000,000 for fiscal year 2008; and

(D) $32,000,000 for fiscal year 2009.

(3) For the performance and registration information system management grant program under section 31109 of such title—

(A) $5,000,000 for fiscal year 2006;

(B) $5,000,000 for fiscal year 2007;

(C) $6,000,000 for fiscal year 2008; and

(D) $6,000,000 for fiscal year 2009.

(4) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying out the commercial vehicle information systems and networks deployment program under section 4009 of this Act, $25,000,000 for each of fiscal years 2006 through 2009.

(c) PERIOD OF AVAILABILITY.—The amounts made available under subsection (b) of this section shall remain available until expended.

(d) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (b) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(e) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (b) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

**SEC. 4102. MOTOR CARRIER SAFETY GRANTS.**

(a) STATE PLAN CONTENTS.—Section 31102(b)(1) of title 49, United States Code, is amended—

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

'(A) implements performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;';

(2) by striking subparagraph (Q) and inserting the following:

'(Q) provides that the State has established a program to ensure accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary and that the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;';

(3) by aligning subparagraph (R) with subparagraph (S);

(4) by striking 'and' at the end of subparagraph (S);

(5) by striking the period at the end of subparagraph (T) and inserting a semicolon; and

(6) by adding at the end the following:

'(U) provides that the State will include in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of noncommercial motor vehicles, respectively;

'(V) provides that the State will enforce the registration requirements of section 13902 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier without a registration issued under such section or to be operating beyond the scope of such registration; and

'(W) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors.'.

(b) USE OF GRANTS TO ENFORCE OTHER LAWS.—Section 31102 of such title is amended—

(1) by striking subsection (c) and inserting the following:

'(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a)—

'(1) for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

'(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

'(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person

of any occupant (including the operator) of the vehicle; and

'(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles if the number of roadside safety inspections conducted in the State is maintained at a level at least equal to the average number conducted in the State in fiscal years 2001, 2002, and 2003; except that the State may not use more than 5 percent of the aggregate amount the State receives under the grant under subsection (a) for enforcement activities relating to noncommercial motor vehicles described in this paragraph.'; and

(2) by adding at the end the following:

'(e) ANNUAL REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate an annual report that describes the effect of activities carried out with funds from grants made under this section on commercial motor vehicle safety.'.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 31104(a) of such title is amended to read as follows:

'(a) IN GENERAL.—Subject to subsection (f), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102—

'(1) $188,852,000 for fiscal year 2004;

'(2) $188,480,000 for fiscal year 2005;

'(3) $188,000,000 for fiscal year 2006;

'(4) $197,000,000 for fiscal year 2007;

'(5) $202,000,000 for fiscal year 2008; and

'(6) $209,000,000 for fiscal year 2009.'.

(d) NEW ENTRANT AUDITS.—Section 31104(f) of such title is amended—

(1) in paragraph (1) by striking 'deduction under subsection (e)' and inserting 'deductions under subsection (e) and paragraphs (2) and (3)';

(2) the first sentence of paragraph (2)(A)—

(A) by striking 'or'; and

(B) by inserting after 'technologies' the following: ', or improve the quality and accuracy of data provided by the State';

(3) in paragraph (2)—

(A) by striking 'and border activities.—' and all that follows through '5 percent' and in-

serting 'activities.—The Secretary may designate up to 10 percent'; and

(B) by striking subparagraph (B); and

(4) by adding at the end the following:

'(3) NEW ENTRANT AUDITS.—The Secretary may deduct up to $15,000,000 of the amounts available under subsection (a) for a fiscal year for audits of new entrant motor carriers under section 31144(g).'.

(e) TECHNICAL AMENDMENTS.—Sections 31102(b)(3) and 31103(a) of such title are amended by striking '(1)(D)' and inserting '(1)(E)'.

**SEC. 4103. BORDER ENFORCEMENT GRANTS.**

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended—

(1) by striking:

**'Subchapter I—State Grants and Other Commercial Motor Vehicle Programs'**; and

(2) inserting

**'Subchapter I—General Authority and State Grants'**; and

(3) by striking section 31107 and inserting the following:

**'§ 31107. Border enforcement grants**

'(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant in a fiscal year to a State that shares a land border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

'(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of the Transportation Equity Act: A Legacy for Users.

'(c) GOVERNMENTS SHARE OF COSTS.—The Secretary shall reimburse a State under a grant made under this section an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

'(d) AVAILABILITY AND REALLOCATION OF AMOUNTS.—Allocations to a State remain available for ex-

1 penditure in the State for the fiscal year in which they
2 are allocated and for the next fiscal year. Amounts not
3 expended by a State during those 2 fiscal years are avail-
4 able to the Secretary for reallocation under this section.'.
5 (b) CONFORMING AMENDMENTS.—The analysis for
6 such chapter is amended—
7 (1) by striking

'SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS'; and inserting the following:

'SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS'; and

8 (2) by striking the item relating to section
9 31107 and inserting the following:

'31107. Border enforcement grants.'.

10 **SEC. 4104. COMMERCIAL DRIVER'S LICENSE IMPROVE-**
11 **MENTS.**
12 (a) STATE GRANTS.—Chapter 313 of title 49, United
13 States Code, is amended by inserting after section 31312
14 the following:
15 **'§ 31313. Grants for commercial driver's license pro-**
16 **gram improvements**
17 '(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE
18 PROGRAM IMPROVEMENTS.—
19 '(1) GENERAL AUTHORITY.—The Secretary of
20 Transportation may make a grant to a State in a
21 fiscal year—

'(A) to comply with the requirements of section 31311; and

'(B) in the case of a State that is in substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program.

'(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—A State may use grants under paragraphs (1)(A) and (1)(B) only for expenses directly related to its compliance with section 31311; except that a grant under paragraph (1)(B) may be used for improving implementation of the State's commercial driver's license program, including expenses for computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings.

'(3) APPLICATION.—In order to receive a grant under this section, a State must submit an application for such grant that is in such form, and contains such information, as the Secretary may require. The application shall include the State's assessment of its commercial drivers license program.

1 '(4) MAINTENANCE OF EXPENDITURES.—The
2 Secretary may make a grant to a State under this
3 subsection only if the State agrees that the total ex-
4 penditure of amounts of the State and political sub-
5 divisions of the State, exclusive of amounts from the
6 United States, for the State's commercial driver's li-
7 cense program will be maintained at a level at least
8 equal to the average level of that expenditure by the
9 State and political subdivisions of the State for the
10 last 2 fiscal years of the State ending before the
11 date of enactment of the Transportation Equity Act:
12 A Legacy for Users.
13 '(5) GOVERNMENT SHARE.—The Secretary
14 shall reimburse a State under a grant made under
15 this subsection an amount that is not more than 80
16 percent of the costs incurred by the State in a fiscal
17 year in complying with section 31311 and improving
18 its implementation of its commercial driver's license
19 program. In determining such costs, the Secretary
20 shall include in-kind contributions by the State.
21 Amounts required to be expended by the State under
22 paragraph (4) may not be included as part of the
23 non-Federal share of such costs.
24 '(b) HIGH-PRIORITY ACTIVITIES.—

'(1) GRANTS FOR NATIONAL CONCERNS.—The Secretary may make a grant to a State agency, local government, or other person for 100 percent of the costs of research, development, demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances.

'(2) FUNDING.—The Secretary may deduct up to 10 percent of the amounts made available to carry out this section for a fiscal year to make grants under this subsection.'.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31312 the following:

'31313. Grants for commercial driver's license program improvements.'.

(c) AMOUNTS WITHHELD.—Subsections (a) and (b) of section 31314 of such title are each amended by inserting 'up to' after 'withhold'.

**SEC. 4105. HOBBS ACT.**

(a) JURISDICTION OF COURT OF APPEALS OVER COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS AND MOTOR CARRIER SAFETY.—Section 2342(3)(A) of title 28, United States Code, is amended

by inserting before 'of title 49' the following: ', subchapter III of chapter 311, chapter 313, or chapter 315'.

(b) JUDICIAL REVIEW.—Section 351(a) of title 49, United States Code, is amended by striking 'Federal Highway Administration' and inserting 'Federal Motor Carrier Safety Administration'.

(c) AUTHORITY TO CARRY OUT CERTAIN TRANSFERRED DUTIES AND POWERS.—Section 352 of title 49, United States Code, is amended by striking 'Federal Highway Administration' and inserting 'Federal Motor Carrier Safety Administration'.

**SEC. 4106. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

Section 521(b) of title 49, United States Code, is amended—

(1) by striking '(b)(1)(A) If the Secretary' and inserting the following:

'(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

'(1) NOTICE.—

'(A) IN GENERAL.—If the Secretary'; and

(2) by adding at the end of paragraph (2) the following:

'(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 or part B of sub-

1 title VI who fails to allow the Secretary, or an
2 employee designated by the Secretary, promptly
3 upon demand to inspect and copy any record or
4 inspect and examine equipment, lands, build-
5 ings, and other property in accordance with sec-
6 tion 504(c), 5121(c), or 14122(b) shall be liable
7 to the United States for a civil penalty not to
8 exceed $1,000 for each offense. Each day the
9 Secretary is denied the right to inspect and
10 copy any record or inspect and examine equip-
11 ment, lands, buildings, and other property shall
12 constitute a separate offense; except that the
13 total of all civil penalties against any violator
14 for all offenses related to a single violation shall
15 not exceed $10,000. It shall be a defense to
16 such penalty that the records did not exist at
17 the time of the Secretary's request or could not
18 be timely produced without unreasonable ex-
19 pense or effort. Nothing in this subparagraph
20 shall be construed as amending or superseding
21 any remedy available to the Secretary under
22 section 502(d), section 507(c), or any other
23 provision of this title.'.

**SEC. 4107. MEDICAL REVIEW BOARD.**

Section 113 of title 49, United States Code, is amended by adding at the end the following:

'(j) MEDICAL REVIEW BOARD.—

'(1) ESTABLISHMENT AND FUNCTION.—The Administrator shall establish a Medical Review Board as an advisory committee to provide the Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

'(2) COMPOSITION.—The Medical Review Board shall consist of 5 members appointed for a term not to exceed 3 years by the Secretary from medical institutions and private medical practice. The membership shall reflect expertise in a variety of medical specialties relevant to the functions of the Administration.'.

**SEC. 4108. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.**

(a) RECORDKEEPING AND REPORTING VIOLATIONS.—Section 521(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i) by striking '$500' and inserting '$1,000'; and

(2) by striking '$5,000' each place it appears and inserting '$10,000'.

(b) VIOLATIONS OF OUT-OF-SERVICE ORDERS.—Section 31310(i)(2) of title 49, United States Code, is amended—

(1) by striking 'Not later than December 18, 1992, the' and inserting 'The';

(2) in subparagraph (A)—

(A) by striking '90 days' and inserting '180 days'; and

(B) by striking '$1,000' and inserting '$2,500';

(3) in subparagraph (B)—

(A) by striking 'one year' and inserting '2 years'; and

(B) by striking '$1,000; and' and inserting '$5,000;'; and

(4) in subparagraph (C) by striking '$10,000.' and inserting '$25,000; and'.

**SEC. 4109. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.**

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles and drivers; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial motor vehicle operations, commercial driver, and carrier-specific information systems and networks.

(c) CORE DEPLOYMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

(2) AMOUNT OF GRANTS.—The maximum aggregate amount the Secretary may grant to a State for the core deployment of commercial vehicle information systems and networks under this subsection and sections 5001(a)(5) and 5001(a)(6) of the Transportation Equity Act for the 21st Century (112 Stat. 420) may not exceed $2,500,000.

(3) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information sys-

tems and networks. An eligible State that has either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before grant funds are expended under this subsection may use the grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made grants under subsection (c), the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks in such State is eligible for an expanded deployment grant under this subsection.

(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.

(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the ex-

1 panded deployment of commercial vehicle informa-
2 tion systems and networks.
3 (e) ELIGIBILITY.—To be eligible for a grant under
4 this section, a State—
5 (1) shall have a commercial vehicle information
6 systems and networks program plan approved by the
7 Secretary that describes the various systems and
8 networks at the State level that need to be refined,
9 revised, upgraded, or built to accomplish deployment
10 of core capabilities;
11 (2) shall certify to the Secretary that its com-
12 mercial vehicle information systems and networks
13 deployment activities, including hardware procure-
14 ment, software and system development, and infra-
15 structure modifications—
16 (A) are consistent with the national intel-
17 ligent transportation systems and commercial
18 vehicle information systems and networks archi-
19 tectures and available standards; and
20 (B) promote interoperability and efficiency
21 to the extent practicable; and
22 (3) shall agree to execute interoperability tests
23 developed by the Federal Motor Carrier Safety Ad-
24 ministration to verify that its systems conform with
25 the national intelligent transportation systems archi-

tecture, applicable standards, and protocols for commercial vehicle information systems and networks.

(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

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

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial motor vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial motor vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) COMMERCIAL MOTOR VEHICLE OPERATIONS.—The term 'commercial motor vehicle operations'—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial motor vehicle movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) Safety information exchange to—

(i) electronically collect and transmit commercial motor vehicle and driver inspection data at a majority of inspection sites in the State;

(ii) connect to the safety and fitness electronic records system for access to interstate carrier and commercial motor vehicle data, summaries of past safety performance, and commercial motor vehicle credentials information; and

(iii) exchange carrier data and commercial motor vehicle safety and credentials information within the State and connect to such system for access to interstate carrier and commercial motor vehicle data.

(B) Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the international registration plan and international fuel tax agreement credentials and extend this processing to other credentials, including intrastate registration, vehicle titling, over-

size vehicle permits, overweight vehicle permits, carrier registration, and hazardous materials permits;

(ii) connect to such plan and agreement clearinghouses; and

(iii) have at least 10 percent of the credentialing transaction volume in the State handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.

(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that exceed the requirements of a core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial motor vehicle operations, and enhance transportation security.

(h) REPEAL.—Section 5209 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 460–461) is repealed.

**SEC. 4110. SAFETY FITNESS.**

(a) IN GENERAL.—Section 31144(a) of title 49, United States Code, is amended to read as follows:

'(a) IN GENERAL.—The Secretary shall—

'(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

'(2) periodically update such safety fitness determinations;

'(3) make such final safety fitness determinations readily available to the public; and

'(4) prescribe by regulation penalties for violations of this section consistent with section 521.'.

(b) PROHIBITED TRANSPORTATION.—The first subsection (c) of such section 31144 is amended by adding at the end the following:

'(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) may not operate any commercial motor vehicle

that affects interstate commerce until the Secretary determines that such owner or operator is fit.'.

(c) DETERMINATION OF UNFITNESS BY A STATE.—Such section 31144 is further amended—

(1) by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively;

(2) by inserting after the first subsection (c) the following:

'(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives a grant under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.'; and

(3) in subsection (g) (as redesignated by paragraph (1) of this subsection) by adding at the end the following:

'(5) GRANTS FOR AUDITS.—From amounts deducted under section 31104(f)(3), the Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States or local governments.

'(6) DOT AUDITS.—If the Secretary determines that a State or local government is unable to use government employees to conduct new entrant motor carrier audits, the Secretary may utilize the funds deducted under section 31104(f)(3) to conduct such audits in areas under the jurisdiction of such State or local government.'.

**SEC. 4111. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER OR BROKER MANAGEMENT.**

(a) DUTIES OF EMPLOYERS AND EMPLOYEES.—Section 31135 of title 49, United States Code, is amended—

(1) by inserting '(a) In General.—' before 'Each'; and

(2) by adding at the end the following:

'(b) PATTERN OF NONCOMPLIANCE.—If an officer of a motor carrier or broker engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this chapter, the Secretary may suspend, amend, or revoke

1 any part of the registration of the motor carrier or broker
2 under section 13905.
3 '(c) LIST OF PROPOSED OFFICERS.—Each person
4 seeking registration as a motor carrier under section
5 13902 or as a broker under section 13904 shall submit
6 a list of the proposed officers of the motor carrier or
7 broker. If the Secretary determines that any of the pro-
8 posed officers has previously engaged in a pattern or prac-
9 tice of avoiding compliance, or masking or otherwise con-
10 cealing noncompliance, with regulations prescribed under
11 this chapter, the Secretary may deny the person's applica-
12 tion for registration as a motor carrier under section
13 13902(a)(3) or as a broker under section 13904(a).
14 '(d) REGULATIONS.—The Secretary shall by regula-
15 tion establish standards to implement subsections (b) and
16 (c) and a procedure to allow a person who is denied reg-
17 istration under subsection (c) or whose registration is sus-
18 pended, amended, or revoked under subsection (b) to rem-
19 edy the pattern or practice that results in the denial, sus-
20 pension, amendment, or revocation.
21 '(e) DEFINITIONS.—In this section, the following
22 definitions shall apply:
23 '(1) MOTOR CARRIER AND BROKER.—The terms
24 ''motor carrier'' and ''broker'' have the meanings
25 such terms have under section 13102.

'(2) OFFICER.—The term ''officer'' means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions.'.

(b) MOTOR CARRIER REGISTRATION.—Section 13902(a)(1)(B) of such title is amended to read as follows:

'(B) (i) any safety regulations imposed by the Secretary;

'(ii) the duties of employers and employees established by the Secretary under section 31135; and

'(iii) the safety fitness requirements established by the Secretary under section 31144; and'.

**SEC. 4112. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.**

(a) IN GENERAL.—Section 31108 of title 49, United States Code, is amended to read as follows:

**'§ 31108. Motor carrier research and technology program**

'(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

1 ‘(1) ESTABLISHMENT.—The Secretary of
2 Transportation shall establish and carry out a motor
3 carrier research and technology program.
4 ‘(2) MULTIYEAR PLAN.—The program must in-
5 clude a multi-year research plan that focuses on
6 nonredundant innovative research.
7 ‘(3) RESEARCH, DEVELOPMENT, AND TECH-
8 NOLOGY TRANSFER ACTIVITIES.—The Secretary may
9 carry out under the program research, development,
10 technology, and technology transfer activities with
11 respect to—
12 ‘(A) the causes of accidents, injuries, and
13 fatalities involving commercial motor vehicles;
14 ‘(B) means of reducing the number and se-
15 verity of accidents, injuries, and fatalities in-
16 volving commercial motor vehicles;
17 ‘(C) improving commercial motor vehicle
18 and motor carrier safety, and industry effi-
19 ciency, through technological improvement;
20 ‘(D) improving technology used by enforce-
21 ment officers when conducting roadside inspec-
22 tions and compliance reviews to increase effi-
23 ciency and information transfers; and
24 ‘(E) increasing the safety and security of
25 hazardous materials transportation.

1 '(4) TESTS AND DEVELOPMENT.—The Sec-
2 retary may test, develop, or assist in testing and de-
3 veloping any material, invention, patented article, or
4 process related to the research and technology pro-
5 gram.
6 '(5) TRAINING.—The Secretary may use the
7 funds made available to carry out this section for
8 training or education of commercial motor vehicle
9 safety personnel, including training in accident re-
10 construction and detection of controlled substances
11 or other contraband and stolen cargo or vehicles.
12 '(6) PROCEDURES.—The Secretary may carry
13 out this section—
14 '(A) independently;
15 '(B) in cooperation with other Federal de-
16 partments, agencies, and instrumentalities and
17 Federal laboratories; or
18 '(C) by making grants to, or entering into
19 contracts, cooperative agreements, and other
20 transactions with, any Federal laboratory, State
21 agency, authority, association, institution, for-
22 profit or nonprofit corporation, organization,
23 foreign country, or person.
24 '(7) DEVELOPMENT AND PROMOTION OF USE
25 OF PRODUCTS.—The Secretary shall use funds made

available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

'(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

'(1) IN GENERAL.—To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

'(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

'(B) Federal laboratories.

'(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

1 ‘(3) COST SHARING.—
2 ‘(A) FEDERAL SHARE.—The Federal share
3 of the cost of activities carried out under a co-
4 operative research and development agreement
5 entered into under this subsection shall not ex-
6 ceed 50 percent; except that, if there is sub-
7 stantial public interest or benefit associated
8 with any such activity, the Secretary may ap-
9 prove a greater Federal share.
10 ‘(B) TREATMENT OF DIRECTLY INCURRED
11 NON-FEDERAL COSTS.—All costs directly in-
12 curred by the non-Federal partners, including
13 personnel, travel, and hardware or software de-
14 velopment costs, shall be credited toward the
15 non-Federal share of the cost of the activities
16 described in subparagraph (A).
17 ‘(4) USE OF TECHNOLOGY.—The research, de-
18 velopment, or use of a technology under a coopera-
19 tive research and development agreement entered
20 into under this subsection, including the terms
21 under which the technology may be licensed and the
22 resulting royalties may be distributed, shall be sub-
23 ject to the Stevenson-Wydler Technology Innovation
24 Act of 1980 (15 U.S.C. 3701 et seq.).’.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 of such title is amended by striking the item relating to section 31108 and inserting the following:

'31108. Motor carrier research and technology program.'.

**SEC. 4113. INTERNATIONAL COOPERATION.**

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end the following:

'SUBCHAPTER IV—MISCELLANEOUS

**'§ 31161. International cooperation**

'The Secretary of Transportation is authorized to use funds made available by section 31104(i) to participate and cooperate in international activities to enhance motor carrier, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.'.

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

'SUBCHAPTER IV—MISCELLANEOUS

'31161. International cooperation.'.

**SEC. 4114. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.**

(a) DESIGN AND CONDITIONS FOR PARTICIPATION.—Section 31106(b) of title 49, United States Code, is amended by striking paragraphs (2), (3), and (4) and inserting the following:

1 '(2) DESIGN.—The program shall link Federal
2 motor carrier safety information systems with State
3 commercial vehicle registration and licensing systems
4 and shall be designed to enable a State to—
5 '(A) determine the safety fitness of a
6 motor carrier or registrant when licensing or
7 registering the registrant or motor carrier or
8 while the license or registration is in effect; and
9 '(B) deny, suspend, or revoke the commer-
10 cial motor vehicle registrations of a motor car-
11 rier or registrant that has been issued an oper-
12 ations out-of-service order by the Secretary.
13 '(3) CONDITIONS FOR PARTICIPATION.—The
14 Secretary shall require States, as a condition of par-
15 ticipation in the program, to—
16 '(A) comply with the uniform policies, pro-
17 cedures, and technical and operational stand-
18 ards prescribed by the Secretary under sub-
19 section (a)(4); and
20 '(B) possess or seek the authority to deny,
21 suspend, or revoke commercial motor vehicle
22 registrations based on the issuance of an oper-
23 ations out-of-service order by the Secretary.'.
24 (b) PERFORMANCE AND REGISTRATION INFORMA-
25 TION SYSTEM MANAGEMENT GRANTS.—

(1) IN GENERAL.—Subchapter I of chapter 311 of title 49, United States Code, is further amended by adding at the end the following:

**'§ 31109. Performance and registration information system management**

'(a) IN GENERAL.—The Secretary of Transportation may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b).

'(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under this section shall remain available until expended.'.

(2) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

'31109. Performance and registration information system management.'.

**SEC. 4115. DATA QUALITY IMPROVEMENT.**

Section 31106(a)(3) of title 49, United States Code, is amended—

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

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

(3) by adding at the end the following:

'(F) ensure, to the maximum extent practical, all the data is complete, timely, and accu-

rate across all information systems and initiatives; and

'(G) establish and implement a national motor carrier safety data correction system.'.

**SEC. 4116. DRIVEAWAY SADDLEMOUNT VEHICLES.**

(a) DEFINITION.—Section 31111(a) of tile 49, United States Code, is amended by adding at the end of the following:

'(4) DRIVE-AWAY SADDLEMOUNT WITH FULLMOUNT VEHICLE TRANSPORTER COMBINATION.—The term ''drive-away saddlemount with fullmount vehicle transporter combination'' means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it.'.

(b) GENERAL LIMITATIONS.—Section 31111(b)(1) of such title is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following:

'(D) imposes a vehicle length limitation of not less than or more than 97 feet on a driveaway

saddlemount with fullmount vehicle transporter combinations;'.

**SEC. 4117. COMPLETION OF UNIFORM CARRIER REGISTRATION.**

(a) IN GENERAL.—Section 14504 of title 49, United States Code, and the item relating to such section in analysis for chapter 145 of such title, are repealed.

(b) CONFORMING AMENDMENTS.—Section 13908 of such title is amended—

(1) in subsection (a) by striking 'the single State registration system under section 14504,';

(2) in subsection (b)—

(A) by striking paragraphs (2) and (3); and

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively;

(3) by striking subsection (d); and

(4) by striking '(e) Deadline for Conclusion; Modification.—' and all that follows through '1996,' and inserting the following:

'(d) DEADLINE FOR COMPLETION.—Not later than 1 year after the date of enactment of the Transportation Equity Act: A Legacy for Users,'.

**SEC. 4118. REGISTRATION OF MOTOR CARRIERS AND FREIGHT FORWARDERS.**

(a) DEFINITIONS RELATING TO MOTOR CARRIERS.—Paragraphs (6), (7), (12), and (13) of section 13102 of title 49, United States Code, are each amended by striking 'motor vehicle' and inserting 'commercial motor vehicle (as defined in section 31132)'.

(b) FREIGHT FORWARDERS.—Section 13903(a) of title 49, United States Code, is amended—

(1) by striking 'The Secretary' and inserting the following:

'(1) HOUSEHOLD GOODS.—The Secretary';

(2) by inserting 'of household goods' after 'freight forwarder'; and

(3) by adding at the end the following:

'(2) OTHERS.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder (other than a freight forwarder of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.'.

**SEC. 4119. DEPOSIT OF CERTAIN CIVIL PENALTIES INTO HIGHWAY TRUST FUND.**

Sections 31138(d)(5) and 31139(f)(5) of title 49, United States Code, are each amended by striking 'Treasury as miscellaneous receipts' and inserting 'Highway Trust Fund (other than the Mass Transit Account)'.

**SEC. 4120. OUTREACH AND EDUCATION.**

(a) IN GENERAL.—The Secretary shall conduct, through any combination of grants, contracts, or cooperative agreements, an outreach and education program to be administered by the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration.

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) A program to promote a more comprehensive and national effort to educate commercial motor vehicle drivers and passenger vehicle drivers about how commercial motor vehicle drivers and passenger vehicle drivers can more safely share the road with each other.

(2) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

(3) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in paragraphs (1) and (2) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.

(c) FEDERAL SHARE.—The Federal share of a program or activity for which a grant is made under this section shall be 100 percent of the cost of such program or activity.

(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section.

(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration, and $3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2005, 2006, 2007, 2008, and 2009 to carry out this section.

**SEC. 4121. INSULIN TREATED DIABETES MELLITUS.**

(a) NO PERIOD OF COMMERCIAL DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—The

1 Secretary may not require individuals with insulin-treated
2 diabetes mellitus who are applying for an exemption from
3 the physical qualification standards to have experience op-
4 erating commercial motor vehicles while using insulin in
5 order to be exempted from the physical qualification
6 standards to operate a commercial motor vehicle in inter-
7 state commerce.

8 (b) MINIMUM PERIOD OF INSULIN USE.—Subject to
9 subsection (a), the Secretary shall require individuals with
10 insulin-treated diabetes mellitus to have a minimum period
11 of insulin use to demonstrate stable control of diabetes
12 before operating a commercial motor vehicle in interstate
13 commerce. For individuals who have been newly diagnosed
14 with type 1 diabetes, the minimum period of insulin use
15 may not exceed 2 months, unless directed by the treating
16 physician. For individuals who have type 2 diabetes and
17 are converting to insulin use, the minimum period of insu-
18 lin use may not exceed 1 month, unless directed by the
19 treating physician.

20 (c) LIMITATIONS.—Insulin-treated individuals may
21 not be held by the Secretary to a higher standard of phys-
22 ical qualification in order to operate a commercial motor
23 vehicle in interstate commerce than other individuals ap-
24 plying to operate, or operating, a commercial motor vehicle
25 in interstate commerce; except to the extent that limited

operating, monitoring, and medical requirements are deemed medically necessary under regulations issued by the Secretary.

**SEC. 4122. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.**

(a) ESTABLISHMENT.—The Secretary shall establish a grant program for training operators of commercial motor vehicles (as defined in section 31301 of title 49, United States Code). The purpose of the program shall be to train operators and future operators in the safe use of such vehicle.

(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009 to carry out this section.

**SEC. 4123. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.**

(a) ESTABLISHMENT.—The Secretary shall establish a commercial motor vehicle safety advisory committee to provide advice and recommendations to the Secretary on commercial motor vehicle safety regulations and other

matters relating to activities and functions of the Federal Motor Carrier Safety Administration.

(b) COMPOSITION.—The members of the advisory committee shall be appointed by the Secretary and shall include representatives of the motor carrier industry, drivers, safety advocates, manufacturers, safety enforcement officials, law enforcement agencies of border States, and other individuals affected by rulemakings under consideration by the Department of Transportation. Representatives of a single interest group may not constitute a majority of the members of the advisory committee.

(c) TERMINATION DATE.—The advisory committee shall remain in effect until September 30, 2009.

**SEC. 4124. SAFETY DATA IMPROVEMENT PROGRAM.**

(a) IN GENERAL.—The Secretary shall make grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary.

(b) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has—

(1) conducted a comprehensive audit of its commercial motor vehicle safety data system within the preceding 2 years;

(2) developed a plan that identifies and prioritizes its commercial motor vehicle safety data needs and goals; and

(3) identified performance-based measures to determine progress toward those goals.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for each of fiscal years 2006 through 2009.

(d) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 80 percent and such funds shall remain available until expended.

(e) BIENNIAL REPORT.—Not later 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the activities and results of the program carried out under this section, together with any recommendations the Secretary determines appropriate.

**SEC. 4125. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.**

(a) GENERAL AUTHORITY.—The Secretary may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize its commercial driver's license information system in accordance with subsection (c) if the State is in substantial compliance with the requirements of section 31311 of title 49, United States Code, and this section, as determined by the Secretary. The Secretary shall establish criteria for the distribution of grants and notify each State annually of such criteria.

(b) MODERNIZATION PLAN.—No later than 120 days after the date of enactment of this Act, the Secretary shall publish a comprehensive national plan to modernize the commercial driver's license information system. The plan shall be developed in consultation with representatives of the motor carrier industry, State safety enforcement agencies, and State licensing agencies designated by the Secretary.

(c) USE OF GRANT.—A State may use a grant under this section only to implement improvements that are consistent with the modernization plan developed by the Secretary.

(d) PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary may conduct with grants under this section a 3-year pilot program in no more than 3 States to evaluate a system for sharing driver's license information on all commercial and noncommercial driver's licenses issued in each participating State.

(2) FUNDING.—The Secretary may use no more than 50 percent of the funds available to carry out this section for the pilot program in any fiscal year.

(3) REPORT.—Not later than 1 year after the last day of the pilot program, the Secretary shall transmit to Congress a report on the results of the pilot program.

(e) GOVERNMENT SHARE.—A grant under this section to a State or organization may not be for more than 80 percent of the costs incurred by the State or organization in a fiscal year in implementing the modernization program developed by the Secretary. In determining these costs, the Secretary shall include in-kind contributions of the State.

(f) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

(1) $7,000,000 for fiscal year 2006;

(2) $7,000,000 for fiscal year 2007;

(3) $8,000,000 for fiscal year 2008; and

(4) $8,000,000 for fiscal year 2009.

(g) CONTRACT AUTHORITY AND AVAILABILITY.—

(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (f) shall remain available until expended.

(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (f) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (f) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

**SEC. 4126. MAXIMUM HOURS OF SERVICE FOR OPERATORS OF GROUND WATER WELL DRILLING RIGS.**

Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat 613) is amended by adding at the end the following: 'Except as required in section 395.3 of title 49, Code of Fed-

eral Regulations, as in effect on the date of enactment of this sentence, no additional off-duty time shall be required in order to operate such vehicle.'.

**SEC. 4127. SAFETY PERFORMANCE HISTORY SCREENING.**

(a) IN GENERAL.—The Secretary shall provide persons conducting preemployment screening services for the motor carrier industry electronic access to the following reports contained in the Motor Carrier Management Information System:

(1) Commercial motor vehicle accident reports.

(2) Inspection reports that contain no driver-related safety violations.

(3) Serious driver-related safety violation inspection reports.

(b) CONDITIONS ON PROVIDING ACCESS.—Before providing a person access to the Motor Carrier Management Information System under subsection (a), the Secretary shall—

(1) ensure that any information that is released to such person will be in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all other applicable Federal law;

(2) ensure that such person will not conduct a screening without the operator-applicant's written consent;

(3) ensure that any information that is released to such person will not be released to any person or entity, other than the motor carrier requesting the screening services or the operator-applicant, unless expressly authorized or required by law; and

(4) provide a procedure for the operator-applicant to correct inaccurate information in the System in a timely manner.

(c) DESIGN.—The process for providing access to the Motor Carrier Management Information System under subsection (a) shall be designed to assist the motor carrier industry in assessing an individual operator's crash and serious safety violation inspection history as a preemployment condition. Use of the process shall not be mandatory and may only be used during the preemployment assessment of an operator-applicant.

(d) SERIOUS OPERATOR-RELATED SAFETY VIOLATION DEFINED.—In this section, the term 'serious operator-related violation' means a violation by an operator of a commercial motor vehicle (as defined in section 31102 of title 49, United States Code) that the Secretary determines will result in the operator being prohibited from continuing to operate a commercial motor vehicle until the violation is corrected.

**SEC. 4128. INTERMODAL CHASSIS ROADABILITY RULE-MAKING.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers are safe.

(b) MOTOR CARRIER SAFETY REGULATIONS.—The regulations under this section shall be issued as part of the Federal motor carrier safety regulations of the Department of Transportation.

(c) CONTENTS.—The regulations issued under this section shall include, at a minimum—

(1) a requirement to identify providers of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(2) a requirement to match such intermodal equipment readily to the intermodal equipment provider through a unique identifying number;

(3) a requirement to ensure that each intermodal equipment provider maintains a system of maintenance and repair records for such equipment;

(4) a requirement to evaluate the compliance of intermodal equipment providers with the applicable Federal motor carrier safety regulations;

(5) a provision that—

(A) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal motor carrier safety regulations; and

(B) prohibits intermodal equipment providers from placing intermodal equipment on the public highways if such providers are found to pose an imminent hazard;

(6) a process by which motor carriers and agents of motor carriers may petition the Federal Motor Carrier Safety Administration to undertake an investigation of a noncompliant intermodal equipment provider; and

(7) an inspection and audit program of intermodal equipment providers.

(d) DEADLINE FOR RULEMAKING PROCEEDING.—The regulations under this section shall be issued pursuant to a rulemaking proceeding initiated not later than 90 days after the date of enactment of this Act.

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

(1) INTERMODAL EQUIPMENT.—The term 'intermodal equipment' means equipment that is commonly used in the intermodal transportation of freight over public highways in interstate commerce (as defined in section 31132 of title 49, United States Code), including trailers, chassis, and any associated devices.

(2) INTERMODAL EQUIPMENT PROVIDER.—The term 'intermodal equipment provider' means any person with any legal right, title, or interest in intermodal equipment that interchanges such equipment to a motor carrier.

(3) INTERCHANGE.—The term 'interchange' means the act of providing intermodal equipment to a motor carrier for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider. Such term does not include the leasing of equipment to a motor carrier for use in the motor carrier's over-the-road freight hauling operations.

(f) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—Section 31136 of title 49,

United States Code, is amended by adding at the end the following:

'(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary, or an employee of the Department of Transportation designated by the Secretary, may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials to inspect intermodal equipment.'.

(g) JURISDICTION OVER EQUIPMENT PROVIDERS.—Section 31132(1) of such title is amended by inserting after 'towed vehicle' the following: '(including intermodal equipment, including trailers, chassis and associated devices, commonly used for the transportation of intermodal freight via highway)'.

**SEC. 4129. SUBSTANCE ABUSE PROFESSIONALS.**

The Secretary shall conduct a rulemaking to permit State licensed or certified mental health counselors or addiction specialists certified by the American Academy of Health Care Providers in the Addictive Disorders to act as substance abuse professionals under subpart O of part 40 of title 49, Code of Federal Regulations.

**SEC. 4130. INTERSTATE VAN OPERATIONS.**

The Federal motor carrier safety regulations (other than regulations relating to commercial drivers license and

drug and alcohol testing requirements) shall apply to all interstate operations of commercial motor vehicles used to transport between 9 and 15 passengers (including the driver), regardless of the distance traveled.

**SEC. 4131. HOURS OF SERVICE FOR OPERATORS OF UTILITY SERVICE VEHICLES.**

Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 sTAT. 613) is amended—

(1) in subsection (a) by striking paragraph (4) and inserting the following:

'(4) OPERATORS OF UTILITY SERVICE VEHICLES.—

'(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations shall not apply to a driver of a utility service vehicle.

'(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.'.

(2) in subsection (b) by striking 'Nothing' and inserting 'Except as provided in subsection (a)(4), nothing'; and

(3) in the first sentence of subsection (c) by striking 'paragraph (2)' and inserting 'an exemption under paragraph (2) or (4)'.

**SEC. 4132. TECHNICAL CORRECTIONS.**

(a) INTERMODAL TRANSPORTATION ADVISORY BOARD.—Section 5502(b) of title 49, United States Code, is amended—

(1) by striking 'and' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting '; and'; and

(3) by adding at the end the following:

'(6) the Federal Motor Carrier Safety Administration.'.

(b) REFERENCE TO AGENCY.—Section 31502(e) of such title is amended—

(1) in paragraph (2) by striking 'Regional Director of the Federal Highway Administration' and inserting 'Field Administrator of the Federal Motor Carrier Safety Administration'; and

(2) in paragraph (3) by striking 'Regional Director' and inserting 'Field Administrator'.

**SEC. 4133. SPECIAL RULE FOR FISCAL YEAR 2004.**

In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of this title, including an amendment made by this title, that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part IV (Public Law 108–280), including any amendment made by such Act, the amount referred to in such Act shall be the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.

# Subtitle B—Household Goods Transportation

**SEC. 4201. FEDERAL-STATE RELATIONS RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.**

(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) of title 49, United States Code, is amended by inserting 'intrastate' before 'transportation'.

(b) ENFORCEMENT OF CONSUMER PROTECTION WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS

1 CARRIERS.—Chapter 145 of such title is amended by add-
2 ing at the end the following:

3 **'§ 14506. Enforcement of Federal regulations by State**
4 **attorneys General**

5 '(a) IN GENERAL.—A State, as parens patriae, may
6 bring a civil action on behalf of a resident of the State
7 in an appropriate district court of the United States to
8 enforce a regulation or order of the Secretary or Board—
9 '(1) to protect an individual shipper of house-
10 hold goods if such regulation or order governs the
11 delivery of the shipper's household goods; or
12 '(2) to impose a civil penalty under section
13 14915 whenever the attorney general of the State
14 has reason to believe that the interests of the resi-
15 dents of the State have been or are being threatened
16 or adversely affected by—
17 '(A) a carrier or broker providing transpor-
18 tation of household goods subject to jurisdiction
19 under subchapter I or III of chapter 135 who
20 is committing repeat violations of section
21 14915; or
22 '(B) a foreign motor carrier providing
23 transportation of household goods who is reg-
24 istered under section 13902 and who is commit-
25 ting repeat violations of section 14915.

1 '(b) LIMITATION ON STATUTORY CONSTRUCTION.—
2 Nothing in this section shall be construed—
3 '(1) as preventing an attorney general from ex-
4 ercising the powers conferred on the attorney gen-
5 eral by the laws of such State to conduct investiga-
6 tions or to administer oaths or affirmations or to
7 compel the attendance of witnesses or the production
8 of documentary and other evidence;
9 '(2) as prohibiting a State official from pro-
10 ceeding in State court to enforce a criminal statute
11 of the State;
12 '(3) as authorizing a State or political subdivi-
13 sion of a State to bring an enforcement action under
14 a consumer protection law, regulation, or other pro-
15 vision of the State relating to interstate transpor-
16 tation of household goods (as defined in section
17 13102(10)(A)) with respect to an activity that is in-
18 consistent with Federal laws and regulations relating
19 to interstate transportation of household goods; or
20 '(4) as authorizing a State, as parens patriae,
21 to bring a class civil action on behalf of its residents
22 to enforce a regulation or order of the Secretary or
23 Board.
24 '(c) ACTIONS BY THE SECRETARY OR BOARD.—
25 Whenever a civil action has been instituted by or on behalf

of the Secretary or Board for violation of section 14915, no State may, during the pendency of such action, institute a civil action under subsection (a) against any defendant named in the complaint relating to such violation.

'(d) VENUE; SERVICE OF PROCESS.—Any civil action to be brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.'.

(c) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

'14506. Enforcement of Federal regulations by State attorneys general.'.

**SEC. 4202. ARBITRATION REQUIREMENTS.**

(a) OFFERING SHIPPERS ARBITRATION.—Section 14708(a) of title 49, United States Code, is amended by inserting before the period at the end the following: 'and to determine whether carrier charges, in addition to those collected at delivery, must be paid by the shipper for transportation and services related to the transportation of household goods'.

(b) THRESHOLD FOR BINDING ARBITRATION.—Section 14708(b)(6) of such title is amended by striking '$5,000' each place it appears and inserting '$10,000'.

(c) DEADLINE FOR DECISION.—Section 14708(b)(8) of such title is amended—

(1) by striking 'and'; and

(2) by inserting after 'for damages' the following: ', and an order requiring the payment of additional carrier charges'.

(d) ATTORNEY'S FEES TO SHIPPERS.—Section 14708(d)(3) of such title is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B) (as so redesignated) the following:

'(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;'.

**SEC. 4203. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS AND UNAUTHORIZED TRANSPORTATION.**

Section 14901(d) of title 49, United States Code, is amended—

(1) by striking 'If a carrier' and inserting the following:

'(1) IN GENERAL.—If a carrier'; and

(2) by adding at the end the following:

'(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

'(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.'.

**SEC. 4204. CIVIL PENALTY FOR HOLDING HOUSEHOLD GOODS HOSTAGE.**

(a) IN GENERAL.—Chapter 149 of title 49, United States Code, is amended by adding at the end the following:

**'§ 14915. Holding household goods hostage**

'(a) HOLDING HOUSEHOLD GOODS HOSTAGE DEFINED.—For purposes of this section, the term ''holding household goods hostage'' means the knowing and willful refusal to relinquish possession of a shipment of household goods described in section 13102(10)(A) upon payment of not more than 100 percent of a binding estimate (or, in the case of a nonbinding estimate, not more than 110 percent of the estimated charges for such shipment).

'(b) CIVIL PENALTY.—Whoever is found holding a household goods shipment hostage is liable to the United States for a civil penalty of not less than $10,000 for each violation. If such person is a carrier or broker, the Secretary may suspend for a period of not less than 6 months the registration of such carrier or broker under chapter 139.'.

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

'14915. Holding household goods hostage.'.

**SEC. 4205. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and of making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods.

(c) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under subsection (a).

(d) TERMINATION DATE.—The working group shall remain in effect until September 30, 2009.

**SEC. 4206. CONSUMER HANDBOOK ON DOT WEB SITE.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall take such action as may

be necessary to ensure that publication ESA 03005 of the Federal Motor Carrier Safety Administration entitled 'Your Rights and Responsibilities When You Move', is prominently displayed, and available in language that is readily understandable by the general public, on the Web site of the Department of Transportation.

**SEC. 4207. RELEASE OF HOUSEHOLD GOODS BROKER INFORMATION.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a broker that is subject to such regulations to provide shippers with the following information whenever they have contact with a shipper or potential shipper:

(1) The Department of Transportation number of the broker.

(2) The ESA 03005 publication referred to in section 4206 of this Act.

(3) A list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

**SEC. 4208. CONSUMER COMPLAINT INFORMATION.**

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) establish a system for filing and logging consumer complaints relating to motor carriers providing transportation of household goods and for compiling complaint information gathered by the Department of Transportation and the States with regard to such carriers, a database of the complaints, and a procedure for the public to have access to aggregated information and for carriers to challenge duplicate or fraudulent information in the database; and

(2) issue regulations requiring each motor carrier of household goods to submit on a quarterly basis a report summarizing—

(A) the number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;

(B) the number and general category of complaints lodged by consumers with the carrier;

(C) the number of claims filed with the carrier for loss and damage in excess of $500;

(D) the number of such claims resolved during the reporting period;

(E) the number of such claims declined in the reporting period; and

(F) the number of such claims that are pending at the close of the reporting period.

(b) USE OF INFORMATION.—The Secretary shall consider information in the data base established under subsection (a) in its household goods compliance and enforcement program.

**SEC. 4209. INSURANCE REGULATIONS.**

(a) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall undertake a review of the current Federal regulations regarding insurance coverage provided by motor carriers providing transportation of household goods and revise such regulations in order to provide enhanced protection for shippers in the case of loss or damage as determined necessary.

(b) DETERMINATIONS.—The review shall include, but not be limited to, a determination of—

(1) whether the current regulations provide adequate protection for shippers;

(2) whether an individual shipper should purchase insurance as opposed to the carrier; and

(3) whether there are abuses of the current regulations that leave the shipper unprotected in loss and damage claims.

**SEC. 4210. ESTIMATING REQUIREMENTS.**

Section 14104(b)(1) of title 49, United States Code, is amended to read as follows:

'(1) REQUIRED TO BE IN WRITING.—

'(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.

'(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation re-

quirements of the Secretary as are applicable to bills of lading.

'(C) ESTIMATE.—

'(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier's statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding.

'(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.

'(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper's shipment and the carrier's lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.'.

**SEC. 4211. APPLICATION OF STATE CONSUMER PROTECTION LAWS TO CERTAIN HOUSEHOLD GOODS CARRIERS.**

(a) STUDY.—The Comptroller General shall conduct a study on the current consumer protection authorities and actions of the Department of Transportation and the impact on shippers and carriers of houshold goods involved in interstate transportation of allowing State attorneys general to apply State consumer protection laws to such transportation.

(b) MATTERS TO BE CONSIDERED.—In conducting the study, the Comptroller General shall consider, at a minimum—

(1) the level of consumer protection being provided to consumers through Federal household goods regulations and how household goods regulations relating to consumer protection compare to regulations relating to consumer protection for other modes of transportation regulated by the Department of Transportation;

(2) the history and background of State enforcement of State consumer protection laws on household goods carriers providing intrastate transportation and what effects such laws have on the ability of intrastate household goods carriers to operate;

(3) what operational impacts, if any, would result on household goods carriers engaged in interstate commerce being subject to the State consumer protection laws; and

(4) the potential for States to regulate rates or other business operations if State consumer protection laws applied to interstate household goods movements.

(c) CONSULTATION.—In conducting the study, the Comptroller General shall consult with the Secretary, State attorneys general, consumer protection agencies, and the household goods industry.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall transmit to the Committee of Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report on the results of the study.

**SEC. 4212. APPLICABILITY TO HOUSEHOLD GOODS MOTOR CARRIERS.**

(a) IN GENERAL.—The provisions of title 49, United States Code, and this Act (including any amendments made by this Act) relating to the transportation of household goods shall only apply to household goods motor carriers.

(b) HOUSEHOLD GOODS MOTOR CARRIER DEFINED.—In this section, the term 'household goods motor carrier' means a motor carrier as defined in section 13102(12) of title 49, United States Code, which, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services: binding and nonbinding estimates, inventorying, protective packing and unpacking of individual items, and loading and unloading at personal residences.

**SEC. 4213. VIOLATIONS OF OUT-OF-SERVICE ORDERS.**

Section 31310(i)(2) of title 49, United States Code, is amended by adding at the end the following:

'(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, or both.'.

**SEC. 4214. CRIMINAL PENALTY FOR HOLDING GOODS HOSTAGE .**

Section 14915 of title 49, United States Code, as added by section 4204 of this Act is amended by adding at the end the following:

'(d) CRIMINAL PENALTY.—A motor carrier that has been convicted of knowingly and willfully holding household goods hostage by falsifying documents or demanding the payment of charges for services that were not performed or were not necessary in the safe and adequate movement of a shipment of household goods shall be fined under title 18, or imprisoned not more than 2 years, or both.'.

# TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

## Subtitle A—Funding

**SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.**

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

(1) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEPLOYMENT PROGRAM.—To carry out sections 502, 503, 506, 507, 509, and 510 of title 23, United States Code, and sections 5207, 5210, 5211, and 5402 of this title—

(A) $169,000,000 for fiscal year 2004;

(B) $239,500,000 for fiscal year 2005;

(C) $239,500,000 for fiscal year 2006;

(D) $239,500,000 for fiscal year 2007;

(E) $239,500,000 for fiscal year 2008; and

(F) $239,500,000 for fiscal year 2009.

(2) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, and section 5211 of this Act, $24,500,000 for fiscal year 2004 and $33,500,000 for each of fiscal years 2005 through 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $31,000,000 for fiscal year 2004 and $33,000,000 for each of fiscal years 2005 through 2009.

(4) UNIVERSITY TRANSPORTATION RESEARCH.—To carry out sections 5505 and 5506 of title 49, United States Code, $54,500,000 for fiscal year 2004 and $71,000,000 for each of fiscal years 2005 through 2009.

(5) INTELLIGENT TRANSPORTATION SYSTEMS (ITS) RESEARCH.—To carry out subtitle F of this title, $115,000,000 for each of fiscal years 2004 through 2009.

(6) ITS DEPLOYMENT.—To carry out sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (112 Stat. 458; 112 Stat. 460), $100,000,000 for fiscal years 2004 and 2005.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project or activity carried out using such funds shall be 50 percent, unless otherwise expressly provided by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such funds shall remain available until expended and shall not be transferable.

**SEC. 5102. OBLIGATION CEILING.**

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by sections 5101(a) and 5401 of this Act shall not exceed $483,000,000 for fiscal year 2004, $484,000,000 for fiscal year 2005, $485,000,000 for fiscal year 2006, $485,000,000 for fiscal year 2007, $486,000,000 for fiscal year 2008, and $487,000,000 for fiscal year 2009.

**SEC. 5103. FINDINGS.**

Congress finds the following:

(1) Research and development are critical to developing and maintaining a transportation system that meets the goals of safety, mobility, economic vi-

tality, efficiency, equity, and environmental protection.

(2) Federally sponsored surface transportation research and development has produced many successes. The development of rumble strips has increased safety; research on materials has increased the lifespan of pavements, saving money and reducing the disruption caused by construction; and Geographic Information Systems have improved the management and efficiency of transit fleets.

(3) Despite these important successes, the Federal surface transportation research and development investment represents less than one percent of overall government spending on surface transportation.

(4) While Congress increased funding for overall transportation programs by about 40 percent in the Transportation Equity Act for the 21st Century, funding for transportation research and development remained relatively flat.

(5) The Federal investment in research and development should be balanced between short-term applied and long-term fundamental research and development. The investment should also cover a wide range of research areas, including research on mate-

rials and construction, research on operations, research on transportation trends and human factors, and research addressing the institutional barriers to deployment of new technologies.

(6) Therefore, Congress finds that it is in the United States interest to increase the Federal investment in transportation research and development, and to conduct research in critical research gaps, in order to ensure that the transportation system meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.

# Subtitle B—Research, Technology, and Education

**SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

(a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 5 and inserting the following:

'5. RESEARCH, TECHNOLOGY, AND EDUCATION ..... 501'.

(2) by striking the heading for chapter 5 and inserting the following:

**'CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION'**.

(b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—Section 502 of such title is amended—

(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and

(2) by inserting before subsection (b) (as so redesignated) the following:

'(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

'(1) COVERAGE.—Surface transportation research and technology development shall include all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices, and approaches, through such mechanisms as field applications, education and training, and technical support.

'(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—

'(A) is of national significance;

1 ‘(B) supports research in which there is a
2 clear public benefit and private sector invest-
3 ment is less than optimal;
4 ‘(C) supports a Federal stewardship role in
5 assuring that State and local governments use
6 national resources efficiently; or
7 ‘(D) presents the best means to support
8 Federal policy goals compared to other policy
9 alternatives.
10 ‘(3) ROLE.—Consistent with these Federal re-
11 sponsibilities, the Secretary shall—
12 ‘(A) conduct research;
13 ‘(B) support and facilitate research and
14 technology transfer activities by State highway
15 agencies;
16 ‘(C) share results of completed research;
17 and
18 ‘(D) support and facilitate technology and
19 innovation deployment.
20 ‘(4) PROGRAM CONTENT.—A surface transpor-
21 tation research program shall include—
22 ‘(A) fundamental, long-term highway re-
23 search;

'(B) research aimed at significant highway research gaps and emerging issues with national implications; and

'(C) research related to policy and planning.

'(5) STAKEHOLDER INPUT.—Federal surface transportation research and development activities shall address the needs of stakeholders. Stakeholders include States, metropolitan planning organizations, local governments, the private sector, researchers, research sponsors, and other affected parties, including public interest groups.

'(6) COMPETITION AND PEER REVIEW.—Except as otherwise provided in this Act, the Secretary shall award all grants, contracts, and cooperative agreements for research and development under this Act based on open competition and peer review of proposals.

'(7) PERFORMANCE REVIEW AND EVALUATION.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation. Performance measures shall be established during the proposal stage of a research and development project and shall, to the

1 maximum extent possible, be outcome-based. All
2 evaluations shall be made readily available to the
3 public.'.
4 (c) PROCUREMENT FOR RESEARCH, DEVELOPMENT,
5 AND TECHNOLOGY TRANSFER ACTIVITIES.—Section
6 502(b)(3) of such title (as redesignated by subsection (b)
7 of this section) is amended to read as follows:
8 '(3) COOPERATION, GRANTS, AND CON-
9 TRACTS.—The Secretary may carry out research, de-
10 velopment, and technology transfer activities related
11 to transportation—
12 '(A) independently;
13 '(B) in cooperation with other Federal de-
14 partments, agencies, and instrumentalities and
15 Federal laboratories; or
16 '(C) by making grants to, or entering into
17 contracts, cooperative agreements, and other
18 transactions with one or more of the following:
19 the National Academy of Sciences, the Amer-
20 ican Association of State Highway and Trans-
21 portation Officials, any Federal laboratory,
22 Federal agency, State agency, authority, asso-
23 ciation, institution, for-profit or nonprofit cor-
24 poration, organization, foreign country, any
25 other person.'.

(d) TRANSPORTATION POOLED FUND PROGRAM.—Section 502(b) of such title (as redesignated by subsection (b) of this section), is amended by adding at the end the following:

'(6) POOLED FUNDING.—

'(A) COOPERATION.—To promote effective utilization of available resources, the Secretary may cooperate with a State and an appropriate agency in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

'(B) SECRETARY AS AGENT.—The Secretary may enter into contracts, cooperative agreements, grants, and other transactions as agent for all participating parties in carrying out such research, development, or technology transfer.'.

(e) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of such title is further amended—

(1) in subsection (b)(1)(B) (as redesignated by subsection (b) of this section) by inserting 'transportation system management and operations,' after 'operation,'.

(2) in subsection (d)(5)(C) (as redesignated by subsection (b) of this section) by inserting 'system management and' after 'transportation'; and

(3) by inserting at the end of subsection (d) (as redesignated by subsection (b) of this section) the following:

'(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and nonrecurrent congestion and increase transportation system reliability.

'(13) Investigation of processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations and the impact of good security practices on commerce and productivity.

'(14) Research, development, and technology transfer related to asset management.'.

(f) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c)(2) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

'(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts,

cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other transactions to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, and their agents to conduct joint transportation research and technology efforts.'.

(g) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502(e) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

'(e) EXPLORATORY ADVANCED RESEARCH.—

'(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508 that involves and draws upon basic research results to provide a better understanding of problems and develop innovative solutions. In carrying out the program, the Secretary shall strive to develop partnerships with public and private sector entities.

1 '(2) RESEARCH AREAS.—In carrying out the
2 program, the Secretary may make grants and enter
3 into cooperative agreements and contracts in such
4 areas of surface transportation research and tech-
5 nology as the Secretary determines appropriate, in-
6 cluding the following:
7 '(A) Characterization of materials used in
8 highway infrastructure, including analytical
9 techniques, microstructure modeling, and the
10 deterioration processes.
11 '(B) Assessment of the effects of transpor-
12 tation decisions on human health.
13 '(C) Development of surrogate measures of
14 safety.
15 '(D) Environmental research.
16 '(E) Data acquisition techniques for sys-
17 tem condition and performance monitoring.
18 '(F) System performance data and infor-
19 mation processing needed to assess the day-to-
20 day operational performance of the system in
21 support of hour-to-hour operational decision-
22 making.'.
23 (h) LONG-TERM PAVEMENT PERFORMANCE PRO-
24 GRAM.—

(1) IN GENERAL.—Section 502(f) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

'(f) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

'(1) AUTHORITY.—The Secretary shall complete the 20-year long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on June 8, 1998).

'(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

'(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

'(B) analyze the data obtained under subparagraph (A); and

'(C) prepare products to fulfill program objectives and meet future pavement technology needs.'.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $10,000,000 for fiscal year 2004 and $21,000,000 for each of fiscal

years 2005 through 2009 shall be available to carry out section 502(f) of title 23, United States Code.

(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:

'(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

'(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

'(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

'(A) the conduct of highway research and development related to new highway technology;

'(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials; and

'(C) the development of innovative highway products and practices.'.

(j) UNIVERSITY FUNDING.—Except as otherwise provided in this title and any amendments made by this title,

the Secretary may not provide financial assistance to a university under section 5101 unless the university is selected to receive such funds through a competitive process that incorporates merit-based peer review and the selection is based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

**SEC. 5202. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.**

(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

(1) IN GENERAL.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:

'(j) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

'(1) AUTHORITY.—The Secretary shall establish a 20-year long-term bridge performance program.

'(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

'(A) monitor, material-test, and evaluate test bridges;

'(B) analyze the data obtained under subparagraph (A); and

'(C) prepare products to fulfill program objectives and meet future bridge technology needs.'.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(j) of title 23, United States Code.

(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503(b)(1) of such title is amended to read as follows:

'(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.'.

(2) GOALS.—Section 503(b)(2) of such title is amended to read as follows:

'(2) GOALS.—The goals of the program shall include—

1 ‘(A) the development of new, cost-effective,
2 innovative highway bridge applications;
3 ‘(B) the development of construction tech-
4 niques to increase safety and reduce construc-
5 tion time and traffic congestion;
6 ‘(C) the development of engineering design
7 criteria for innovative products, materials, and
8 structural systems for use in highway bridges
9 and structures;
10 ‘(D) the reduction of maintenance costs
11 and life-cycle costs of bridges, including the
12 costs of new construction, replacement, or reha-
13 bilitation of deficient bridges;
14 ‘(E) the development of highway bridges
15 and structures that will withstand natural dis-
16 asters;
17 ‘(F) the documentation and wide dissemi-
18 nation of objective evaluations of the perform-
19 ance and benefits of these innovative designs,
20 materials, and construction methods;
21 ‘(G) the effective transfer of resulting in-
22 formation and technology; and
23 ‘(H) the development of improved methods
24 to detect bridge scour and economical bridge

foundation designs that will withstand bridge scour.'.

(3) FUNDING.—

(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $20,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503(b) of title 23, United States Code; and

(B) HIGH PERFORMANCE CONCRETE BRIDGE TECHNOLOGY RESEARCH AND DEPLOYMENT.—The Secretary shall obligate $2,000,000 of the amount described in subparagraph (A) for each of fiscal years 2004 through 2009 to conduct research and deploy technology related to high-performance concrete bridges.

**SEC. 5203. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.**

(a) IN GENERAL.—Section 507 of title 23, United States Code, is amended to read as follows:

**'§ 507. Surface Transportation environment and planning cooperative research program**

'(a) ESTABLISHMENT.—The Secretary shall establish and carry out a collaborative, public-private surface trans-

1 portation environment and planning cooperative research
2 program.
3 '(b) AGREEMENT.—The Secretary shall enter into an
4 agreement with the National Academy of Sciences to carry
5 out administrative and management activities relating to
6 the governance of the surface transportation environment
7 and planning cooperative research program.
8 '(c) ADVISORY COMMITTEE.—
9 '(1) ESTABLISHMENT.—The Secretary shall es-
10 tablish a committee that will be responsible for pro-
11 gram oversight and project selection.
12 '(2) MEMBERSHIP.—The members of the com-
13 mittee shall be appointed by the Secretary and shall
14 be composed of—
15 '(A) representatives of State, regional, and
16 local transportation agencies, including transit
17 agencies;
18 '(B) representatives of State environmental
19 agencies and other environmental organizations;
20 '(C) representatives of the transportation
21 private sector;
22 '(D) transportation and environmental sci-
23 entists and engineers; and
24 '(E) representatives of the Federal High-
25 way Administration, Federal Transit Adminis-

1 tration, Environmental Protection Agency,
2 United States Fish and Wildlife Service, Corps
3 of Engineers, American Association of State
4 Highway and Transportation Officials, and
5 American Public Transportation Association,
6 who shall serve in an ex officio capacity.
7 '(3) BALANCE.—The majority of the commit-
8 tee's voting members shall be representatives of gov-
9 ernment transportation agencies.
10 '(4) MEETINGS.—The National Academy of
11 Sciences shall convene meetings of the committee.
12 '(d) GOVERNANCE.—The program established under
13 this section shall include the following administrative and
14 management elements:
15 '(1) NATIONAL RESEARCH AGENDA.—The advi-
16 sory committee, in consultation with interested par-
17 ties, shall carry out and periodically update research
18 and development called for in the Transportation
19 Research Board Special Report 268, entitled ''Sur-
20 face Transportation Environmental Research: A
21 Long-Term Strategy'' and published in 2002, as de-
22 scribed in subsection (e). The national research
23 agenda shall include a multiyear strategic plan.
24 '(2) INVOLVEMENT.—Interested parties may—
25 '(A) submit research proposals;

1 ‘(B) participate in merit reviews of re-
2 search proposals and peer reviews of research
3 products; and
4 ‘(C) receive research results.
5 ‘(3) OPEN COMPETITION AND PEER REVIEW OF
6 RESEARCH PROPOSALS.—The National Academy of
7 Sciences may award under the program research
8 contracts and grants through open competition and
9 merit review conducted on a regular basis.
10 ‘(4) EVALUATION OF RESEARCH.—
11 ‘(A) PEER REVIEW.—Research contracts
12 and grants may allow peer review of the re-
13 search results.
14 ‘(B) PROGRAMMATIC EVALUATIONS.—The
15 National Academy of Sciences may conduct
16 periodic programmatic evaluations on a regular
17 basis.
18 ‘(5) DISSEMINATION OF RESEARCH FIND-
19 INGS.—The National Academy of Sciences shall dis-
20 seminate research findings to researchers, practi-
21 tioners, and decisionmakers, through conferences
22 and seminars, field demonstrations, workshops,
23 training programs, presentations, testimony to gov-
24 ernment officials, World Wide Web, and publications
25 for the general public.

1 '(e) CONTENTS.—The national research agenda for
2 the program required under subsection (d)(1) shall include
3 research in the following areas for the purposes described:
4 '(1) HUMAN HEALTH.—Human health to estab-
5 lish the links between transportation activities and
6 human health; substantiate the linkages between ex-
7 posure to concentration levels, emissions, and health
8 impacts; examine the potential health impacts from
9 the implementation and operation of transportation
10 infrastructure and services; develop strategies for
11 avoidance and reduction of these impacts; and de-
12 velop strategies to understand the economic value of
13 health improvements and for incorporating health
14 considerations into valuation methods.
15 '(2) ECOLOGY AND NATURAL SYSTEMS.—Ecol-
16 ogy and natural systems to measure transportation's
17 short- and long-term impact on natural systems; de-
18 velop ecologically based performance measures; de-
19 velop insight into both the spatial and temporal
20 issues associated with transportation and natural
21 systems; study the relationship between highway
22 density and ecosystem integrity, including the im-
23 pacts of highway density on habitat integrity and
24 overall ecosystem health; develop a rapid assessment
25 methodology for use by transportation and regu-

1 latory agencies in determining the relationship be-
2 tween highway density and ecosystem integrity; and
3 develop ecologically based performance techniques to
4 evaluate the success of highway project mitigation
5 and enhancement measures.

6 '(3) ENVIRONMENTAL AND SOCIOECONOMIC RE-
7 LATIONSHIPS.—Environmental and socioeconomic
8 relationships to understand differences in mobility,
9 access, travel behavior, and travel preferences across
10 socioeconomic groups; develop improved planning ap-
11 proaches that better reflect and respond to commu-
12 nity needs; improve evaluation methods for exam-
13 ining the incidence of benefits and costs; examine
14 the differential impacts of current methods of fi-
15 nance and explore alternatives; understand the socio-
16 economic implications of emerging land development
17 patterns and new transportation technologies; de-
18 velop cost-effective applications of technology that
19 improve the equity of the transport system; and de-
20 velop improved methods for community involvement,
21 collaborative planning, and conflict resolution.

22 '(4) EMERGING TECHNOLOGIES.—Emerging
23 technologies to assist in the transition to environ-
24 mentally benign fuels and vehicles for passengers
25 and freight; develop responses to and demand for

new technologies that could offer improved environmental performance; identify possible applications of intelligent transportation systems technologies for environmental benefit; develop policy instruments that would encourage the development of beneficial new technologies in a cost-effective manner; and respond to the impact of new technologies.

'(5) LAND USE.—Land use to assess land consumption trends and contributing factors of transportation investment, housing policies, school quality, and consumer preferences; incorporate impacts of transportation investments on location decision and land use; identify the costs and benefits of current development patterns and their transportation implications; determine the effect of the built environment on people's willingness to walk, drive, or take public transportation; determine the roles of public policy and institutional arrangements in current and prospective land use and transportation choices; and develop improved data, methods, and processes for considering land use, transportation, and the environment in an integrated, systematic fashion.

'(6) PLANNING AND PERFORMANCE MEASURES.—Planning and performance measures to im-

prove understanding of travel needs and preferences; improve planning methods for system analysis, forecasting, and decisionmaking; expand information on consumer choice processes and travel and activity patterns for both local and long-distance trips and both passenger and freight transportation analysis of social, environmental, and economic benefits and cost of various transport options; develop tools for measuring and forecasting complex transportation decisions for all modes and users; and develop performance measures and policy analysis approaches that can be used to determine effectiveness.

'(7) OTHER RESEARCH AREAS.—Other research areas to identify and address the emerging and future surface transportation research needs related to planning and environment.

'(f) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

'(g) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized to be appropriated to carry out this section, the National Academy of Sciences may seek and accept additional funding sources to carry out this section from public and private entities capable of attracting and

accepting funding from the Department of Transportation, Environmental Protection Agency, Department of Energy, United States Fish and Wildlife Service, and other Federal environmental agencies, States, local governments, nonprofit foundations, and the private sector.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 507 and inserting the following:

'507. Surface transportation environment and planning cooperative research program.'.

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 507 of title 23, United States Code.

**SEC. 5204. TECHNOLOGY DEPLOYMENT.**

(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—

(1) in the subsection heading by striking 'Initiatives and Partnerships';

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

'(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.';

(3) by striking paragraph (7) and inserting the following:

'(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

'(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities concerning innovative materials.

'(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the grant meets the purpose of the program described in paragraph (2).'; and

(4) by striking paragraph (8) and inserting the following:

1 '(8) TECHNOLOGY AND INFORMATION TRANS-
2 FER.—The Secretary shall ensure that the informa-
3 tion and technology resulting from research con-
4 ducted under paragraph (7) is made available to
5 State and local transportation departments and
6 other interested parties as specified by the Sec-
7 retary.'.
8 (b) INNOVATIVE PAVEMENT RESEARCH AND DE-
9 PLOYMENT PROGRAM.—
10 (1) IN GENERAL.—Section 503 of such title is
11 further amended by adding at the end the following:
12 '(c) INNOVATIVE PAVEMENT RESEARCH AND DE-
13 PLOYMENT PROGRAM.—
14 '(1) IN GENERAL.—The Secretary shall estab-
15 lish and implement a program to promote, dem-
16 onstrate, support, and document the application of
17 innovative pavement technologies, practices, per-
18 formance, and benefits.
19 '(2) GOALS.—The goals of the innovative pave-
20 ment research and deployment program shall
21 include—
22 '(A) the deployment of new, cost-effective,
23 innovative designs, materials, recycled materials
24 (including taconite tailings and foundry sand),

and practices to extend pavement life and performance and to improve customer satisfaction;

'(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

'(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

'(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;

'(E) the deployment of new nondestructive and real-time pavement evaluation technologies and techniques;

'(F) the evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;

'(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to im-

prove life, performance, cost effectiveness, safety, and customer satisfaction; and

'(H) the development of designs and materials to reduce storm water runoff.

'(3) RESEARCH TO IMPROVE NHS PAVEMENT.—The Secretary shall obligate not less than $2,000,000 for fiscal year 2004 and $6,000,000 for each of fiscal years 2005 through 2009 from funds made available to carry out this subsection to conduct research to improve asphalt pavement, concrete pavement, and aggregates used in highways on the National Highway System.'.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(c) of title 23, United States Code.

(c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503 of such title is further amended by adding the following:

'(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

'(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the

application of innovative technologies in highway safety.

'(2) GOALS.—The goals of the program shall include—

'(A) the deployment and evaluation of safety technologies and innovations at State and local levels; and

'(B) the deployment of best practices in training, management, design, and planning.

'(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

'(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.

'(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select

and approve the applications based on whether the project that is the subject of the application meets the goals of the program described in paragraph (2).

'(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.'.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $5,000,000 for fiscal year 2004 and $15,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(d) of title 23, United States Code.

(d) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of such title is further amended by adding at the end the following:

'(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to

promote the programs of the Federal Highway Administration.'.

(e) WOOD COMPOSITE MATERIALS DEMONSTRATION PROJECT.—

(1) FUNDING.—Of the funds made available to carry out section 5101(a)(1), $1,000,000 shall be made available by the Secretary for each of fiscal years 2005 and 2006 for conducting a demonstration of the durability and potential effectiveness of wood composite materials in multimodal transportation facilities.

(2) FEDERAL SHARE.—The Federal share of the cost of the demonstration under paragraph (1) shall be 100 percent.

**SEC. 5205. TRAINING AND EDUCATION.**

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) IN GENERAL.—Section 504(a)(3) of title 23, United States Code, is amended to read as follows:

'(3) COURSES.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures in areas, including surface transportation, environmental mitigation, compliance, stewardship, and streamlining, acquisition of rights-of-way, relo-

cation assistance, engineering, safety, transportation system management and operations, construction, maintenance, contract administration, inspection, and highway finance.'.

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $8,000,000 for fiscal year 2004 and $8,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(a) of title 23, United States Code.

(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Section 504(b) of such title is amended by adding at the end the following:

'(3) FEDERAL SHARE.—

'(A) GRANTS.—A grant under this subsection may be used to pay up to 50 percent of local technical assistance program costs. Funds available for technology transfer and training purposes under this title and title 49 may be used to cover the remaining 50 percent of the program costs.

'(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.'.

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $12,000,000 for fiscal year 2004 and $14,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of title 23, United States Code.

(c) EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—Of the amounts made available by section 5101(a)(2) of this Act, $2,000,000 for fiscal year 2004 and $2,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of title 23, United States Code.

(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—

(1) IN GENERAL.—Section 504 of title 23, United States Code, is further amended by adding at the end the following new subsection:

'(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—

'(1) IN GENERAL.—The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.

1 ‘(2) AUTHORIZED ACTIVITIES.—The Secretary
2 shall award grants under this subsection on the
3 basis of competitive, peer review. Grants awarded
4 under this subsection may be used for enhancing
5 science, technology, engineering, and mathematics at
6 the elementary and secondary school level through
7 such means as—
8 ‘(A) internships that offer students experi-
9 ence in the transportation field;
10 ‘(B) programs that allow students to spend
11 time observing scientists and engineers in the
12 transportation field; and
13 ‘(C) developing relevant curriculum that
14 uses examples and problems related to trans-
15 portation.
16 ‘(3) APPLICATION AND REVIEW PROCEDURES.—
17 ‘(A) IN GENERAL.—An entity described in
18 subparagraph (C) seeking funding under this
19 subsection shall submit an application to the
20 Secretary at such time, in such manner, and
21 containing such information as the Secretary
22 may require. Such application, at a minimum,
23 shall include a description of how the funds will
24 be used and a description of how the funds will

be used to serve the purposes described in paragraph (2).

'(B) PRIORITY.—In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.

'(C) ELIGIBILITY.—Local education agencies and State education agencies, which may partner with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.

'(4) DEFINITIONS.—For purposes of this subsection—

'(A) the term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

'(B) the term ''local educational agency'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

'(C) the term ''State educational agency'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).'.

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $500,000 for 2004 and $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(d) of title 23, United States Code.

(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504 of such title is further amended by adding at the end the following:

'(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

'(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e) for surface transportation workforce development, training and education, including—

'(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

'(B) employee professional development;

'(C) student internships;

'(D) university or community college support; and

1 ‘(E) education activities, including out-
2 reach, to develop interest and promote partici-
3 pation in surface transportation careers.
4 ‘(2) FEDERAL SHARE.—The Federal share of
5 the cost of activities carried out in accordance with
6 this subsection shall be 100 percent.
7 ‘(3) SURFACE TRANSPORTATION WORKFORCE
8 DEVELOPMENT, TRAINING, AND EDUCATION DE-
9 FINED.—In this subsection, the term ‘‘surface trans-
10 portation workforce development, training, and edu-
11 cation’’ means activities associated with surface
12 transportation career awareness, student transpor-
13 tation career preparation, and training and profes-
14 sional development for surface transportation work-
15 ers, including activities for women and minorities.’.
16 (f) TRANSPORTATION EDUCATION DEVELOPMENT
17 PILOT PROGRAM.—Section 504 of such title is further
18 amended by inserting after subsection (e) the following:
19 ‘(f) TRANSPORTATION EDUCATION DEVELOPMENT
20 PILOT PROGRAM.—
21 ‘(1) ESTABLISHMENT.—The Secretary shall es-
22 tablish a program to make grants to institutions of
23 higher education that in partnership with industry
24 or State Departments of Transportation will de-
25 velop, test, and revise new curricula and education

1 programs to train individuals at all levels of the
2 transportation workforce.
3 '(2) SELECTION OF GRANT RECIPIENTS.—In se-
4 lecting applications for awards under this sub-
5 section, the Secretary shall consider—
6 '(A) the degree to which the new curricula
7 or education program meets the specific needs
8 of a segment of the transportation industry,
9 States, or regions;
10 '(B) providing for practical experience and
11 on-the-job training;
12 '(C) proposals oriented toward practi-
13 tioners in the field rather than the support and
14 growth of the research community;
15 '(D) the degree to which the new curricula
16 or program will provide training in areas other
17 than engineering, such as business administra-
18 tion, economics, information technology, envi-
19 ronmental science, and law;
20 '(E) programs or curricula in nontradi-
21 tional departments which train professionals for
22 work in the transportation field, such as mate-
23 rials, information technology, environmental
24 science, urban planning, and industrial tech-
25 nology; and

'(F) industry or a State's Department of Transportation commitment to the program.

'(3) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $1,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out this subsection.

'(4) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $250,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal no more than 75 percent of a grantee's program costs.'.

(g) DEFINITIONS AND DECLARATION OF POLICY.—Section 101(a)(3) of such title is amended—

(1) by striking 'and' at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting '; and'; and

(3) by adding at the end the following:

'(I) surface transportation workforce development, training, and education.'.

(h) TRANSPORTATION TECHNOLOGY INNOVATIONS.—

(1) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—The Secretary shall

1 continue to carry out section 5117(b)(5) of the
2 Transportation Equity Act for the 21st Century
3 (112 Stat. 450).
4 (2) TRANSPORTATION, ECONOMIC, AND LAND
5 USE SYSTEM.—The Secretary shall continue to carry
6 out section 5117(b)(7) of the Transportation Equity
7 Act for the 21st Century (112 Stat. 450).
8 (3) FUNDING.—Of the amounts made available
9 for each of fiscal years 2004 through 2009 by sec-
10 tion 5101(a)(1) of this Act, $3,000,000 shall be
11 available to carry out paragraph (1) and $1,000,000
12 shall be available to carry out paragraph (2).
13 (4) USE OF RIGHTS-OF-WAY.—Section
14 5117(b)(3) of the Transportation Equity Act for the
15 21st Century (112 Stat. 449; 112 Stat. 864; 115
16 Stat. 2330) is amended—
17 (A) by redesignating subparagraphs (E)
18 through (G) as subparagraphs (F) through (H),
19 respectively; and
20 (B) by inserting after subparagraph (D)
21 the following:
22 '(E) USE OF RIGHTS-OF-WAY.—
23 '(i) IN GENERAL.—An intelligent
24 transportation system project described in
25 paragraph (3), and an intelligent transpor-

tation system project described in paragraph (6), that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund (other than the Mass Transit Account) shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which funds from the Highway Trust Fund (other than the Mass Transit Account) have been used for planning, design, construction, or maintenance if the Secretary determines that such use is in the public interest.

'(ii) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to affect the authority of a State, or political subdivision of a State, to regulate highway safety.'.

**SEC. 5206. FREIGHT PLANNING CAPACITY BUILDING.**

(a) IN GENERAL.—Section 504 of title 23, United States Code, is further amended by adding at the end the following:

1 '(g) FREIGHT CAPACITY BUILDING PROGRAM.—
2 '(1) ESTABLISHMENT.—The Secretary shall es-
3 tablish a freight planning capacity building initiative
4 to support enhancements in freight transportation
5 planning in order to—
6 '(A) better target investments in freight
7 transportation systems to maintain efficiency
8 and productivity; and
9 '(B) strengthen the decisionmaking capac-
10 ity of State transportation departments and
11 local transportation agencies with respect to
12 freight transportation planning and systems.
13 '(2) AGREEMENTS.—The Secretary shall enter
14 into agreements to support and carry out adminis-
15 trative and management activities relating to the
16 governance of the freight planning capacity initia-
17 tive.
18 '(3) STAKEHOLDER INVOLVEMENT.—In car-
19 rying out this section, the Secretary shall consult
20 with the Association of Metropolitan Planning Orga-
21 nizations, the American Association of State High-
22 way and Transportation Officials, and other freight
23 planning stakeholders, including the other Federal
24 agencies, State transportation departments, local

1 governments, nonprofit entities, academia, and the
2 private sector.
3 '(4) ELIGIBLE ACTIVITIES.—The freight plan-
4 ning capacity building initiative shall include re-
5 search, training, and education in the following
6 areas:
7 '(A) The identification and dissemination
8 of best practices in freight transportation.
9 '(B) Providing opportunities for freight
10 transportation staff to engage in peer exchange.
11 '(C) Refinement of data and analysis tools
12 used in conjunction with assessing freight
13 transportation needs.
14 '(D) Technical assistance to State trans-
15 portation departments and local transportation
16 agencies reorganizing to address freight trans-
17 portation issues.
18 '(E) Facilitating relationship building be-
19 tween governmental and private entities in-
20 volved in freight transportation.
21 '(F) Identifying ways to target the capac-
22 ity of State transportation departments and
23 local transportation agencies to address freight
24 considerations in operations, security, asset
25 management, and environmental excellence in

connection with long-range multimodal transportation planning and project implementation.

'(5) FUNDING.—

'(A) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

'(B) USE OF NON-FEDERAL FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, Federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.'.

(b) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $1,500,000 for fiscal year 2004 and $5,000,000 for each of fiscal years 2005

through 2009 shall be available to carry out section 504(f) of title 23, United States Code.

(c) TECHNICAL AMENDMENT.—Section 508(c)(3)(C) of such title is amended by inserting 'of title 31' after '1116'.

**SEC. 5207. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.**

(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—The Secretary shall accelerate the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (in this section referred to as 'TRANSIMS'), developed by the Los Alamos National Laboratory. The program shall assist State departments of transportation and metropolitan planning organizations in the implementation of TRANSIMS, develop methods for TRANSIMS applications to transportation planning and air quality analysis, and provide training and technical assistance for the implementation of TRANSIMS. The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available by section 5101(a)(1) to—

(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under chapter 52 of title 49, United States Code, representing a diversity of populations, geographic regions, and analytic needs to implement TRANSIMS;

(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support metropolitan and statewide transportation planning, including integrating highway and transit operational considerations into the transportation Planning process; and

(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(c) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year

2004 and $3,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out this section.

**SEC. 5208. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**'§ 509. National cooperative freight Transportation research program**

'(a) ESTABLISHMENT.—The Secretary shall establish and support a national cooperative freight transportation research program.

'(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative freight transportation research program.

'(c) ADVISORY COMMITTEE.—The National Academy of Sciences shall select an advisory committee consisting of a representative cross-section of freight stakeholders, including the Department of Transportation, other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

1 ‘(d) GOVERNANCE.—The national cooperative freight
2 transportation research program established under this
3 section shall include the following administrative and man-
4 agement elements:
5 ‘(1) NATIONAL RESEARCH AGENDA.—The advi-
6 sory committee, in consultation with interested par-
7 ties, shall recommend a national research agenda for
8 the program. The agenda shall include a multiyear
9 strategic plan.
10 ‘(2) INVOLVEMENT.—Interested parties may—
11 ‘(A) submit research proposals to the advi-
12 sory committee;
13 ‘(B) participate in merit reviews of re-
14 search proposals and peer reviews of research
15 products; and
16 ‘(C) receive research results.
17 ‘(3) OPEN COMPETITION AND PEER REVIEW OF
18 RESEARCH PROPOSALS.—The National Academy of
19 Sciences may award research contracts and grants
20 under the program through open competition and
21 merit review conducted on a regular basis.
22 ‘(4) EVALUATION OF RESEARCH.—
23 ‘(A) PEER REVIEW.—Research contracts
24 and grants under the program may allow peer
25 review of the research results.

1 ‘(B) PROGRAMMATIC EVALUATIONS.—The
2 National Academy of Sciences may conduct
3 periodic programmatic evaluations on a regular
4 basis of research contracts and grants.
5 ‘(5) DISSEMINATION OF RESEARCH FIND-
6 INGS.—The National Academy of Sciences shall dis-
7 seminate research findings to researchers, practi-
8 tioners, and decisionmakers, through conferences
9 and seminars, field demonstrations, workshops,
10 training programs, presentations, testimony to gov-
11 ernment officials, World Wide Web, publications for
12 the general public, and other appropriate means.
13 ‘(e) CONTENTS.—The national research agenda re-
14 quired under subsection (d)(1) shall include research in
15 the following areas:
16 ‘(1) Techniques for estimating and quantifying
17 public benefits derived from freight transportation
18 projects.
19 ‘(2) Alternative approaches to calculating the
20 contribution of truck and rail traffic to congestion
21 on specific highway segments.
22 ‘(3) The feasibility of consolidating origins and
23 destinations for freight movement.

'(4) Methods for incorporating estimates of international trade into landside transportation planning.

'(5) The use of technology applications to increase capacity of highway lanes dedicated to truck-only traffic.

'(6) Development of physical and policy alternatives for separating car and truck traffic.

'(7) Ways to synchronize infrastructure improvements with freight transportation demand.

'(8) The effect of changing patterns of freight movement on transportation planning decisions relating to rest areas.

'(9) Other research areas to identify and address the emerging and future research needs related to freight transportation by all modes.

'(f) FUNDING.—

'(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

'(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized for this section, the National Academy of Sciences may seek and accept additional funding sources from public and private

entities capable of accepting funding from the Department of Transportation, States, local governments, nonprofit foundations, and the private sector.'.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

'509. National cooperative freight transportation research program.'.

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,500,000 for fiscal year 2004 and $4,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 509 of title 23, United States Code.

**SEC. 5209. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.**

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

**'§ 510. Future strategic highway research program**

'(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.

1 ‘(b) COOPERATIVE AGREEMENTS.—The Secretary
2 may make grants to, and enter into cooperative agree-
3 ments with, the American Association of State Highway
4 and Transportation Officials and the National Academy
5 of Sciences to carry out such activities under this sub-
6 section as the Secretary determines are appropriate.

7 ‘(c) PERIOD OF AVAILABILITY.—Funds made avail-
8 able to carry out this section shall remain available for
9 the fiscal year in which such funds are made available and
10 the 3 succeeding fiscal years.

11 ‘(d) PROGRAM PRIORITIES.—

12 ‘(1) PROGRAM ELEMENTS.—The program es-
13 tablished under this section shall be based on the
14 National Research Council Special Report 260, enti-
15 tled ‘‘Strategic Highway Research: Saving Lives, Re-
16 ducing Congestion, Improving Quality of Life’’ and
17 the results of the detailed planning work subse-
18 quently carried out in 2002 and 2003 to identify the
19 research areas through National Cooperative Re-
20 search Program Project 20–58. The research pro-
21 gram shall include an analysis of the following:

22 ‘(A) Renewal of aging highway infrastruc-
23 ture with minimal impact to users of the facili-
24 ties.

'(B) Driving behavior and likely crash causal factors to support improved countermeasures.

'(C) Reducing highway congestion due to nonrecurring congestion.

'(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.

'(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.

'(e) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

'(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;

'(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall pro-

gram level and technical level through the use of expert panels and committees;

'(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and

'(4) there is no duplication of research effort between the program and any other research effort of the Department.

'(f) REPORT ON IMPLEMENTATION OF RESULTS.—

'(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.

'(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—

'(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

'(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

1 ‘(C) an estimate of costs of implementation
2 of those results; and
3 ‘(D) recommendations on methods by
4 which implementation of those results should be
5 conducted, coordinated, and supported in future
6 years, including a discussion of the administra-
7 tive structure and organization best suited to
8 carry out those recommendations.
9 ‘(3) CONSULTATION.—In developing the report,
10 the Transportation Research Board shall consult
11 with a wide variety of stakeholders, including—
12 ‘(A) the Federal Highway Administration;
13 ‘(B) the National Highway Traffic Safety
14 Administration; and
15 ‘(C) the American Association of State
16 Highway and Transportation Officials.
17 ‘(4) SUBMISSION.—Not later than February 1,
18 2009, the report shall be submitted to the Com-
19 mittee on Environment and Public Works of the
20 Senate and the Committee on Transportation and
21 Infrastructure of the House of Representatives.
22 ‘(h) FUNDING.—
23 ‘(1) FEDERAL SHARE.—The Federal share of
24 the cost of an activity carried out using amounts
25 made available under a grant or cooperative agree-

ment under this section shall be 100 percent, and such funds shall remain available until expended.

'(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.'.

(b) PROGRAMMATIC EVALUATIONS.—Within 3 years after the first research and development project grants, cooperative agreements, or contracts are awarded under section 510 of title 23, United States Code, the Comptroller General shall review the program under such section, and recommend improvements. The review shall assess the degree to which projects funded under such section have addressed the research and development topics identified in the Transportation Research Board Special Report 260, including identifying those topics which have not yet been addressed.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is further amended by adding at the end the following:

'510. Future strategic highway research program.'.

(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $17,000,000 for fiscal year 2004, $60,000,000 for fiscal year 2005, and $63,000,000 for each of fiscal years 2006 through 2009, shall be available to carry out section 510 of title 23, United States Code.

**SEC. 5210. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT.**

(a) IN GENERAL.—The Secretary shall fund and carry out a project to further the development of a comprehensive transportation safety information management system (in this section referred to as 'TSIMS').

(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

(c) FUNDING.—

(1) FEDERAL CONTRIBUTION.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2004 and $3,000,000 for fiscal year 2005 shall be available to carry out the TSIMS project under this section.

(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions to be made by State departments of transportation and other State safety and transportation agencies.

**SEC. 5211. SURFACE TRANSPORTATION CONGESTION RELIEF SOLUTIONS RESEARCH INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary, acting through the Federal Highway Administration, shall establish a surface transportation congestion solutions research initiative consisting of 2 independent research programs described in subsections (b)(1) and (b)(2) and designed to develop information to assist State transportation departments and metropolitan planning organizations measure and address surface transportation congestion problems.

(b) SURFACE TRANSPORTATION CONGESTION SOLUTIONS RESEARCH PROGRAM.—

(1) IMPROVED SURFACE TRANSPORTATION CONGESTION MANAGEMENT SYSTEM MEASURES.—The purposes of the first research program established under this section shall be—

(A) to examine the effectiveness of surface transportation congestion management systems since enactment of the Intermodal Surface Transportation Assistance Act of 1991 (Public Law 102–240);

(B) to identify best case examples of locally designed reporting methods and incorporate such methods in research on national models for developing and recommending im-

proved surface transportation congestion measurement and reporting; and

(C) to incorporate such methods in the development of national models and methods to monitor, measure, and report surface transportation congestion information.

(2) ANALYTICAL TECHNIQUES FOR ACTION ON SURFACE TRANSPORTATION CONGESTION.—The purposes of the second research program established under this section shall be—

(A) to analyze the effectiveness of procedures used by State transportation departments and metropolitan planning organizations to assess surface transportation congestion problems and communicate those problems to decision-makers; and

(B) to identify methods to ensure that the results of surface transportation congestion analyses will lead to the targeting of funding for programs, projects, or services with demonstrated effectiveness in reducing travel delay, congestion, and system unreliability.

(c) TECHNICAL ASSISTANCE AND TRAINING.—In fiscal year 2006, the Secretary, acting through the Federal Highway Administration, shall develop a technical assist-

ance and training program to disseminate the results of the surface transportation congestion solutions research initiative for the purpose of assisting State transportation departments and local transportation agencies with improving their approaches to surface transportation congestion measurement, analysis, and project programming.

(d) FUNDING.—Of the amounts made available by sections 5101(a)(1) of this Act, $4,000,000 for fiscal year 2004 and $11,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out subsections (a) and (b). Of the amounts made available by section 5101(a)(2), $500,000 for fiscal year 2004 and $1,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out subsection (c).

**SEC. 5212. MOTOR CARRIER EFFICIENCY STUDY.**

(a) IN GENERAL.—The Secretary, in coordination with the motor carrier and wireless technology industry, shall conduct a study to—

(1) identify inefficiencies in the transportation of freight;

(2) evaluate the safety, productivity, and reduced cost improvements that may be achieved through the use of wireless technologies to address the inefficiencies identified in paragraph (1); and

(3) conduct, as appropriate, field tests demonstrating the technologies identified in paragraph (2).

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) Fuel monitoring and management systems.

(2) Electronic document imaging.

(3) Border pre-clearance systems.

(4) Radio Frequency Identification technology.

(5) Electronic manifest systems.

(6) Cargo theft prevention.

(c) FEDERAL SHARE.—The Federal share of the cost of the study under this section shall be 100 percent.

(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section.

(e) FUNDING.—From funds made available under section 5101(a)(1), the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety Administration for each of fiscal years 2005 through 2009 to carry out this section.

**SEC. 5213. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.**

(a) AMENDMENT.—Section 508 of title 23, United States Code, is amended to read as follows:

**'§ 508. Transportation research and development strategic planning**

'(a) IN GENERAL.—

'(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall develop a 5-year transportation research and development strategic plan to guide Federal transportation research and development activities. This plan shall be consistent with section 306 of title 5, sections 1115 and 1116 of title 31, and any other research and development plan within the Department of Transportation.

'(2) CONTENTS.—The strategic plan developed under paragraph (1) shall—

'(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

'(i) reducing congestion and improving mobility;

'(ii) promoting safety;

'(iii) promoting security;

'(iv) protecting and enhancing the environment;

'(v) preserving the existing transportation system; and

1 ‘(vi) improving the durability and ex-
2 tending the life of transportation infra-
3 structure;
4 ‘(B) for each purpose, list the primary re-
5 search and development topics that the Depart-
6 ment intends to pursue to accomplish that pur-
7 pose, which may include the fundamental re-
8 search in the physical and natural sciences, ap-
9 plied research, technology development, and so-
10 cial science research intended for each topic;
11 and
12 ‘(C) for each research and development
13 topic, describe—
14 ‘(i) the anticipated annual funding
15 levels for the period covered by the stra-
16 tegic plan; and
17 ‘(ii) the additional information the
18 Department expects to gain at the end of
19 the period covered by the strategic plan as
20 a result of the research and development in
21 that topic area.
22 ‘(3) CONSIDERATIONS.—In developing the stra-
23 tegic plan, the Secretary shall ensure that the
24 plan—

1 ‘(A) reflects input from a wide range of
2 stakeholders;
3 ‘(B) includes and integrates the research
4 and development programs of all the Depart-
5 ment’s operating administrations, including
6 aviation, transit, rail, and maritime; and
7 ‘(C) takes into account how research and
8 development by other Federal, State, private
9 sector, and not-for-profit institutions contrib-
10 utes to the achievement of the purposes identi-
11 fied under paragraph (2)(A), and avoids unnec-
12 essary duplication with these efforts.
13 ‘(4) PERFORMANCE PLANS AND REPORTS.—In
14 reports submitted under sections 1115 and 1116 of
15 title 31, the Secretary shall include—
16 ‘(A) a summary of the Federal transpor-
17 tation research and development activities for
18 the previous fiscal year in each topic area;
19 ‘(B) the amount of funding spent in each
20 topic area;
21 ‘(C) a description of the extent to which
22 the research and development is meeting the ex-
23 pectations set forth in paragraph (2)(C)(ii); and
24 ‘(D) any amendments to the strategic plan.

'(b) The Secretary shall submit to Congress an annual report, along with the President's annual budget request, describing the amount spent in the last completed fiscal year on transportation research and development and the amount proposed in the current budget for transportation research and development.

'(c) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement for the review by the National Research Council of the details of each—

'(1) strategic plan under section 508;

'(2) performance plan required under section 1115 of title 31; and

'(3) program performance report required under section 1116 of title 31,

with respect to transportation research and development.'.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item related to section 508 and inserting the following:

'508. Transportation research and development strategic planning.'.

**SEC. 5214. LIMITATION ON REMEDIES FOR FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.**

Section 510 of title 23, United States Code, as added by section 5209 of this Act, is amended by inserting after subsection (f) the following:

'(g) LIMITATION OF REMEDIES.—

1 '(1) SAME REMEDY AS IF UNITED STATES.—
2 The remedy against the United States provided by
3 sections 1346(b) and 2672 of title 28 for injury, loss
4 of property, personal injury, or death shall apply to
5 any claim against the National Academy of Sciences
6 for money damages for injury, loss of property, per-
7 sonal injury, or death caused by any negligent or
8 wrongful act or omission by employees and individ-
9 uals described in paragraph (3) arising from activi-
10 ties conducted under or in connection with this sec-
11 tion. Any such claim shall be subject to the limita-
12 tions and exceptions which would be applicable to
13 such claim if such claim were against the United
14 States. With respect to any such claim, the Sec-
15 retary shall be treated as the head of the appro-
16 priate Federal agency for purposes of sections 2672
17 and 2675 of title 28.
18 '(2) EXCLUSIVENESS OF REMEDY.—The rem-
19 edy referred to in paragraph (1) shall be exclusive
20 of any other civil action or proceeding for the pur-
21 pose of determining liability arising from any such
22 act or omission without regard to when the act or
23 omission occurred.
24 '(3) TREATMENT.—Employees of the National
25 Academy of Sciences and other individuals appointed

by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

'(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds made

available to carry out this section for making payments under this paragraph.'.

# Subtitle C—University Transportation Research; Scholarship Opportunities

**SEC. 5301. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.**

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

**'§ 5505. National university Transportation centers**

'(a) IN GENERAL.—

'(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

'(2) ROLE OF CENTERS.—The role of each center shall be to advance significantly transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

'(b) APPLICABILITY OF REQUIREMENTS.—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and con-

ditions, as a grant made to a nonprofit institution of higher learning under section 5506.

'(c) ELIGIBLE NONPROFIT INSTITUTION OF HIGHER LEARNING DEFINED.—In this section, the term ''eligible nonprofit institution of higher learning'' means each of the lead institutions identified in subsections (j)(4)(A), (j)(4)(B), and (j)(4)(F) of section 5505 as in effect on the day before the date of enactment of the Transportation Equity Act: A Legacy for Users, the university referred to in section 704 of Public Law 103–206 (107 Stat. 2447), and the university that, as of the day before such date of enactment, is the lead institution for the regional university transportation center for region 5 of the Standard Federal Regional Boundary System.

'(d) GRANTS.—In each of fiscal years 2004 through 2009, the Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount not to exceed $3,500,000.'.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5505 and inserting the following:

'5505. National university transportation centers.'.

**SEC. 5302. UNIVERSITY TRANSPORTATION RESEARCH.**

(a) IN GENERAL.—Section 5506 of title 49, United States Code, is amended to read as follows:

**'§ 5506. University Transportation research**

'(a) IN GENERAL.—The Secretary of Transportation shall make grants under this section to nonprofit institutions of higher learning to establish and operate university transportation centers.

'(b) OBJECTIVES.—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand the workforce of transportation professionals through the following programs and activities:

'(1) RESEARCH.—Basic and applied research, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

'(2) EDUCATION.—An education program relating to transportation that includes multidisciplinary course work and participation in research.

'(3) TECHNOLOGY TRANSFER.—An ongoing program of technology transfer that makes transportation research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

'(c) REGIONAL, TIER I, AND TIER II CENTERS.—

'(1) IN GENERAL.—For each of fiscal years 2004 through 2009, the Secretary shall make grants

under subsection (a) to nonprofit institutions of higher learning to establish and operate—

'(A) 10 regional university transportation centers; and

'(B) 10 Tier I university transportation centers.

'(2) TIER II CENTERS.—For each of fiscal years 2005 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 10 Tier II university transportation centers.

'(3) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

'(4) LIMITATION.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

'(d) COMPETITIVE SELECTION PROCESS.—

'(1) APPLICATIONS.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Sec-

1 retary an application that is in such form and con-
2 tains such information as the Secretary may require.
3 '(2) GENERAL SELECTION CRITERIA.—Except
4 as otherwise provided by this section, the Secretary
5 shall select each recipient of a grant under this sec-
6 tion through a competitive process on the basis of
7 the following:
8 '(A) The demonstrated research and exten-
9 sion resources available to the recipient to carry
10 out this section.
11 '(B) The capability of the recipient to pro-
12 vide leadership in making national and regional
13 contributions to the solution of immediate and
14 long-range transportation problems.
15 '(C) The recipient's demonstrated commit-
16 ment of at least $400,000 each year in regu-
17 larly budgeted institutional amounts to support
18 ongoing transportation research and education
19 programs.
20 '(D) The recipient's demonstrated ability
21 to disseminate results of transportation re-
22 search and education programs through a state-
23 wide or regionwide continuing education pro-
24 gram.

1 ‘(E) The strategic plan the recipient pro-
2 poses to carry out under the grant.
3 ‘(e) REGIONAL UNIVERSITY TRANSPORTATION CEN-
4 TERS.—
5 ‘(1) COMPETITION.—Not later than August 31,
6 2005, and not later than March 31st of every 4th
7 year thereafter, the Secretary shall complete a com-
8 petition among nonprofit institutions of higher
9 learning for grants to establish and operate the 10
10 regional university transportation centers referred to
11 in subsection (c)(1)(A).
12 ‘(2) SELECTION CRITERIA.—In conducting a
13 competition under paragraph (1), the Secretary shall
14 select a nonprofit institution of higher learning on
15 the basis of—
16 ‘(A) the criteria described in subsection
17 (d)(2);
18 ‘(B) the location of the center within the
19 Federal region to be served; and
20 ‘(C) whether or not the institution (or, in
21 the case of a consortium of institutions, the
22 lead institution) can demonstrate that it has a
23 well-established, nationally recognized program
24 in transportation research and education, as
25 evidenced by—

1 ‘(i) not less than $2,000,000 in high-
2 way or public transportation research ex-
3 penditures each year for each of the pre-
4 ceding 5 years;
5 ‘(ii) not less than 10 graduate degrees
6 awarded in professional fields closely re-
7 lated to highways and public transpor-
8 tation for year for each of the preceding 5
9 years; and
10 ‘(iii) not less than 5 tenured or ten-
11 ure-track faculty members who specialize
12 on a full-time basis in professional fields
13 closely related to highways and public
14 transportation who, as a group, have pub-
15 lished a total at least 50 refereed journal
16 publications on highway or public transpor-
17 tation research during the preceding 5
18 years.
19 ‘(3) GRANT RECIPIENTS.—After selecting a
20 nonprofit institution of higher learning as a grant
21 recipient on the basis of a competition conducted
22 under this subsection, the Secretary shall make a
23 grant to the recipient to establish and operate a re-
24 gional university transportation center in each of the

first 4 fiscal years beginning after the date of the competition.

'(4) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—For each of fiscal years 2004 and 2005, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grants by the Secretary under this section in July 1999 to operate regional university transportation centers.

'(5) AMOUNT OF GRANTS.—For each of fiscal years 2004 through 2009, a grant made by the Secretary to a nonprofit institution of higher learning for a fiscal year to establish and operate a regional university transportation center shall not exceed $3,500,000.

'(f) TIER I UNIVERSITY TRANSPORTATION CENTERS.—

'(1) COMPETITION.—Not later than March 31, 2006, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier I university transportation centers referred to in subsection (c)(1)(B).

1 '(2) SELECTION CRITERIA.—In conducting a
2 competition under paragraph (1), the Secretary shall
3 select a nonprofit institution of higher learning on
4 the basis of—
5 '(A) the criteria described in subsection
6 (d)(2); and
7 '(B) whether or not the institution (or, in
8 the case of a consortium of institutions, the
9 lead institution) can demonstrate that it has an
10 established, recognized program in transpor-
11 tation research and education, as evidenced
12 by—
13 '(i) not less than $1,000,000 in high-
14 way or public transportation research ex-
15 penditures each year for each of the pre-
16 ceding 5 years or not less than $6,000,000
17 in such expenditures during the 5 pre-
18 ceding years;
19 '(ii) not less than 5 graduate degrees
20 awarded in professional fields closely re-
21 lated to highways and public transpor-
22 tation each year for each of the preceding
23 5 years; and
24 '(iii) not less than 3 tenured or ten-
25 ure-track faculty members who specialize

on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 20 refereed journal publications on highway or public transportation research during the preceding 5 years.

'(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a Tier I university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

'(4) SPECIAL RULE FOR FISCAL YEARS 2004, 2005, AND 2006.—For each of fiscal years 2004, 2005, and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grant awards by the Secretary under this section in May 2002 to operate university transportation centers (other than regional centers).

'(5) AMOUNT OF GRANTS.—A grant made by the Secretary to a nonprofit institution of higher

learning for a fiscal year to establish and operate a Tier I university transportation center shall not exceed $1,000,000 for fiscal year 2004 and $1,500,000 for each of fiscal years 2005 through 2009.

'(g) TIER II UNIVERSITY TRANSPORTATION CENTERS.—

'(1) COMPETITION.—Not later than 60 days after the date of enactment of the Transportation Equity Act: A Legacy for Users, not later than March 31, 2008, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier II university transportation centers referred to in subsection (c)(2).

'(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of the criteria described in subsection (f)(2).

'(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall—

1 ‘(A) in the case of the competition to be
2 completed not later than 60 days after the date
3 of enactment of the Transportation Equity Act:
4 A Legacy for Users, make a grant to the recipi-
5 ent to establish and operate a Tier II university
6 transportation center in each of fiscal years
7 2005 through 2008; and
8 ‘(B) in the case of each subsequent com-
9 petition, make a grant to the recipient to estab-
10 lish and operate a Tier II university transpor-
11 tation center in each of the first 4 fiscal years
12 beginning after the date of the competition.
13 ‘(4) AMOUNT OF GRANTS.—For each of fiscal
14 years 2005 through 2009, a grant made by the Sec-
15 retary to a nonprofit institution of higher learning
16 for a fiscal year to establish and operate a Tier II
17 university transportation center shall not exceed
18 $1,000,000.
19 ‘(h) SUPPORT OF NATIONAL STRATEGY FOR SUR-
20 FACE TRANSPORTATION RESEARCH.—In order to be eligi-
21 ble to receive a grant under this section, a nonprofit insti-
22 tution of higher learning shall provide assurances satisfac-
23 tory to the Secretary that the research and education ac-
24 tivities of its university transportation center will support

the national strategy for surface transportation research, as identified by—

'(1) the report of the National Highway Research and Technology Partnership entitled ''Highway Research and Technology: The Need for Greater Investment'', dated April 2002; and

'(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

'(i) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

'(j) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent of such costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

'(k) PROGRAM COORDINATION.—

'(1) COORDINATION.—The Secretary shall coordinate the research, education, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearinghouse to disseminate the results of the research.

'(2) ANNUAL REVIEW AND EVALUATION.—At least annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate programs of grant recipients.

'(3) MANAGEMENT AND OVERSIGHT.—The Secretary shall expend $1,500,000 for each of fiscal years 2005 through 2009 from amounts made available to carry out this section to carry out management and oversight of the centers receiving assistance under this section.

'(l) PROGRAM ADMINISTRATION.—The Secretary shall carry out this section acting through the Administrator of the Research and Innovative Technology Administration.

'(m) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period

of 2 years after the last day of the fiscal year for which such funds are authorized.'.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5506 and inserting the following:

'5506. University transportation research.'.

**SEC. 5303. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.**

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

(2) PARTNERSHIP.—The Secretary may establish the program in partnership with appropriate nongovernmental institutions.

(b) PARTICIPATION AND FUNDING.—An operating administration of the Department of Transportation and the Office of Inspector General may participate in the scholarship program. Notwithstanding any other provision of law, the Secretary may use funds available to an operating administration or from the Office of Inspector General of the Department of Transportation for the purpose of carrying out this section.

# Subtitle D—Advanced Technologies

**SEC. 5401. ADVANCED HEAVY-DUTY VEHICLE TECHNOLOGIES RESEARCH PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

**'§ 5507. Advanced heavy-duty vehicle technologies research program**

'(a) IN GENERAL.—The Secretary of Transportation shall conduct research, development, demonstration, and testing to integrate emerging advanced heavy-duty vehicle technologies in order to provide seamless, safe, secure, and efficient transportation and to benefit the environment.

'(b) CONSULTATION.—To ensure the activities performed pursuant to this section achieve the maximum benefit, the Secretary of Transportation shall consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and other relevant Federal agencies on research, development, and demonstration activities authorized under this section related to advanced heavy-duty vehicle technologies.

'(c) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may make grants to, and enter into cooperative agreements and other transactions with, Federal and other public agencies (including

State and local governments) and persons to carry out subsection (a).

'(d) COST SHARING.—At least 50 percent of the funding for projects carried out under this section must be provided by non-Federal sources.

'(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out subsection (a) $1,000,000 for fiscal year 2004 and $3,000,000 for each of fiscal years 2005 through 2009.

'(f) CONTRACT AUTHORITY.—The funds authorized to be appropriated by subsection (e) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any limitation on obligations imposed on funds made available to carry out title V of the Transportation Equity Act: A Legacy for Users.'.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by adding at the end the following:

'5507. Advanced heavy-duty vehicle technologies research program.'.

**SEC. 5402. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.**

(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for ap-

1 plication to national transportation infrastructure develop-
2 ment and construction.
3 (b) PROGRAM.—
4 (1) NATIONAL POLICY.—The Secretary shall es-
5 tablish and maintain a national policy for the use of
6 commercial remote sensing products and spatial in-
7 formation technologies in national transportation in-
8 frastructure development and construction.
9 (2) POLICY IMPLEMENTATION.—The Secretary
10 shall develop new applications of commercial remote
11 sensing products and spatial information tech-
12 nologies for the implementation of the national pol-
13 icy established and maintained under paragraph (1).
14 (c) COOPERATION.—The Secretary shall carry out
15 this section in cooperation with the commercial remote
16 sensing program of the National Aeronautics and Space
17 Administration and a consortium of university research
18 centers.
19 (d) FUNDING.—Of the amounts made available by
20 section 5101(a)(1) of this Act, $3,000,000 for fiscal year
21 2004 and $9,000,000 for each of fiscal years 2005
22 through 2009 shall be available to carry out this section.

# Subtitle E—Transportation Data and Analysis

**SEC. 5501. BUREAU OF TRANSPORTATION STATISTICS.**

Section 111 of title 49, United States Code, is amended to read as follows:

**'§ 111. Bureau of Transportation Statistics**

'(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration a Bureau of Transportation Statistics.

'(b) DIRECTOR.—

'(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed in the competitive service by the Secretary.

'(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

'(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics, and shall be responsible for carrying out the following duties:

'(1) PROVIDING DATA, STATISTICS, AND ANALYSIS TO TRANSPORTATION DECISIONMAKERS.—Ensuring that the statistics compiled under paragraph

(5) are designed to support transportation decision-making by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

'(2) COORDINATING COLLECTION OF INFORMATION.—Working with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.

'(3) DATA MODERNIZATION.—Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

'(4) ENCOURAGING DATA STANDARDIZATION.—Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

1 '(5) COMPILING TRANSPORTATION STATIS-
2 TICS.—Compiling, analyzing, and publishing a com-
3 prehensive set of transportation statistics on the per-
4 formance and impacts of the national transportation
5 system, including statistics on—
6 '(A) productivity in various parts of the
7 transportation sector;
8 '(B) traffic flows for all modes of transpor-
9 tation;
10 '(C) other elements of the Intermodal
11 Transportation Database established under sub-
12 section (g);
13 '(D) travel times and measures of conges-
14 tion;
15 '(E) vehicle weights and other vehicle char-
16 acteristics;
17 '(F) demographic, economic, and other
18 variables influencing traveling behavior, includ-
19 ing choice of transportation mode, and goods
20 movement;
21 '(G) transportation costs for passenger
22 travel and goods movement;
23 '(H) availability and use of mass transit
24 (including the number of passengers served by

each mass transit authority) and other forms of for-hire passenger travel;

'(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

'(J) safety and security for travelers, vehicles, and transportation systems;

'(K) consequences of transportation for the human and natural environment;

'(L) the extent, connectivity, and condition of the transportation system, building on the National Transportation Atlas Database developed under subsection (g); and

'(M) transportation-related variables that influence the domestic economy and global competitiveness.

'(6) NATIONAL SPATIAL DATA INFRASTRUCTURE.—Building and disseminating the transportation layer of the National Spatial Data Infrastructure, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

'(7) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department

of Transportation required for statistics to be compiled under paragraph (5) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis. The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993, and the amendments made by such Act, and shall carry out such other reviews of the sources and reliability of other data collected or statistical information published by the heads of the operating administrations of the Department as shall be requested by the Secretary.

'(8) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible.

'(d) INFORMATION NEEDS ASSESSMENT.—

'(1) IN GENERAL.—Within 60 days after the date of the enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall enter into an arrangement with the National Research Council to develop and publish a National Transportation Information Needs Assessment (referred to in

this subsection as the ''Assessment''). The Assessment shall be transmitted to the Secretary and the Congress not later than 24 months after such arrangement is entered into.

'(2) CONTENT.—The Assessment shall—

'(A) identify, in priority order, transportation data that is not being collected by the Bureau, Department of Transportation operating administrations, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local level and to fulfill the requirements of subsection (c)(5);

'(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is a higher priority than data currently being collected;

'(C) identify any data the Bureau or other Federal, State, and local entities is collecting that is not needed;

'(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State,

and local entities should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and

'(E) estimate the cost of implementing any recommendations.

'(3) CONSULTATION.—In developing the Assessment, the National Research Council shall consult with the Department's Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.

'(4) REPORT TO CONGRESS.—Not later than 6 months after the National Research Council transmits the Assessment under paragraph (1), the Secretary shall transmit a report to Congress that describes—

'(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);

'(B) how the Department plans to stop collecting data identified under paragraph (2)(C);

'(C) how the Department plans to implement improved data collection methods and

other changes identified under paragraph (2)(D);

'(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;

'(E) any findings of the Assessment under paragraph (1) with which the Secretary disagrees, and why; and

'(F) any proposed statutory changes needed to implement the findings of the Assessment under paragraph (1).

'(e) INTERMODAL TRANSPORTATION DATA BASE.—

'(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

'(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

'(3) CONTENTS.—The data base shall include—

'(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by

all modes of transportation and intermodal combinations, and by relevant classification;

'(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

'(C) information on the location and connectivity of transportation facilities and services; and

'(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

'(f) NATIONAL TRANSPORTATION LIBRARY.—

'(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decision-making at the Federal, State, and local levels.

'(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director

to make statistics readily accessible under subsection (c)(8).

'(3) COORDINATION.—The Director shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

'(g) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

'(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

'(A) transportation networks;

'(B) flows of people, goods, vehicles, and craft over the networks; and

'(C) social, economic, and environmental conditions that affect or are affected by the networks.

'(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

'(h) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Di-

1 rector or other authorized officer, employee, or contractor
2 of the Bureau, to answer completely and correctly to the
3 best of his or her knowledge all questions relating to the
4 corporation, company, business, institution, establishment,
5 or other organization, or to make available records or sta-
6 tistics in his or her official custody, contained in a data
7 collection request prepared and submitted under the au-
8 thority of subsection (c)(1), shall be fined not more than
9 $500; but if he or she willfully gives a false answer to
10 such a question, he or she shall be fined not more than
11 $10,000.

12 '(i) RESEARCH AND DEVELOPMENT GRANTS.—The
13 Secretary may make grants to, or enter into cooperative
14 agreements or contracts with, public and nonprofit private
15 entities (including State transportation departments, met-
16 ropolitan planning organizations, and institutions of high-
17 er education) for—

18 '(1) investigation of the subjects specified in
19 subsection (c)(5) and research and development of
20 new methods of data collection, standardization,
21 management, integration, dissemination, interpreta-
22 tion, and analysis;

23 '(2) demonstration programs by States, local
24 governments, and metropolitan planning organiza-
25 tions to harmonize data collection, reporting, man-

agement, storage, and archiving to simplify data comparisons across jurisdictions;

'(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (f); and

'(4) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (g) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.

'(j) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

'(1) to authorize the Bureau to require any other department or agency to collect data; or

'(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

'(k) PROHIBITION ON CERTAIN DISCLOSURES.—

'(1) IN GENERAL.—An officer, employee or contractor of the Bureau may not—

'(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

'(B) use the information provided under subsection (c) for a nonstatistical purpose; or

'(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

'(3) INFORMING RESPONDENT OF USE OF DATA.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.

'(l) TRANSPORTATION STATISTICS ANNUAL REPORT.—The Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(5), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

'(m) DATA ACCESS.—The Director shall have access to transportation and transportation-related information

in the possession of any Federal agency except information—

'(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

'(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

'(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

'(o) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

'(1) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

'(2) FUNCTION.—It shall be the function of the Advisory Council established under this subsection to—

'(A) advise the Director of the Bureau of Transportation Statistics on the quality, reli-

ability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau of Transportation Statistics and the Department of Transportation;

'(B) provide input to and review the report to Congress under subsection (d)(4); and

'(C) advise the Director on methods to encourage harmonization and interoperability of transportation data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

'(3) MEMBERSHIP.—The Advisory Council established under this subsection shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who are not officers or employees of the United States. Each member shall have expertise in transportation data collection or analysis or application; except that 1 member shall have expertise in economics, 1 member shall have expertise in statistics, and 1 member shall have experience in transportation safety. At least 1 member shall be a senior official of a State department of

transportation. Members shall include representation of a cross-section of transportation community stakeholders.

'(4) TERMS OF APPOINTMENT.—(A) Except as provided in subparagraph (B), members shall be appointed to staggered terms not to exceed 3 years. A member may be renominated for one additional 3-year term.

'(B) Members serving on the Advisory Council on Transportation Statistics as of the date of enactment of the Transportation Equity Act: A Legacy for Users shall serve until the end of their appointed terms.

'(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the Advisory Council established under this subsection, except that section 14 of such Act shall not apply to such Advisory Council.'.

**SEC. 5502. REPORTS OF BUREAU OF TRANSPORTATION STATISTICS.**

Section 111(k) of title 49, United States Code, as amended by section 5501 of this Act, is amended by inserting after paragraph (1) the following:

'(2) COPIES OF REPORTS.—

1 '(A) IN GENERAL.—No department, bu-
2 reau, agency, officer, or employee of the United
3 States (except the Director in carrying out this
4 section) may require, for any reason, a copy of
5 any report that has been filed under subsection
6 (c) with the Bureau or retained by an indi-
7 vidual respondent.

8 '(B) LIMITATION ON JUDICIAL PRO-
9 CEEDINGS.—A copy of a report described in
10 subparagraph (A) that has been retained by an
11 individual respondent or filed with the Bureau
12 or any of its employees, contractors, or
13 agents—

14 '(i) shall be immune from legal proc-
15 ess; and

16 '(ii) shall not, without the consent of
17 the individual concerned, be admitted as
18 evidence or used for any purpose in any
19 action, suit, or other judicial or adminis-
20 trative proceedings.

21 '(C) APPLICABILITY.—This paragraph
22 shall apply only to reports that permit informa-
23 tion concerning an individual or organization to
24 be reasonably determined by direct or indirect
25 means.'.

# Subtitle F—Intelligent Transportation Systems Research

**SEC. 5601. SHORT TITLE.**

This subtitle may be cited as the 'Intelligent Transportation Systems Act of 2005'.

**SEC. 5602. GOALS AND PURPOSES.**

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles as well as improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting

State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) facilitate, in cooperation with the motor vehicle industry, the introduction of a vehicle-based safety enhancing systems;

(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(8) provide continuing support for operations and maintenance of intelligent transportation systems.

**SEC. 5603. GENERAL AUTHORITIES AND REQUIREMENTS.**

(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-pri-

vate partnerships or private sector investment in such tests and projects.

(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to section 555 of title 5, United States Code.

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a State highway department;

(B) a representative from a local highway department who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a metropolitan planning organization;

(E) a private sector user of intelligent transportation system technologies;

(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

(G) an academic researcher who is a civil engineer;

(H) an academic researcher who is a social scientist with expertise in transportation issues;

(I) a representative from a not-for-profit group representing the intelligent transportation system industry;

(J) a representative from a public interest group concerned with safety;

(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

(L) members with expertise in planning, safety, and operations.

(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

(A) Provide input into the development of the Intelligent Transportation System aspects of the strategic plan under section 508 of title 23, United States Code.

(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

(i) whether these activities are likely to advance either the state-of-the-practice

or state-of-the-art in intelligent transportation systems;

(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and, if not, to determine the barriers to deployment; and

(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act, the Secretary shall transmit to the Congress, a report including—

(A) all recommendations made by the Advisory Committee during the preceding calendar year;

(B) an explanation of how the Secretary has implemented those recommendations; and

(C) for recommendations not implemented, the reasons for rejecting the recommendations.

(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) REPORTING.—

(1) GUIDELINES AND REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.

(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment

project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

**SEC. 5604. NATIONAL ARCHITECTURE AND STANDARDS.**

(a) IN GENERAL.—

(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

(4) USE OF EXPERT PANEL.—

(A) DESIGNATION.—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).

(B) NONAPPLICABILITY OF ADVISORY COMMITTEE ACT.—The expert panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(C) DEADLINE FOR RECOMMENDATION.—No later than September 30, 2006, the expert panel shall provide the Secretary with a recommendation relating to such standards development.

(b) PROVISIONAL STANDARDS.—

(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be

published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the

date of enactment of this Act if the Secretary determines that the upgrade or expansion—

(i) would not adversely affect the goals or purposes of this subtitle;

(ii) is carried out before the end of the useful life of such system; and

(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.

**SEC. 5605. RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle.

(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road

weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

(3) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

**SEC. 5606. INFRASTRUCTURE DEVELOPMENT.**

Funds made available to carry out this subtitle for operational tests—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to

the implementation of an intelligent transportation system project.

**SEC. 5607. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a road weather research and development program to—

(1) maximize use of available road weather information and technologies;

(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and

(3) promote technology transfer of effective road weather scientific and technological advances.

(b) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, nonprofit organizations, and the private sector.

(c) CONTENTS.—The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled 'A Research Agenda for Improving Road Weather Services'. Such research and development includes—

(1) integrating existing observational networks and data management systems for road weather applications;

(2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;

(3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and

(4) integrating road weather technologies into an information infrastructure.

(d) ACTIVITIES.—In carrying out this section, the Secretary shall—

(1) enable efficient technology transfer;

(2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and

(3) coordinate with transportation weather research programs in other modes, such as aviation.

(e) FUNDING.—

(1) IN GENERAL.—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.

(2) FUNDS FOR ROAD WEATHER RESEARCH AND DEVELOPMENT.—Of the amounts made available by section 5101(a)(5), $4,000,000 shall be available to carry out this section for each of fiscal years 2004 through 2009.

**SEC. 5608. DEFINITIONS.**

In this subtitle, the following definitions apply:

(1) INCIDENT.—The term 'incident' means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

(4) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

(5) PROJECT.—The term 'project' means a undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

(6) STANDARD.—The term 'standard' means a document that—

(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

(B) may support the national architecture and promote—

(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

(7) STATE.—The term 'State' has the meaning given the term under section 101 of title 23, United States Code.

(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term 'transportation systems management and operations' has the meaning given the term under section 101(a) of such title.

**SEC. 5609. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY.**

(a) STUDY.—The Secretary, in cooperation with the Secretary of Commerce, State departments of transportation, and other appropriate State, regional, and local officials, shall conduct a study on feasibility of installing fiber optic cabling and wireless communication infrastructure along multistate Interstate System route corridors for

improved communications services to rural communities along such corridors.

(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall identify—

(1) impediments to installation of the infrastructure described in subsection (a) along multistate Interstate System route corridors and to connecting such infrastructure to the rural communities along such corridors;

(2) the effective geographic range of such infrastructure;

(3) potential opportunities for the private sector to fund, wholly or partially, the installation of such infrastructure;

(4) potential benefits fiber optic cabling and wireless communication infrastructure may provide to rural communities along such corridors, including the effects of the installation of such infrastructure on economic development, deployment of intelligent transportation systems technologies and applications, homeland security precaution and response, and education and health systems in those communities;

(5) rural broadband access points for such infrastructure;

(6) areas of environmental conflict with such installation;

(7) real estate ownership issues relating to such installation;

(8) preliminary design for placement of fiber optic cable and wireless towers;

(9) monetary value of the rights-of-way necessary for such installation;

(10) applicability and transferability of the benefits of such installation to other rural corridors; and

(11) safety and other operational issues associated with the installation and maintenance of fiber optic cabling and wire infrastructure within Interstate System rights-of-way and other publicly owned rights-of-way.

(c) CORRIDOR LOCATIONS.—The study required under subsection (a) shall be conducted for corridors along—

(1) Interstate Route I–90 through rural Wisconsin, southern Minnesota, northern Iowa, and South Dakota;

(2) Interstate Route I–20 through Alabama, Mississippi, and northern Louisiana;

(3) Interstate Route I–91 through Vermont, New Hampshire, and Massachusetts; and

(4) any other rural corridor the Secretary considers appropriate.

(d) FEDERAL SHARE.—The Federal share of the cost of the study shall be 100 percent.

(e) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall transmit to Congress a report on the results of the study, including any recommendations of the Secretary.

(f) FUNDING.—Of the amounts made available under section 5101(a)(5), $1,000,000 shall be available for fiscal year 2005, and $2,000,000 for fiscal year 2006, to carry out this section.

**SEC. 5610. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.**

(a) ESTABLISHMENT.—The Secretary shall establish 3 centers for surface transportation excellence.

(b) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, rural safety, and project finance.

(c) ROLE OF CENTERS.—To achieve the goals set forth in subsection (b), the Secretary shall establish the 3 centers as follows:

(1) ENVIRONMENTAL EXCELLENCE.—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.

(2) RURAL SAFETY.—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and develop online and seminar training needs of rural transportation practitioners and policy-makers.

(3) PROJECT FINANCE.—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state of the art financing methods to advance projects and leverage funds.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Of the amounts made available under section 5101(a)(1), the Secretary shall make available $2,000,000 for each of fiscal years 2004 through 2009 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:

(A) 40 percent to establish the Center for Environmental Excellence.

(B) 30 percent to establish the Center for Excellence in Rural Safety.

(C) 30 percent to establish the Center for Excellence in Project Finance.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

(e) PROGRAM ADMINISTRATION.—

(1) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under this section shall be selected on a competitive basis, to the maximum extent practicable.

(2) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan that describes—

(A) the activities to be undertaken; and

(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title. Such plans shall be submitted to the Secretary by January 1, 2006, and each year thereafter.

**SEC. 5611. REPEAL.**

Subtitle C of title V of The Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 452–463) is repealed.

**SEC. 5612. SPECIAL RULE FOR FISCAL YEAR 2004.**

In any case in which an amount is authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for a program, project, or activity in any provision of this title, including an amendment made by this title, that is different than the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation for fiscal year 2004 for such program, project, or activity in any provision of the Surface Transportation Extension Act of 2004, Part V (Public Law 108–310), including any amendment made by such Act, the amount referred to in such Act shall be

the amount authorized to be appropriated, made available, allocated, set aside, taken down, or subject to an obligation limitation.

# TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

**SEC. 6001. TRANSPORTATION PLANNING.**

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by inserting after chapter 51 the following:

## 'CHAPTER 52—TRANSPORTATION PLANNING AND PROJECT DELIVERY

'SUBCHAPTER A—GENERAL PROVISIONS

'Sec.
'5201. Definitions.

'SUBCHAPTER B—TRANSPORTATION PLANNING AND PROJECT DELIVERY

'5211. Policy.
'5212. Definitions.
'5213. Metropolitan transportation planning.
'5214. Statewide transportation planning.

'SUBCHAPTER C—EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING

'5251. Definitions and applicability.
'5252. Project development procedures.

### 'SUBCHAPTER A—GENERAL PROVISIONS

**'§ 5201. Definitions**

'In this chapter, the following definitions apply:

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

'(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and Puerto Rico.

'SUBCHAPTER B—TRANSPORTATION PLANNING AND PROJECT DELIVERY

**'§ 5211. Policy**

'(a) IN GENERAL.—It is in the national interest to—

'(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

'(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in sections 5213(f) and 5214(d).

'(b) COMMON TRANSPORTATION PLANNING PROGRAM.—This subchapter provides a common transpor-

tation planning program to be administered by the Federal Highway Administration and the Federal Transit Administration.

**'§ 5212. Definitions**

'(a) APPLICABILITY BY REFERENCE.—Unless otherwise specified in subsection (b), the definitions in section 101(a) of title 23 and section 5302 are applicable to this subchapter.

'(b) ADDITIONAL DEFINITIONS.—In this subchapter, the following definitions apply:

'(1) METROPOLITAN PLANNING AREA.—The term ''metropolitan planning area'' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under section 5213(c).

'(2) METROPOLITAN PLANNING ORGANIZATION.—The term ''metropolitan planning organization'' means the policy board of an organization created as a result of the designation process in section 5213(b).

'(3) NONMETROPOLITAN AREA.—The term ''nonmetropolitan area'' means a geographic area outside designated metropolitan planning areas.

'(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term ''nonmetropolitan local official'' means

elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

'(5) TIP.—The term ''TIP'' means a transportation improvement program developed by a metropolitan planning organization under section 5213.

'(6) URBANIZED AREA.—The term ''urbanized area'' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

**'§ 5213. Metropolitan Transportation planning**

'(a) GENERAL REQUIREMENTS.—

'(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in section 5211, metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

'(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation fa-

cilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

'(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

'(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

'(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

'(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

'(B) in accordance with procedures established by applicable State or local law.

1 ‘(2) STRUCTURE.—Each metropolitan planning
2 organization that serves an area designated as a
3 transportation management area, when designated
4 or redesignated under this subsection, shall consist
5 of—
6 ‘(A) local elected officials;
7 ‘(B) officials of public agencies that admin-
8 ister or operate major modes of transportation
9 in the metropolitan area; and
10 ‘(C) appropriate State officials.
11 ‘(3) LIMITATION ON STATUTORY CONSTRUC-
12 TION.—Nothing in this subsection shall be construed
13 to interfere with the authority, under any State law
14 in effect on December 18, 1991, of a public agency
15 with multimodal transportation responsibilities to—
16 ‘(A) develop the plans and TIPs for adop-
17 tion by a metropolitan planning organization;
18 and
19 ‘(B) develop long-range capital plans, co-
20 ordinate transit services and projects, and carry
21 out other activities pursuant to State law.
22 ‘(4) CONTINUING DESIGNATION.—A designation
23 of a metropolitan planning organization under this
24 subsection or any other provision of law shall remain

in effect until the metropolitan planning organization is redesignated under paragraph (5).

'(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

'(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

'(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

'(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the

metropolitan planning organization and the Governor.

'(2) INCLUDED AREA.—Each metropolitan planning area—

'(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

'(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

'(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

'(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of this para-

graph, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

'(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

'(A) shall be established in the manner described in subsection (b)(1);

'(B) shall encompass the areas described in paragraph (2)(A);

'(C) may encompass the areas described in paragraph (2)(B); and

'(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

'(d) COORDINATION IN MULTISTATE AREAS.—

'(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appro-

priate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

'(e) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

'(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

'(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement funded from the Highway Trust Fund or authorized under chapter 53 is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

'(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with

those officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

'(A) recipients of assistance under chapter 53;

'(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

'(C) recipients of assistance under section 204 of title 23.

'(f) SCOPE OF PLANNING PROCESS.—

'(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address the following factors as they relate to the performance of the metropolitan area transportation systems:

'(A) Support of the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

'(B) Increases in the safety and security of the transportation system for motorized and nonmotorized users.

'(C) Increases in the accessibility and mobility of people and for freight.

'(D) Protection and enhancement of the environment, promotion of energy conservation, improvement of the quality of life, and promotion of consistency between transportation improvements and State and local planned growth and economic development patterns.

'(E) Enhancement of the integration and connectivity of the transportation system, across and between modes, for people and freight.

'(F) Promotion of efficient system management and operation.

'(G) Emphasis on the preservation of the existing transportation system.

'(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

'(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

'(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

'(A) An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization

shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

'(B) A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

'(C) Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

1 ‘(D) Capital investment and other strate-
2 gies to preserve the existing and projected fu-
3 ture metropolitan transportation infrastructure
4 and provide for multimodal capacity increases
5 based on regional priorities and needs.
6 ‘(E) Proposed transportation and transit
7 enhancement activities.
8 ‘(3) COORDINATION WITH CLEAN AIR ACT
9 AGENCIES.—In metropolitan areas which are in non-
10 attainment for ozone or carbon monoxide under the
11 Clean Air Act, the metropolitan planning organiza-
12 tion shall coordinate the development of a transpor-
13 tation plan with the process for development of the
14 transportation control measures of the State imple-
15 mentation plan required by the Clean Air Act.
16 ‘(4) PARTICIPATION BY INTERESTED PAR-
17 TIES.—Before approving a transportation plan, each
18 metropolitan planning organization shall provide citi-
19 zens, affected public agencies, representatives of
20 public transportation employees, freight shippers,
21 providers of freight transportation services, private
22 providers of transportation, representatives of users
23 of public transportation, representatives of users of
24 pedestrian walkways and bicycle transportation fa-
25 cilities, representatives of the disabled, and other in-

terested parties with a reasonable opportunity to comment on the transportation plan, in a manner that the Secretary deems appropriate.

'(5) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

'(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).

'(h) METROPOLITAN TIP.—

'(1) DEVELOPMENT.—

'(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

'(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of the disabled, representatives of users of pedestrian walkways and bicycle facilities, and other interested parties with a reasonable opportunity to comment on the proposed TIP.

'(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

'(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

1 ‘(2) CONTENTS.—
2 ‘(A) PRIORITY LIST.—The TIP shall in-
3 clude a priority list of proposed federally sup-
4 ported projects and strategies to be carried out
5 within each 4-year period after the initial adop-
6 tion of the TIP.
7 ‘(B) FINANCIAL PLAN.—The TIP shall in-
8 clude a financial plan that—
9 ‘(i) demonstrates how the TIP can be
10 implemented;
11 ‘(ii) indicates resources from public
12 and private sources that are reasonably ex-
13 pected to be available to carry out the pro-
14 gram;
15 ‘(iii) identifies innovative financing
16 techniques to finance projects, programs,
17 and strategies; and
18 ‘(iv) may include, for illustrative pur-
19 poses, additional projects that would be in-
20 cluded in the approved TIP if reasonable
21 additional resources beyond those identi-
22 fied in the financial plan were available.
23 ‘(C) DESCRIPTIONS.—Each project in the
24 TIP shall include sufficient descriptive material
25 (such as type of work, termini, length, and

other similar factors) to identify the project or phase of the project.

'(D) CONGESTION RELIEF ACTIVITIES.—The TIP shall include a listing of congestion relief activities to be carried out to meet the requirements of section 139 of title 23, categorized as either under one or under three congestion relief activities.

'(3) INCLUDED PROJECTS.—

'(A) PROJECTS UNDER TITLE 23 AND CHAPTER 53.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of title 23 and chapter 53.

'(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—All projects proposed for funding under chapter 2 of title 23 shall be identified individually in the TIP.

'(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

'(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

'(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of the disabled, representatives of users of pedestrian walkways and bicycle facilities, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

'(5) SELECTION OF PROJECTS.—

'(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in

metropolitan areas shall be carried out, from the approved TIP—

'(i) by—

'(I) in the case of projects under title 23, the State; and

'(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

'(ii) in cooperation with the metropolitan planning organization.

'(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

'(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

'(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

'(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

'(7) PUBLICATION.—

'(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

'(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

'(i) TRANSPORTATION MANAGEMENT AREAS.—

'(1) IDENTIFICATION AND DESIGNATION.—

'(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation

management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

'(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

'(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

'(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 through the use of travel demand reduction

and operational management strategies and shall identify a sufficient number of congestion relief activities under section 139 of title 23 to meet the requirements of such section. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one year after the identification of a transportation management area.

'(4) SELECTION OF PROJECTS.—

'(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

'(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects, carried out within the boundaries of a metropolitan planning area

serving a transportation management area, on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

'(5) CERTIFICATION.—

'(A) IN GENERAL.—The Secretary shall—

'(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

'(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

'(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

'(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

'(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

'(C) EFFECT OF FAILURE TO CERTIFY.—

'(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under title 23 and chapter 53.

'(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

1 ‘(D) REVIEW OF CERTIFICATION.—In
2 making certification determinations under this
3 paragraph, the Secretary shall provide for pub-
4 lic involvement appropriate to the metropolitan
5 area under review.
6 ‘(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—
7 ‘(1) IN GENERAL.—Subject to paragraph (2), in
8 the case of a metropolitan area not designated as a
9 transportation management area under this section,
10 the Secretary may provide for the development of an
11 abbreviated transportation plan and TIP for the
12 metropolitan planning area that the Secretary deter-
13 mines is appropriate to achieve the purposes of this
14 section, taking into account the complexity of trans-
15 portation problems in the area.
16 ‘(2) NONATTAINMENT AREAS.—The Secretary
17 may not permit abbreviated plans or TIPs for a
18 metropolitan area that is in nonattainment for ozone
19 or carbon monoxide under the Clean Air Act (42
20 U.S.C. 7401 et seq.).
21 ‘(k) ADDITIONAL REQUIREMENTS FOR CERTAIN
22 NONATTAINMENT AREAS.—
23 ‘(1) IN GENERAL.—Notwithstanding any other
24 provisions of title 23 or chapter 53, for transpor-
25 tation management areas classified as nonattain-

ment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

'(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

'(l) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53.

'(m) FUNDING.—

'(1) SET-ASIDES.—Funds set aside under section 104(f) of title 23 or section 5305(h) shall be available to carry out this section.

'(2) OTHER FUNDING.—Funds made available under section 5338(c) shall be available to carry out this section.

'(n) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are

subject to a reasonable opportunity for public comment, individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

**'§ 5214. Statewide Transportation planning**

'(a) GENERAL REQUIREMENTS.—

'(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5211, each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State subject to section 5213. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

'(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including

accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

'(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5211, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

'(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

'(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5213 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

'(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

'(d) SCOPE OF PLANNING PROCESS.—

'(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

'(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

'(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

'(C) increase the accessibility and mobility of people and freight;

'(D) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

'(E) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

'(F) promote efficient system management and operation; and

'(G) emphasize the preservation of the existing transportation system.

'(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

'(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

'(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

'(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

'(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being car-

ried out outside of metropolitan planning areas and between States.

'(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

'(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

'(2) CONSULTATION WITH GOVERNMENTS.—

'(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5213.

'(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

'(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

'(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the statewide transportation plan, the State shall—

'(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

'(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

'(4) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that

demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

'(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (4).

'(6) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

'(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

1 ‘(1) DEVELOPMENT.—Each State shall develop
2 a statewide transportation improvement program for
3 all areas of the State.
4 ‘(2) CONSULTATION WITH GOVERNMENTS.—
5 ‘(A) METROPOLITAN AREAS.—With respect
6 to each metropolitan area in the State, the pro-
7 gram shall be developed in cooperation with the
8 metropolitan planning organization designated
9 for the metropolitan area under section 5213.
10 ‘(B) NONMETROPOLITAN AREAS.—With
11 respect to each nonmetropolitan area in the
12 State, the program shall be developed in con-
13 sultation with affected nonmetropolitan local of-
14 ficials with responsibility for transportation.
15 The Secretary shall not review or approve the
16 specific consultation process in the State.
17 ‘(C) INDIAN TRIBAL AREAS.—With respect
18 to each area of the State under the jurisdiction
19 of an Indian tribal government, the program
20 shall be developed in consultation with the trib-
21 al government and the Secretary of the Interior.
22 ‘(3) PARTICIPATION BY INTERESTED PAR-
23 TIES.—In developing the program, the State shall
24 provide citizens, affected public agencies, representa-
25 tives of public transportation employees, freight

shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

'(4) INCLUDED PROJECTS.—

'(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

'(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—All projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

'(C) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

'(i) consistent with the statewide transportation plan developed under this section for the State;

'(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

'(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

'(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

'(E) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and rec-

ommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

'(F) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

'(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (E), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E).

'(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E) for inclusion in an approved transportation improvement program.

'(G) PRIORITIES.—The transportation improvement program shall reflect the priorities

for programming and expenditures of funds, including transportation enhancement activities, required by title 23 and chapter 53.

'(H) PRIORITIZATION OF CONGESTION RELIEF ACTIVITIES.—The transportation improvement program shall reflect the priorities for congestion relief activities included in the metropolitan transportation plan to meet the requirements of section 139 of title 23.

'(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or under sections 5310, 5311, 5316, and 5317 shall be se-

lected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

'(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

'(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5213.

'(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

'(h) FUNDING.—

'(1) SET-ASIDE.—Funds set aside pursuant to section 104(i) of title 23 shall be available to carry out this section.

'(2) OTHER FUNDING.—Funds made available under section 5338(c) shall be available to carry out this section.

'(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5213, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under section 5213(i)(3) if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5213, as appropriate.

'(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or state-

wide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.'.

(b) CONFORMING AMENDMENT.—The analysis for such subtitle is amended by inserting the following after the item relating to chapter 51:

'52. Transportation planning and project delivery. ..... 5201'.

**SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.**

(a) POLICY AND PURPOSE.—

(1) POLICY.—The Enlibra principles, as initially developed by the Western Governors Association and adopted by the National Governors Association, represent a sound basis for interaction among the Federal, State, local governments, and Indian tribes on environmental matters and should be followed in the development of highway construction and public transit improvements. These principles are as follows:

(A) Assign responsibilities at the right level.

(B) Use collaborative processes to break down barriers and find solutions.

(C) Move to a performance-based system.

(D) Separate subjective choices from objective data gathering.

(E) Pursue economic incentives whenever appropriate.

(F) Ensure environmental understanding.

(G) Make sure environmental decisions are fully informed.

(H) Use appropriate geographic boundaries for environmental problems.

(2) PURPOSE.—The purpose of this section is to reduce delays in the delivery of highway construction and public transportation capital projects arising from the environmental review process, while continuing to ensure the protection of the human and natural environment.

(b) PROJECT DEVELOPMENT PROCEDURES.—Chapter 52 of title 49, United States Code, as added by section 6001(a) of this Act, is amended by adding at the end the following:

'SUBCHAPTER C—EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING

**'§ 5251. Definitions and applicability**

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

'(1) AGENCY.—The term ''agency'' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

'(2) ENVIRONMENTAL IMPACT STATEMENT.—The term ''environmental impact statement'' means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

'(3) ENVIRONMENTAL REVIEW PROCESS.—

'(A) IN GENERAL.—The term ''environmental review process'' means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

'(B) INCLUSIONS.—The term includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

'(4) LEAD AGENCY.—The term ''lead agency'' means the Department of Transportation and, if ap-

plicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

'(5) MULTIMODAL PROJECT.—The term ''multimodal project'' means a project funded, in whole or in part, under title 23 or chapter 53 and involving the participation of more than one Department of Transportation administration or agency.

'(6) PROJECT.—The term ''project'' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

'(7) PROJECT SPONSOR.—The term ''project sponsor'' means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

'(8) STATE TRANSPORTATION DEPARTMENT.—The term ''State transportation department'' means any statewide agency of a State with responsibility for one or more modes of transportation.

'(b) APPLICABILITY.—This subchapter is applicable to all projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). This subchapter may be applied, to the extent determined appropriate by the Secretary, to other projects for which an environ-

mental document is prepared pursuant to such Act. Any authorities granted in this subchapter may be exercised for a project, class of projects, or program of projects.

**'§ 5252. Project development procedures**

'(a) LEAD AGENCIES.—

'(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead agency in the environmental review process for a project.

'(2) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under title 23 or chapter 53 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document,

whether or not the Secretary's action or approval results in Federal funding.

'(3) ENSURING COMPLIANCE.—The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.

'(4) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

'(b) PARTICIPATING AGENCIES.—

'(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

'(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a project, any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become

1 participating agencies in the environmental review
2 process for the project. The invitation shall set a
3 deadline for responses to be submitted. The deadline
4 may be extended by the lead agency for good cause.
5 '(3) FEDERAL PARTICIPATING AGENCIES.—Any
6 Federal agency that is invited by the lead agency to
7 participate in the environmental review process for a
8 project shall be designated as a participating agency
9 by the lead agency unless the invited agency informs
10 the lead agency, in writing, by the deadline specified
11 in the invitation that the invited agency—
12 '(A) has no jurisdiction or authority with
13 respect to the project;
14 '(B) has no expertise or information rel-
15 evant to the project; and
16 '(C) does not intend to submit comments
17 on the project.
18 '(4) EFFECT OF DESIGNATION.—Designation as
19 a participating agency under this subsection shall
20 not imply that the participating agency—
21 '(A) supports a proposed project; or
22 '(B) has any jurisdiction over, or special
23 expertise with respect to evaluation of, the
24 project.

'(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a ''cooperating agency'' under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

'(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

'(c) PROJECT INITIATION.—

'(1) IN GENERAL.—The project sponsor shall initiate the environmental review process for a project by submitting an initiation notice to the Secretary.

'(2) CONTENTS OF NOTICE.—The initiation notice shall include, at a minimum, a brief description of the type of work, termini, length, and general location of the proposed project, together with a statement of any Federal approvals anticipated to be needed for the project.

'(d) PURPOSE AND NEED.—

'(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement

by participating agencies and the public in defining the purpose and need for a project.

'(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.

'(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

'(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;

'(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and

'(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.

'(e) ALTERNATIVES ANALYSIS.—

'(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement

by participating agencies and the public in determining the range of alternatives to be considered for a project.

'(2) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

'(3) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

'(4) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative

which is being considered in the environmental review process.

'(f) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a project:

'(1) For comments by agencies and the public on a draft environmental impact statement, a period of no more than 60 days from the date of public availability of such document, unless—

'(A) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

'(B) the deadline is extended by the lead agency for good cause.

'(2) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

'(A) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

'(B) the deadline is extended by the lead agency for good cause.

'(g) ISSUE IDENTIFICATION AND RESOLUTION.—

'(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

'(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

'(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

1 '(4) ISSUE RESOLUTION.—Whenever issues of
2 concern are identified or at any time upon request
3 of a project sponsor, the lead agency shall promptly
4 convene a meeting with the relevant participating
5 agencies. If a resolution cannot be achieved within
6 30 days following such a meeting and a determina-
7 tion by the lead agency that all information nec-
8 essary to resolve the issue has been obtained, the
9 lead agency shall notify the heads of all Federal
10 agencies involved in the meeting and the Committee
11 on Environment and Public Works of the Senate
12 and the Committee on Transportation and Infra-
13 structure of the House of Representatives and shall
14 publish such notification in the Federal Register.
15 '(h) PARTICIPATION OF STATE AGENCIES.—For any
16 project eligible for assistance under title 23 or chapter 53,
17 a State may require, under procedures established by
18 State law, that all State agencies that have jurisdiction
19 by State or Federal law over environmental-related issues
20 that may be affected by the project, or that are required
21 to issue any environmental-related reviews, analyses, opin-
22 ions, or determinations on issuing any permits, licenses,
23 or approvals for the project, be subject to the coordinated
24 environmental review process established under this sec-
25 tion unless the Secretary determines that a State agency's

1 participation would not be in the public interest. A State
2 participating in the review process must require all State
3 agencies with jurisdiction to be subject to and comply with
4 the review process to the same extent as a Federal agency.
5 '(i) ASSISTANCE TO AFFECTED STATE AND FEDERAL
6 AGENCIES.—
7 '(1) IN GENERAL.—For a project that is subject
8 to the environmental review process established
9 under this section and for which funds are made
10 available to a State under title 23 or chapter 53, the
11 Secretary may approve a request by the State to
12 provide funds so made available to affected Federal
13 agencies (including the Department of Transpor-
14 tation), State agencies, and Indian tribes partici-
15 pating in the environmental review process for the
16 project. Such funds may be provided only to support
17 activities that directly and meaningfully contribute
18 to expediting and improving transportation project
19 planning and delivery. Such activities may include
20 dedicated staffing, training of agency personnel, in-
21 formation gathering and mapping, and development
22 of programmatic agreements. The Secretary may
23 also use funds made available under section 204 of
24 title 23 for a project for the purposes specified in

this subsection with respect to the environmental review process for the project.

'(2) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

'(3) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.'.

(c) EXISTING ENVIRONMENTAL REVIEW PROCESSES.—Nothing in this section shall be deemed to affect any existing environmental review process approved by the Secretary.

**SEC. 6003. POLICY ON HISTORIC SITES.**

(a) TITLE 49.—Section 303 of title 49, United States Code, is amended by adding at the end the following:

'(d) SPECIAL RULES FOR HISTORIC SITES.—

'(1) IN GENERAL.—The requirements of this section are deemed to be satisfied in any case in which the treatment of a historic site has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f)

and the agreement includes a determination that the program or project will not have an adverse effect on the historic site.

'(2) LIMITATION ON APPLICABILITY.—This subsection does not apply in any case in which the Advisory Council on Historic Preservation determines, concurrent with or prior to the conclusion of section 106 consultation, that allowing section 106 compliance to satisfy the requirements of this section would be inconsistent with the objectives of the National Historic Preservation Act. The Council shall make such a determination if petitioned to do so by a section 106 consulting party, unless the Council affirmatively finds that the views of the requesting party have been adequately considered and that section 106 compliance will adequately protect historic properties.

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

'(A) SECTION 106 CONSULTATION.—The term ''section 106 consultation'' means the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

'(B) ADVERSE EFFECT.—The term ''adverse effect'' means altering, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.'.

(b) TITLE 23.—Section 138 of title 23, United States Code is amended—

(1) by inserting '(a) Policy.—' before 'It is'; and

(2) by striking 'In carrying' and inserting the following:

'(c) STUDIES.—In carrying'; and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following:

'(b) SPECIAL RULES FOR HISTORIC SITES.—

'(1) IN GENERAL.—The requirements of this section are deemed to be satisfied in any case in which the treatment of a historic site has been agreed upon in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the agreement includes a determination that the

program or project will not have an adverse effect on the historic site.

'(2) LIMITATION ON APPLICABILITY.—This subsection does not apply in any case in which the Advisory Council on Historic Preservation determines, concurrent with or prior to the conclusion of section 106 consultation, that allowing section 106 compliance to satisfy the requirements of this section would be inconsistent with the objectives of the National Historic Preservation Act. The Council shall make such a determination if petitioned to do so by a section 106 consulting party, unless the Council affirmatively finds that the views of the requesting party have been adequately considered and that section 106 compliance will adequately protect historic properties.

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

'(A) SECTION 106 CONSULTATION.—The term ''section 106 consultation'' means the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

'(B) ADVERSE EFFECT.—The term ''adverse effect'' means altering, directly or indi-

rectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.'.

**SEC. 6004. EXEMPTION OF INTERSTATE SYSTEM.**

Section 103(c) of title 23, United States Code, is amended by adding at the end the following:

'(5) EXEMPTION OF INTERSTATE SYSTEM.—

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

'(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C), a portion of the Interstate System that possesses an independent feature of historic significance (such as a historic bridge or a highly significant engineering feature) that is listed on, or eligible for listing on, the National Register of Historic Places, shall

be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.

'(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f).'.

**SEC. 6005. INTERSTATE COMPACTS.**

Section 5213(d), as inserted by section 6001(a) of this Act, is amended by inserting after paragraph (1) the following:

'(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

'(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to

interstate areas and localities within the States; and

'(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

'(3) LAKE TAHOE REGION.—

'(A) DEFINITION.—In this paragraph, the term ''Lake Tahoe region'' has the meaning given the term ''region'' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

'(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

'(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

'(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5214.

'(C) INTERSTATE COMPACT.—

'(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

'(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

'(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

1 ‘(II) FUNDING.—In addition to
2 funds made available to the metropoli-
3 tan planning organization under other
4 provisions of title 23 and under chap-
5 ter 53, not more than 1 percent of the
6 funds allocated under section 202 of
7 title 23 may be used to carry out the
8 transportation planning process for
9 the Lake Tahoe region under this
10 subparagraph.
11 ‘(D) ACTIVITIES.—Highway projects in-
12 cluded in transportation plans developed under
13 this paragraph—
14 ‘(i) shall be selected for funding in a
15 manner that facilitates the participation of
16 the Federal land management agencies
17 that have jurisdiction over land in the
18 Lake Tahoe region; and
19 ‘(ii) may, in accordance with chapter
20 2 of title 23, be funded using funds allo-
21 cated under section 202 of title 23.
22 ‘(4) RESERVATION OF RIGHTS.—The right to
23 alter, amend or repeal interstate compacts entered
24 into under this subsection is expressly reserved.’.

**SEC. 6006. DEVELOPMENT OF TRANSPORTATION PLAN.**

Section 5213(g), as inserted by section 6001(a) of this Act, is amended by inserting before paragraph (2) the following:

'(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

'(A) any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); and

'(B) any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning

organization shall prepare and update such plan every 4 years unless the metropolitan planning organization elects to update more frequently.'.

**SEC. 6007. INTERSTATE AGREEMENTS.**

Section 5214, as inserted by section 6001(a) of this Act, is amended by inserting after subsection (b) the following:

'(c) INTERSTATE AGREEMENTS.—

'(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

'(2) RESERVATION OF RIGHTS.—The right to alter, amend or repeal interstate compacts entered into under this subsection is expressly reserved.'.

**SEC. 6008. REGULATIONS RELATING TO TRANSPORTATION PLANNING.**

Not later than 18 months after the date of enactment of this Act, the Secretary shall issue regulations that are consistent with the provisions of subchapter B of chapter

52 of title 49, United States Code, that relate to the Clean Air Act.

**SEC. 6009. SPECIAL RULES RELATING TO PROJECT DEVELOPMENT PROCEDURES.**

Section 5252 of title 49, United States Code, as inserted by section 6001(a) of this Act, is amended by adding at the end the following:

'(j) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

'(1) JUDICIAL REVIEW.—Except as set forth under subsection (k), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States.

'(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

'(3) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

'(A) any practice of seeking, considering, or responding to public comment; or

'(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local gov-

ernment agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

'(k) LIMITATIONS ON CLAIMS.—

'(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 90 days after the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

'(2) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supple-

mental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of such action.'.

# TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

**SEC. 7001. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 7002. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds with respect to hazardous materials transportation that—

(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality

and meet consumer demands and must be conducted in a safe and efficient manner;

(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;

(4) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple regulatory requirements;

(5) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable;

(6) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable; and

(7) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential.

(b) PURPOSE.—The text of section 5101 is amended to read as follows: 'The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.'.

**SEC. 7003. DEFINITIONS.**

Section 5102 is amended—

(1) in paragraph (1)—

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

(B) by striking the period at the end of subparagraph (B) and inserting '; or'; and

(C) by inserting at the end the following:

'(C) on a United States registered aircraft.';

(2) in paragraph (8) by striking 'national response team' each place it appears and inserting 'National Response Team';

(3) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively; and

(4) by inserting after paragraph (10) the following:

'(11) ''Secretary'' means the Secretary of Transportation.'.

**SEC. 7004. GENERAL REGULATORY AUTHORITY.**

(a) TECHNICAL AMENDMENTS.—Section 5103(a) is amended—

(1) by striking 'etiologic agent,' and inserting 'infectious substance,'; and

(2) by striking 'poison,' and inserting 'toxic,'.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended—

(1) in clause (i) by striking 'transporting' and inserting 'that transports';

(2) in clause (ii)—

(A) by striking 'causing' and inserting 'that causes'; and

(B) by striking 'or' at the end; and

(3) by striking clause (iii) and inserting the following:

'(iii) that designs, manufactures, fabricates, inspects, marks, maintains, recondi-

tions, repairs, or tests a package or container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce;

'(iv) that prepares or accepts hazardous material for transportation in commerce;

'(v) that is responsible for the safety of transporting hazardous material in commerce;

'(vi) that certifies compliance with any requirement of this chapter; or

'(vii) that misrepresents whether the person is engaged in any of the activities described in this subparagraph; and'.

(c) TECHNICAL AMENDMENT.—Section 5103(b) is amended—

(1) by moving subparagraph (C) from the end of paragraph (1) and inserting it after paragraph (2);

(2) by redesignating such subparagraph as paragraph (3); and

(3) by moving such paragraph (3) 2 ems to the left.

**SEC. 7005. CHEMICAL OR BIOLOGICAL MATERIALS.**

Section 5103a(c) is amended—

(1) in paragraph (2) by striking 'this subsection' and inserting 'paragraph (1)'; and

(2) by adding at the end the following:

'(3) STANDARDS.—The Secretary shall prescribe by regulation uniform standards (including standards used to disqualify applicants) governing—

'(A) the collection by States of background information authorized by paragraph (1);

'(B) the collection, transmission, and review of background information; and

'(C) the notification of an applicant of the results of the background check.

'(4) FEES.—A State may impose and collect an appropriate fee to carry out paragraph (1) consistent with section 5125(f).

'(5) OPERATORS REGISTERED IN MEXICO AND CANADA.—No operator of a commercial motor vehicle (as defined in section 31101) licensed in Mexico or Canada may operate in the United States a commercial motor vehicle transporting hazardous material until the operator has undergone a background records check similar to the background records check required of operators of commercial motor vehicles licensed in the United States to transport hazardous materials.'.

**SEC. 7006. REPRESENTATION AND TAMPERING.**

(a) REPRESENTATION.—Section 5104(a) is amended—

(1) by striking 'A person' and inserting 'No person';

(2) in paragraph (1) by striking 'only if' and all that follows through 'meets' and inserting 'if it does not conform to'; and

(3) in paragraph (2) by striking 'only if' and inserting 'unless'.

(b) TAMPERING.—Section 5104(b) is amended by striking 'A person may not' and inserting 'No person may'.

**SEC. 7007. TECHNICAL AMENDMENTS.**

(a) ELIMINATION OF COMPLETED STUDY.—Section 5105 is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) CLASSIFICATION OF EXPLOSIVES.—Section 5108(a)(1)(B) is amended by striking 'class A or B' and inserting 'Division 1.1, 1.2, or 1.3'.

**SEC. 7008. TRAINING OF CERTAIN EMPLOYEES.**

Section 5107 is amended—

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

(2) in subsection (g)(2) (as so redesignated) by striking 'sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title' and inserting 'section 5106'; and

(3) by inserting after subsection (e) the following:

'(f) TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness/familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.'.

**SEC. 7009. REGISTRATION.**

(a) PERSONS REQUIRED TO FILE.—Section 5108(a) is amended—

(1) in paragraph (2)(B) by striking 'manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing' and inserting 'designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing'; and

(2) by aligning the left margin of paragraph (4) with the left margin of paragraph (3).

(b) FILING SCHEDULE.—Section 5108(c) is amended—

(1) by striking the subsection heading and inserting 'Filing Schedule'; and

(2) in paragraph (1)—

(A) by striking 'must file the first' and inserting 'shall file that';

(B) by striking 'not later than March 31, 1992' and inserting 'in accordance with regulations issued by the Secretary'; and

(C) by striking the second sentence.

(c) FEES.—Section 5108(g) is amended—

(1) in paragraph (1) by striking 'may' and inserting 'shall';

(2) in paragraph (2)(A) by striking '$5,000' and inserting '$3,000'; and

(3) by adding at the end the following:

'(3) FEES ON EXEMPT PERSONS.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the cost of the Secretary in processing registration statements filed by such persons.'.

(d) RELATIONSHIP TO OTHER LAWS.—Section 5108(i)(2)(B) is amended by inserting ', Indian tribe,' after 'State' the first place it appears.

(e) HAZMAT REGISTRATION NOTIFICATION.—As soon as practicable, the Pipelines and Hazardous Materials Safety Administator of the Department of Transportation shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant.

**SEC. 7010. PROVIDING SHIPPING PAPERS.**

Section 5110 is amended—

(1) in subsection (a) by striking 'under subsection (b) of this section' and inserting 'by regulation'; and

(2) in subsection (e) by striking '1 year' and inserting '2 years after the date of preparation of the shipping paper'.

**SEC. 7011. RAIL TANK CARS.**

Section 5111, and the item relating to such section in the analysis for chapter 51, are repealed.

**SEC. 7012. UNSATISFACTORY SAFETY RATING.**

The text of section 5113 is amended to read as follows: 'A person who violates section 31144(c)(3) shall be subject to the penalties in sections 5123 and 5124.'.

**SEC. 7013. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.**

(a) REQUIREMENTS.—Section 5115(b)(1)(C) is amended by striking 'under other United States Government grant programs, including those' and inserting 'with Federal financial assistance, including programs'.

(b) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—Section 5115(c)(3) is amended by inserting before the period at the end the following: 'and such other voluntary consensus standard-setting organizations as the Secretary determines appropriate'.

(c) DISTRIBUTION AND PUBLICATION.—Section 5115(d) is amended—

(1) in the matter preceding paragraph (1) by striking 'national response team' and inserting 'National Response Team';

(2) in paragraph (1) by striking 'Director of the Federal Emergency Management Agency' and inserting 'Secretary'; and

(3) in paragraph (2)—

(A) by inserting 'and distribute' after 'publish'; and

(B) by striking 'programs that uses' and all that follows before the period at the end and inserting 'programs and courses developed under this section'.

**SEC. 7014. PLANNING AND TRAINING GRANTS, MONITORING, AND REVIEW.**

(a) FACTORS TO CONSIDER IN DETERMINING NEEDS.—Section 5116(b)(4) is amended—

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

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

'(E) the report submitted by the State to the Secretary under section 5125(f)(2); and'.

(b) COMPLIANCE WITH CERTAIN LAW.—Section 5116(c) is amended—

(1) by inserting 'or Indian tribe' after 'a State';

(2) by inserting 'or Indian tribe' after 'the State' the first place it appears; and

(3) by inserting '(1) the State or Indian tribe is complying with all applicable requirements of this chapter (including section 5125(f)), and (2) in the case of a State,' after 'certifies that'.

(c) GOVERNMENT'S SHARE OF COSTS.—Section 5116(e) is amended by striking the second sentence and inserting the following: 'Amounts received by the State or tribe under subsections (a)(1) and (b)(1) are not part of the non-Government share under this subsection.'.

(d) MONITORING AND TECHNICAL ASSISTANCE.—Section 5116(f) is amended—

(1) in the first sentence—

(A) by striking 'Secretaries of Transportation and Energy,' and inserting 'Secretary of Energy, Director of the Federal Emergency Management Agency,'; and

(B) by striking 'Director of the Federal Emergency Management Agency shall' and inserting 'Secretary of Transportation shall'; and

(2) in the second sentence—

(A) by striking 'the Secretaries, Administrator, and Directors each shall' and inserting 'the Secretary shall'; and

(B) by striking 'national response team' and inserting 'National Response Team'.

(e) DELEGATION OF AUTHORITY.—Section 5116(g) is amended by striking 'Government grant programs' and inserting 'Federal financial assistance'.

(f) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—Section 5116(i) is amended—

(1) by striking the subsection heading and inserting 'Hazardous Materials Emergency Preparedness Fund.—';

(2) in the matter preceding paragraph (1)—

(A) by inserting ', to be known as the ''Hazardous Materials Emergency Preparedness Fund'',' after 'account in the Treasury'; and

(B) by striking 'section 5108(g)(2)(A) of this title' and all that follows before the period at the end of the first sentence and inserting 'this chapter';

(3) by striking 'and' at the end of paragraph (2);

(4) by redesignating paragraph (3) as paragraph (4); and

(5) by inserting after paragraph (2) the following:

'(3) to publish and distribute the Emergency Response Guidebook; and'.

(g) REPORTS.—In section 5116(k)—

(1) by striking the first sentence and inserting the following: 'The Secretary shall submit to Congress and make available to the public annually a report on the allocation and uses of planning grants under subsection (a), training grants under subsection (b), and grants under subsection (j) and under section 5107.'; and

(2) in the second sentence by striking 'Such report' and inserting 'The report'.

**SEC. 7015. SPECIAL PERMITS AND EXCLUSIONS.**

(a) SECTION HEADING.—

(1) IN GENERAL.—Section 5117 is amended by striking the section number and heading and inserting the following:

**'§ 5117. Special permits and exclusions'**.

(2) CONFORMING AMENDMENT.—The item relating to section 5117 in the analysis for chapter 51 is amended to read as follows:

'5117. Special permits and exclusions.'.

(b) SUBSECTION HEADING.—The heading for subsection (a) of section 5117 is amended by striking 'Exempt' and inserting 'Issue Special Permits'.

(c) AUTHORITY TO ISSUE SPECIAL PERMITS.—Section 5117(a)(1) is amended—

(1) by striking 'an exemption' and inserting ', modify, or terminate a special permit authorizing a variance'; and

(2) by striking 'transporting, or causing to be transported, hazardous material' and inserting 'performing a function regulated by the Secretary under section 5103(b)(1)'.

(d) PERIOD OF SPECIAL PERMIT.—Section 5117(a)(2) is amended to read as follows:

'(2) A special permit issued under this section shall be effective for an initial period of not more than 2 years

and may be renewed by the Secretary upon application for an additional period of not more than 4 years or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.'.

(e) APPLICATIONS.—Sections 5117(b) is amended—

(1) by striking 'an exemption' each place it appears and inserting 'a special permit'; and

(2) by striking 'the exemption' and inserting 'the special permit'.

(f) DEALING WITH APPLICATIONS PROMPTLY.—Section 5117(c) is amended by striking 'the exemption' each place it appears and inserting 'the special permit'.

(g) LIMITATION ON AUTHORITY.—Section 5117(e) is amended—

(1) by striking 'an exemption' and inserting 'a special permit'; and

(2) by striking 'be exempt' and inserting 'be granted a variance'.

**SEC. 7016. UNIFORM FORMS AND PROCEDURES.**

Section 5119 is amended to read as follows:

**'§ 5119. Uniform forms and procedures**

'(a) ESTABLISHMENT OF WORKING GROUP.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association

of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

'(b) PURPOSE OF WORKING GROUP.—The purpose of the working group shall be to establish uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

'(c) LIMITATION ON WORKING GROUP.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

'(d) PROCEDURE.—The Secretary shall develop a procedure by which the working group shall harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.

'(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

'(f) REGULATIONS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate.

'(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).'.

**SEC. 7017. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.**

(a) CONSULTATION.—Section 5120(b) is amended by inserting 'and requirements' after 'standards'.

(b) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—Section 5120(c) is amended—

(1) in paragraph (1) by inserting 'or requirement' after 'standard' each place it appears; and

(2) in paragraph (2)—

(A) by inserting 'standard or' before 'requirement' each place it appears; and

(B) by striking 'included in a standard'.

**SEC. 7018. ADMINISTRATIVE.**

(a) GENERAL AUTHORITY.—Section 5121(a) is amended—

(1) in the first sentence by inserting 'conduct tests,' after 'investigate,';

(2) in the second sentence by striking 'After' and inserting 'Except as provided in subsections (c) and (d), after'; and

(3) by striking 'regulation prescribed' and inserting 'regulation, order, special permit, or approval issued'.

(b) RECORDS, REPORTS, AND INFORMATION.—Section 5121(b) is amended—

(1) in paragraph (1) by inserting 'and property' after 'records'; and

(2) in paragraph (2)—

(A) by inserting 'property,' after 'records,';

(B) by inserting 'for inspection' after 'available'; and

(C) by striking 'requests' and inserting 'undertakes an investigation or makes a request'.

(c) ENHANCED AUTHORITY TO DISCOVER HIDDEN SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121(c) is amended to read as follows:

'(c) INSPECTIONS AND INVESTIGATIONS.—

'(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

1 ‘(A) may inspect and investigate, at a rea-
2 sonable time and in a reasonable manner,
3 records and property relating to a function de-
4 scribed in section 5103(b)(1);
5 ‘(B) except in the case of packaging imme-
6 diately adjacent to its hazardous material con-
7 tents, may gain access to, open, and examine a
8 package offered for, or in, transportation when
9 the officer, employee, or agent has an objec-
10 tively reasonable and articulable belief that the
11 package may contain a hazardous material;
12 ‘(C) may remove from transportation a
13 package or related packages in a shipment of-
14 fered for or in transportation for which—
15 ‘(i) such officer, employee, or agent
16 has an objectively reasonable and
17 articulable belief that the package may
18 pose an imminent hazard; and
19 ‘(ii) such officer, employee, or agent
20 contemporaneously documents such belief
21 in accordance with procedures set forth in
22 guidance or regulations prescribed under
23 subsection (e);
24 ‘(D) may gather information from the of-
25 feror, carrier, packaging manufacturer or re-

tester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

'(E) as necessary, under terms and conditions specified by the Secretary, may order the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and

'(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection.

'(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials when requested.

'(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

'(A) in the safe resumption of transportation of the package concerned; or

'(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.'.

(d) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

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

'(d) EMERGENCY ORDERS.—

'(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue an emergency order, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

'(2) WRITTEN ORDERS.—An emergency order issued under paragraph (1) shall be in writing, describe the violation, condition, or practice that is

causing the imminent hazard, and state the restrictions, prohibitions, recalls, or out-of-service orders issued. The emergency order also shall describe the standards and procedures for obtaining relief from the order.

'(3) OPPORTUNITY FOR REVIEW.—After issuing an emergency order under paragraph (1), the Secretary shall provide an opportunity for review of the order under section 554 of title 5 if a petition for review is filed within 20 calendar days after the date of issuance of the order.

'(4) EXPIRATION OF EFFECTIVENESS OF EMERGENCY ORDER.—If a petition for review is filed for an order and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the order shall cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

'(e) GUIDANCE AND REGULATIONS.—

'(1) GUIDANCE.—Not later than 60 days after the date of enactment of the Transportation Equity Act: A Legacy for Users, the Secretary shall issue interim guidance to carry out subsections (c) and (d).

'(2) REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.'.

(e) REPORT.—Section 5121(g) (as redesignated by subsection (d)(1) of this section) is amended—

(1) in the matter preceding paragraph (1) by striking 'submit to the President for transmittal to the Congress' and inserting 'transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate'; and

(2) in paragraph (4) by inserting 'relating to a function regulated by the Secretary under section 5103(b)(1)' after 'activities'.

(f) REPEAL OF OBSOLETE PROVISION.—Section 5118, and the item relating to such section in the analysis for chapter 51, are repealed.

**SEC. 7019. ENFORCEMENT.**

(a) GENERAL.—Section 5122(a) is amended by striking the second sentence and inserting 'The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil

1 penalties considering the same penalty amounts and fac-
2 tors as prescribed for the Secretary in an administrative
3 case under section 5123.'.

4 (b) IMMINENT HAZARDS.—Section 5122(b)(1)(B) is
5 amended by striking 'or ameliorate the' and inserting 'or
6 mitigate the'.

7 **SEC. 7020. CIVIL PENALTY.**

8 (a) PENALTY.—Section 5123(a) is amended—
9 (1) in paragraph (1)—
10 (A) by striking 'regulation prescribed or
11 order issued' and inserting 'regulation, order,
12 special permit, or approval issued'; and
13 (B) by striking '$25,000' and inserting
14 '$50,000';
15 (2) by redesignating paragraph (2) as para-
16 graph (3); and
17 (3) by inserting after paragraph (1) the fol-
18 lowing:

19 '(2) If the Secretary finds that a violation under
20 paragraph (1) results in death, serious illness, or severe
21 injury to any person or substantial destruction of prop-
22 erty, the Secretary may increase the amount of the civil
23 penalty for such violation to not more than $100,000.'.

(b) HEARING REQUIREMENT.—Section 5123(b) is amended by striking 'regulation prescribed' and inserting 'regulation, order, special permit, or approval issued'.

(c) CIVIL ACTIONS TO COLLECT.—Section 5123(d) is amended by adding at the end the following: 'In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.'.

(d) COMPROMISE.—Section 5123(e) is amended by striking 'before referral to the Attorney General'.

**SEC. 7021. CRIMINAL PENALTY.**

Section 5124 is amended to read as follows:

**'§ 5124. Criminal penalty**

'(a) IN GENERAL.—A person knowingly violating section 5104(b) or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to any person.

'(b) KNOWING VIOLATIONS.—For purposes of this section—

'(1) a person acts knowingly when—

'(A) the person has actual knowledge of the facts giving rise to the violation; or

'(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

'(2) knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary, is not an element of an offense under this section.

'(c) WILLFUL VIOLATIONS.—For purposes of this section, a person acts willfully when—

'(1) the person has knowledge of the facts giving rise to the violation; and

'(2) the person has knowledge that the conduct was unlawful.

'(d) RECKLESS VIOLATIONS.—For purposes of this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard to the consequences of that person's conduct.'.

**SEC. 7022. PREEMPTION.**

(a) DUAL COMPLIANCE AND OBSTACLE TESTS.—Section 5125(a) is amended by striking the subsection heading and inserting 'DUAL COMPLIANCE AND OBSTACLE TESTS.—'.

(b) SUBSTANTIVE DIFFERENCES.—The second sentence of section 5125(b)(2) is amended by striking 'after November 16, 1990'.

(c) DECISIONS ON PREEMPTION.—The third sentence of section 5125(d)(1) is amended by inserting 'and publish in the Federal Register' after 'issue'.

(d) INDEPENDENT APPLICATION OF EACH STANDARD.—Section 5125 is amended by inserting after subsection (f), as redesignated by section 7024(a)(2) of this Act, the following:

'(g) INDEPENDENT APPLICATION OF EACH STANDARD.—Subsections (b), (c)(1), (d), and (g) are independent in their application to a requirement of any State, political subdivision of a State, or Indian tribe and shall be reviewed independently.'.

**SEC. 7023. RELATIONSHIP TO OTHER LAWS.**

Section 5126(a) is amended by striking 'must comply' and inserting 'shall comply'.

**SEC. 7024. JUDICIAL REVIEW.**

(a) REPEAL.—Section 5125 is amended—

(1) by striking subsection (f);

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

(3) in subsection (f) (as so redesignated) by moving paragraph (2) (including subparagraphs (A) through (D)) 2 ems to the left.

(b) JUDICIAL REVIEW.—Chapter 51 is amended by redesignating section 5127 as section 5128 and by inserting after section 5126 the following:

**'§ 5127. Judicial review**

'(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

'(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

'(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary's

final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

'(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.'.

(c) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

'5127. Judicial review.
'5128. Authorization of appropriations.'.

**SEC. 7025. AUTHORIZATION OF APPROPRIATIONS.**

Section 5128 (as redesignated by section 7024) is amended to read as follows:

**'§ 5128. Authorizations of appropriations**

'(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

'(1) For fiscal year 2005, $27,000,000.

'(2) For fiscal year 2006, $29,000,000.

'(3) For fiscal year 2007, $30,000,000.

1 '(b) EMERGENCY PREPAREDNESS FUND.—There
2 shall be available to the Secretary, from the account estab-
3 lished pursuant to section 5116(i), for each of fiscal years
4 2005 through 2007 the following:
5 '(1) To carry out section 5115, $200,000.
6 '(2) To carry out section 5116(a), $8,000,000.
7 '(3) To carry out section 5116(b), $13,800,000.
8 '(4) To carry out section 5116(f), $150,000.
9 '(5) To publish and distribute the Emergency
10 Response Guidebook under section 5116(i)(3),
11 $500,000.
12 '(6) To pay administrative expenses in accord-
13 ance with section 5116(i)(4), $150,000.
14 '(7) To carry out section 5116(j), $1,000,000.
15 '(c) TRAINING OF HAZMAT EMPLOYEE INSTRUC-
16 TORS.—There shall be available to the Secretary, from the
17 account established pursuant to section 5116(i), to carry
18 out section 5107(e) $4,000,000 for each of fiscal years
19 2005 through 2007.
20 '(d) UNIFORM FORMS AND PROCEDURES.—There is
21 authorized to be appropriated to the Secretary for making
22 grants to States participating in the working group estab-
23 lished under section 5119 $1,000,000 for each of the fiscal
24 years 2005 and 2006.

'(e) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

'(f) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

'(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.'.

**SEC. 7026. DETERMINING AMOUNT OF UNDECLARED SHIPMENTS OF HAZARDOUS MATERIALS ENTERING THE UNITED STATES.**

(a) STUDY.—The Comptroller General shall conduct a study to propose methods of determining the amount of undeclared shipments of hazardous materials (as defined in section 5101 of title 49, United States Code) entering the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Com-

mittee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

**SEC. 7027. CONFORMING AMENDMENTS.**

Chapter 51 is amended by striking 'Secretary of Transportation' each place it appears (other than the second place it appears in section 5108(g)(2)(C), the first place it appears in section 5115(a), and in sections 5116(g), 5116(i), and 5120(a)) and inserting 'Secretary'.

# TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

**SEC. 8001. POLICY.**

This title will continue sections 8101 and 8103 of the Transportation Equity Act for the 21st Century that guarantee that specific levels of authorized funding will be available for obligation each year by continuing the highway category budgetary firewall, which protects the Federal-aid highway program's obligation limitation, the programs of the Federal Motor Carrier Safety Administration, and the portion of the National Highway Traffic Safety Administration's programs funded from the Highway Trust Fund, and the mass transit category budgetary firewall, which protects the portion of the Federal Transit Administration programs funded from the Mass Transit Account of the Highway Trust Fund and the portion of

1 such programs funded from the general fund of the Treas-
2 ury.