

Calendar No. 426108TH CONGRESS
2^D SESSION**S. 1072****[Report No. 108-222]**

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

IN THE SENATE OF THE UNITED STATES

MAY 15, 2003

Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID) (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JANUARY 9, 2004

Reported under authority of the order of the Senate of December 9, 2003,
by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

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

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Safe, Accountable, Flexible, and Efficient Transportation
 4 Equity Act of 2003”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.

Sec. 1102. Obligation ceiling.

Sec. 1103. Apportionments.

Sec. 1104. Minimum guarantee.

Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.

Sec. 1202. Clarify federal-aid eligibility for certain security projects.

Sec. 1203. Future of the Interstate Highway System.

Sec. 1204. Military vehicle access (oversize and overweight vehicles; —relief
 from tolls).

Sec. 1205. Freight transportation gateways; freight intermodal connections.

Sec. 1206. Authority for alternative time-saving procedures for —critical trans-
 portation security projects.

Subtitle C—Finance

Sec. 1301. Federal share.

Sec. 1302. Transfer of highway and transit funds.

Sec. 1303. State infrastructure bank pilot program.

Sec. 1304. Transportation Infrastructure Finance and Innovation Act —
 (TIFIA) Amendments.

Sec. 1305. International registration plan and international fuel tax agreement
 facilitation.

Sec. 1306. Commercialized rest area pilot projects.

Sec. 1307. Highway use tax evasion projects.

Subtitle D—Program Efficiencies and Improvements—Safety

Sec. 1401. National highway safety goal; national Blue Ribbon Commission on
 Highway Safety.

Sec. 1402. Highway Safety Improvement Program.

Sec. 1403. Operation lifesaver.

Sec. 1404. Highway safety programs; certification of public road mileage.

Subtitle E—Program Efficiencies and Improvements—Planning

- Sec. 1501. Metropolitan planning.
- Sec. 1502. Statewide planning.
- Sec. 1503. State planning and research.
- Sec. 1504. Critical real property acquisition.
- Sec. 1505. Planning capacity building initiative.

Subtitle F—Program Efficiencies and Improvements—Environment

- Sec. 1601. Congestion Mitigation and Air Quality Improvement Program.
- Sec. 1602. Efficient environmental reviews for project decisionmaking.
- Sec. 1603. Assumption of responsibility for categorical exclusions.
- Sec. 1604. Section 4(f) policy on lands, wildlife and waterfowl refuges, and historic sites.
- Sec. 1605. National Scenic Byways Program.
- Sec. 1606. Recreational Trails Program.
- Sec. 1607. Exemption of the Interstate System.
- Sec. 1608. Modifications to NHS/STP for invasive species, wetlands, brownfields, and environmental restoration.
- Sec. 1609. Standards.
- Sec. 1610. Use of HOV lanes.
- Sec. 1611. Bicycle transportation and pedestrian walkways.
- Sec. 1612. Transportation, energy, and environment.
- Sec. 1613. Idling reduction facilities in interstate rights-of-way.
- Sec. 1614. Appropriation for transportation purposes of lands or interest in lands owned by the United States.
- Sec. 1615. Toll programs.
- Sec. 1616. Ozone standards, particulate matter standards, and regional haze program.
- Sec. 1617. Indemnification on certain railbanked projects.

Subtitle G.—Program Efficiencies and Improvements—Operations

- Sec. 1701. Transportation systems management and operations.
- Sec. 1702. Real-Time System Management Information Program.
- Sec. 1703. Intelligent transportation systems performance incentive program.
- Sec. 1704. Commercial vehicle information systems and networks deployment.

Subtitle H—Program Efficiencies and Improvements—Federal-Aid Stewardship

- Sec. 1801. Surface Transportation System Performance Pilot Program.
- Sec. 1802. Stewardship and oversight.
- Sec. 1803. Emergency relief.
- Sec. 1804. Federal Lands Highways Program.
- Sec. 1805. Appalachian Development Highway System.
- Sec. 1806. Multi-State Corridor Planning Program.
- Sec. 1807. Border Planning, Operations, and Technology Program.
- Sec. 1808. Territorial Highway Program amendments.
- Sec. 1809. Future interstate system routes.
- Sec. 1810. Donations and credits.
- Sec. 1811. Disadvantaged business enterprises.
- Sec. 1812. Highway Bridge Program.
- Sec. 1813. Design-build.
- Sec. 1814. International ferries.

- Sec. 1815. Assumption of responsibility for transportation enhancements, recreational trails, and Transportation and Community and System Preservation Program projects.
- Sec. 1816. Transportation, Community, and System Preservation Program.
- Sec. 1817. Program efficiencies—Finance.

Subtitle I—Technical Corrections to Title 23, U.S.C.

- Sec. 1901. Repeal or update of obsolete text.
- Sec. 1902. Clarification of date.
- Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
- Sec. 1904. Inclusion of “Buy America” requirements in title 23.
- Sec. 1905. Technical amendments to 23 U.S.C. 140—Nondiscrimination.
- Sec. 1906. Federal share payable for projects for elimination of hazards of railway-highway crossings.

TITLE H—HIGHWAY SAFETY

- Sec. 2001. Highway safety programs.
- Sec. 2002. Highway safety research and development.
- Sec. 2003. Emergency medical services.
- Sec. 2004. State traffic safety information system improvements.
- Sec. 2005. Authorization of appropriations.
- Sec. 2006. Repeal of obsolete provisions of title 23.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

- Sec. 3001. Short title.
- Sec. 3002. Updated terminology; amendments to title 49, United States Code.
- Sec. 3003. Policies, findings, and purposes.
- Sec. 3004. Definitions.
- Sec. 3005. Metropolitan planning.
- Sec. 3006. Statewide planning.
- Sec. 3007. Planning programs.
- Sec. 3008. Private enterprise participation.
- Sec. 3009. Urbanized Area Public Transportation Formula Grants Program.
- Sec. 3010. Formula grants for other than urbanized areas.
- Sec. 3011. New Freedom program.
- Sec. 3012. Major capital investment program.
- Sec. 3013. Research, development, demonstration, and deployment projects.
- Sec. 3014. Cooperative research grant program.
- Sec. 3015. National research programs.
- Sec. 3016. National Transit Institute.
- Sec. 3017. Bus testing facility.
- Sec. 3018. Bicycle facilities.
- Sec. 3019. Suspended light rail technology pilot project.
- Sec. 3020. General provisions on assistance.
- Sec. 3021. Special provisions for capital projects.
- Sec. 3022. Contract requirements.
- Sec. 3023. Human resources programs.
- Sec. 3024. Project management oversight and review.
- Sec. 3025. Project review.
- Sec. 3026. Investigations of safety and security risk.
- Sec. 3027. State safety oversight.
- Sec. 3028. Sensitive security information.

- Sec. 3029. Terrorist attacks and other acts of violence against public transportation systems.
- Sec. 3030. Controlled substances and alcohol misuse testing.
- Sec. 3031. Employee protective arrangements.
- Sec. 3032. Administrative procedures.
- Sec. 3033. Reports and audits.
- Sec. 3034. Apportionments of appropriations for formula grants.
- Sec. 3035. Apportionments based on fixed guideway factors.
- Sec. 3036. Authorizations.
- Sec. 3037. National parks and public lands legacy project.
- Sec. 3038. Over-the-road bus accessibility program.
- Sec. 3039. Formula grants for special needs of elderly individuals and individuals with disabilities.
- Sec. 3040. Job access and reverse commute.

TITLE IV—MOTOR CARRIER SAFETY

- Sec. 4001. Authorization of appropriations.
- Sec. 4002. Motor carrier safety grants.
- Sec. 4003. Hobbs Act.
- Sec. 4004. Penalty for denial of access to records.
- Sec. 4005. Medical review board and medical examiners.
- Sec. 4006. Enforcement of household goods regulations.
- Sec. 4007. Registration of commercial motor carriers, freight forwarders, and brokers.
- Sec. 4008. Financial responsibility for private motor carriers.
- Sec. 4009. Increased penalties for out-of-service violations and false records.
- Sec. 4010. Elimination of commodity and service exemptions.
- Sec. 4011. Intrastate operations of interstate motor carriers.
- Sec. 4012. Authority to stop commercial motor vehicles.
- Sec. 4013. Pattern of safety violations by motor carrier management.
- Sec. 4014. Motor carrier research and technology program.
- Sec. 4015. International cooperation.
- Sec. 4016. Performance and Registration Information System Management (PRISM).
- Sec. 4017. Information systems and data analysis.
- Sec. 4018. Outreach and education.

TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

Subtitle A—Funding

- Sec. 5101. Authorization of appropriations.

Subtitle B—Research, Technology, and Education

- Sec. 5201. Research, technology, and education.
- Sec. 5202. Surface transportation environment and planning cooperative research program.
- Sec. 5203. Long-term bridge performance program; innovative bridge research and deployment program.
- Sec. 5204. Technology deployment.
- Sec. 5205. Training and education.
- Sec. 5206. Advanced travel forecasting procedures program.

Subtitle C—Multimodal Research Programs; Scholarship Opportunities

- See: 5301. University transportation research.
- See: 5302. Multimodal research program.
- See: 5303. Commercial remote sensing products.
- See: 5304. Transportation scholarship opportunities program.

Subtitle D—Transportation Data and Analysis

- See: 5401. Bureau of transportation statistics.

Subtitle E—Intelligent Transportation Systems Research

- See: 5501. Short title.
- See: 5502. Goals and purposes.
- See: 5503. General authorities and requirements.
- See: 5504. National architecture and standards.
- See: 5505. Research and development.
- See: 5506. Use of funds.
- See: 5507. Definitions.
- See: 5508. Repeal.

TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES

- See: 6001. Transportation planning.
- See: 6002. Intermodal passenger facilities.

TITLE VII—MISCELLANEOUS

Subtitle A—Railroads

- See: 7101. Rail corridor planning.
- See: 7102. High speed rail authorizations.

Subtitle B—Miscellaneous Technical Corrections to Title 49

- See: 7201. Correction of obsolete references to Interstate Commerce Commission.

Subtitle C—Hazardous Material Transportation

- See: 7301. Definitions.
- See: 7302. Representations and tampering with hazardous material— packaging.
- See: 7303. Hazardous material transportation safety and security.
- See: 7304. Administrative authority for transportation service and —infrastructure assurance research.
- See: 7305. Postal Service Civil Penalty Authority.
- See: 7306. Registration.
- See: 7307. Shipping paper retention.
- See: 7308. Planning and training grants.
- See: 7309. Enforcement.
- See: 7310. Penalties.
- See: 7311. Emergency waiver of preemption.
- See: 7312. Judicial review.

Subtitle D—Sanitary Food Transportation

- See: 7401. Short title.
- See: 7402. Responsibilities of the Secretary of Health and Human Services.
- See: 7403. Department of Transportation Requirements.

Sec. 7404. Effective date of the subtitle.

Subtitle E—Sport Fishing and Boating Safety

Sec. 7501. Sport fish restoration account amendments.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING
GUARANTEE AND BUDGET OFFSETS

Sec. 8101. Discretionary spending categories.

Sec. 8102. Level of obligation limitations.

Sec. 8103. Effectiveness of title.

TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

Sec. 9001. Short title; amendment of 1986 Code.

Sec. 9002. Extension of highway-related taxes and trust fund.

Sec. 9003. Extension of tax benefits for alcohol fuels.

Sec. 9004. Private activity bonds for surface transportation infrastructure.

Sec. 9005. All alcohol fuel taxes transferred to highway trust fund.

Sec. 9006. Transfer from highway trust fund to boat safety account.

Sec. 9007. Extension of small-engine fuel taxes transferred to sport —fish restoration account.

Sec. 9008. Technical correction.

Sec. 9009. Transfer by registered pipeline, vessel, or barge required for fuel tax exemption of bulk transfers to registered terminals or refineries; display of registration requirement.

Sec. 9010. Returns filed electronically.

Sec. 9011. Civil penalty for refusal of entry.

Sec. 9012. Requirement of tax payment decal; elimination of installment payments of highway use tax.

Sec. 9013. Additional rules regarding inspections of records.—

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) **METROPOLITAN PLANNING ORGANIZA-**
4 **TION.**—The term “metropolitan planning organiza-
5 tion” has the meaning such term has under section
6 5203(b) of title 49, United States Code, as added by
7 section 6001 of this Act.

8 (2) **SECRETARY.**—The term “Secretary” means
9 the Secretary of Transportation.

10 (3) **TRANSPORTATION EQUITY ACT FOR THE**
11 **21ST CENTURY.**—The term “Transportation Equity

1 Act for the 21st Century” means the Transportation
 2 Equity Act for the 21st Century, Public Law 105–
 3 178, as amended by the TEA 21 Restoration Act,
 4 title IX of Public Law 105–206.

5 **TITLE I—FEDERAL AID**
 6 **HIGHWAYS**

7 **Subtitle A—Funding**

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

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

12 (1) INTERSTATE MAINTENANCE PROGRAM.—

13 For the Interstate maintenance program under sec-
 14 tion 119 of title 23, United States Code,
 15 \$4,100,000,000 for fiscal years 2004 and 2005,
 16 \$4,200,000,000 for fiscal year 2006,
 17 \$4,400,000,000 for fiscal year 2007,
 18 \$4,500,000,000 for fiscal year 2008, and
 19 \$4,700,000,000 for fiscal year 2009.

20 (2) NATIONAL HIGHWAY SYSTEM.—For the Na-

21 tional Highway System under section 103 of such
 22 title \$5,000,000,000 for fiscal years 2004 and 2005,
 23 \$5,100,000,000 for fiscal year 2006,
 24 \$5,200,000,000 for fiscal year 2007,

1 \$5,400,000,000 for fiscal year 2008, and
2 \$5,500,000,000 for fiscal year 2009.

3 (3) BRIDGE PROGRAM.—For the bridge pro-
4 gram under section 144 of such title \$3,400,000,000
5 for fiscal year 2004, \$3,500,000,000 for fiscal year
6 2005, \$3,700,000,000 for fiscal year 2006,
7 \$3,800,000,000 for fiscal year 2007,
8 \$3,900,000,000 for fiscal year 2008, and
9 \$4,000,000,000 for fiscal year 2009.

10 (4) SURFACE TRANSPORTATION PROGRAM.—
11 For the surface transportation program under sec-
12 tion 133 of such title \$5,102,000,000 for fiscal year
13 2004, \$5,202,000,000 for fiscal year 2005,
14 \$5,402,000,000 for fiscal year 2006,
15 \$5,514,000,000 for fiscal year 2007,
16 \$5,714,000,000 for fiscal year 2008, and
17 \$5,807,000,000 for fiscal year 2009.

18 (5) CONGESTION MITIGATION AND AIR QUALITY
19 IMPROVEMENT PROGRAM.—For the congestion miti-
20 gation and air quality improvement program under
21 section 149 of such title \$1,100,000,000 for fiscal
22 year 2004, \$1,462,000,000 for fiscal year 2005,
23 \$1,500,000,000 for fiscal year 2006,
24 \$1,600,000,000 for fiscal years 2007 through 2009.

1 (6) HIGHWAY SAFETY IMPROVEMENT PRO-
2 GRAM.—For the highway safety improvement pro-
3 gram under section 150 of such title \$1,000,000,000
4 for fiscal year 2004; \$1,100,000,000 for fiscal year
5 2005; \$1,200,000,000 for fiscal year 2006;
6 \$1,300,000,000 for fiscal year 2007;
7 \$1,400,000,000 for fiscal year 2008; and
8 \$1,500,000,000 for fiscal year 2009.

9 (7) APPALACHIAN DEVELOPMENT HIGHWAY
10 SYSTEM PROGRAM.—For the Appalachian develop-
11 ment highway system program under section 201 of
12 the Appalachian Regional Development Act of 1965
13 (40 U.S.C. App.) \$450,000,000 for each of fiscal
14 years 2004 through 2009.

15 (8) RECREATIONAL TRAILS PROGRAM.—For the
16 recreational trails program under section 206 of
17 such title \$60,000,000 for each of fiscal years 2004
18 through 2009.

19 (9) FEDERAL LANDS HIGHWAYS PROGRAM.—

20 (A) INDIAN RESERVATION ROADS.—For
21 Indian reservation roads under section 204 of
22 such title \$333,000,000 for each of fiscal years
23 2004 through 2009.

24 (B) RECREATION ROADS.—For recreation
25 roads under section 204 of such title

1 \$50,000,000 for each of fiscal years 2004
2 through 2009.

3 (C) PARK ROADS AND PARKWAYS.—For
4 park roads and parkways under section 204 of
5 such title, \$300,000,000 for fiscal year 2004,
6 \$310,000,000 for fiscal year 2005, and
7 \$320,000,000 for each of fiscal years 2006
8 through 2009.

9 (D) REFUGE ROADS.—For refuge roads
10 under section 204 of such title \$30,000,000 for
11 each of fiscal years 2004 through 2009.

12 (E) FOREST HIGHWAYS.—For forest high-
13 ways under section 204 of such title
14 \$200,000,000 for each of fiscal years 2004
15 through 2009.

16 (F) SAFETY.—For safety under section
17 204 of such title \$40,000,000 for each of fiscal
18 years 2004 through 2009.

19 (10) MULTI-STATE CORRIDOR PLANNING PRO-
20 GRAM.—For the multi-state corridor planning pro-
21 gram under section 1806 of this Act \$76,500,000
22 for fiscal year 2004 and \$84,000,000 for each of fis-
23 cal years 2005 through 2009.

24 (11) BORDER PLANNING, OPERATIONS, AND
25 TECHNOLOGY PROGRAM.—For the border planning,

1 operations, and technology program under section
2 1807 of this Act \$76,500,000 for fiscal year 2004
3 and \$84,000,000 for each of fiscal years 2005
4 through 2009.

5 (12) NATIONAL SCENIC BYWAYS PROGRAM.—

6 For the national scenic byways program under sec-
7 tion 162 of title 23, United States Code,
8 \$31,500,000 for each of fiscal years 2004 through
9 2009.

10 (13) INTELLIGENT TRANSPORTATION SYSTEMS

11 PERFORMANCE INCENTIVE PROGRAM.—For carrying
12 out the intelligent transportation systems perform-
13 ance incentive program under section 1703 of this
14 Act, \$135,000,000 for each of fiscal years 2004
15 through 2009.

16 (14) HIGHWAY USE TAX EVASION PROJECTS.—

17 For highway use tax evasion projects under section
18 143 of such title, \$26,550,000 for fiscal year 2004,
19 \$54,500,000 for each of fiscal years 2005 and 2006,
20 \$44,500,000 for fiscal year 2007, and \$11,000,000
21 for each of fiscal years 2008 and 2009.

22 (15) COMMERCIAL VEHICLE INFORMATION SYS-

23 TEMS AND NETWORKS DEPLOYMENT.—For carrying
24 out the Commercial Vehicle Information Systems
25 and Networks Deployment program under section

1 1704 of this Act, \$25,000,000 for each of fiscal
 2 years 2004 through 2009.

3 ~~(16)~~ INFRASTRUCTURE PERFORMANCE AND
 4 MAINTENANCE PROGRAM.—For carrying out the in-
 5 frastructure performance and maintenance program
 6 under section 1201 of this Act, \$1,000,000,000 for
 7 each of fiscal years 2004 through 2009.

8 **SEC. 1102. OBLIGATION CEILING.**

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

- 13 (1) \$29,293,948,000 for fiscal year 2004;
 14 (2) \$30,265,000,000 for fiscal year 2005;
 15 (3) \$31,326,000,000 for fiscal year 2006;
 16 (4) \$32,257,000,000 for fiscal year 2007;
 17 (5) \$33,104,000,000 for fiscal year 2008; and
 18 (6) \$33,903,000,000 for fiscal year 2009.

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

- 21 (1) section 125 of title 23, United States Code;
 22 (2) section 147 of the Surface Transportation
 23 Assistance Act of 1978;
 24 (3) section 9 of the Federal-Aid Highway Act
 25 of 1981;

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

3 (5) sections ~~149(b)~~ and ~~149(e)~~ of the Surface
4 Transportation and Uniform Relocation Assistance
5 Act of 1987;

6 (6) sections ~~1103~~ through ~~1108~~ of the Inter-
7 modal Surface Transportation Efficiency Act of
8 1991;

9 (7) section ~~157~~ of title ~~23~~, United States Code,
10 as in effect on the day before the date of enactment
11 of the Transportation Equity Act for the 21st Cen-
12 tury;

13 (8) section ~~105~~ of title ~~23~~, United States Code
14 (but, for each of fiscal years 2004 through 2009),
15 only in an amount equal to \$~~639,000,000~~ per fiscal
16 year; and

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

1 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

2 For each of fiscal years 2004 through 2009, the Secretary
3 shall—

4 (1) reserve obligation authority provided by
5 subsection (a) for such fiscal year for amounts au-
6 thorized for administrative expenses, programs fund-
7 ed from the administrative takedown authorized by
8 section 104(a) of title 23, United States Code, the
9 infrastructure performance and maintenance pro-
10 gram, and for each of the programs that are allo-
11 cated by the Secretary under this Act and title 23,
12 United States Code;

13 (2) reserve the obligation authority provided by
14 subsection (a) less the amounts reserved under para-
15 graph (1) for section 201 of the Appalachian Re-
16 gional Development Act of 1965, and
17 \$2,000,000,000 for such fiscal year under section
18 105 of such title (relating to minimum guarantee);
19 and

20 (3) distribute the obligation authority provided
21 by subsection (a) less the aggregate amounts not re-
22 served under paragraph (1) and (2) for Federal-aid
23 highway and highway safety construction programs
24 (other than the minimum guarantee program, but
25 only to the extent that amounts apportioned for the

1 minimum guarantee program for such fiscal year ex-
 2 ceed \$2,639,000,000, and the Appalachian develop-
 3 ment highway system program) that are apportioned
 4 by the Secretary under this Act and title 23, United
 5 States Code, in the ratio that—

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

9 (B) the total of the sums authorized to be
 10 appropriated for such programs that are appor-
 11 tioned to all States for such fiscal year.

12 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
 13 THORITY.—Notwithstanding subsection (c), the Secretary
 14 shall, after August 1 of each of fiscal years 2004 through
 15 2009, revise a distribution of the obligation authority
 16 made available under subsection (c) if a State will not obli-
 17 gate the amount distributed during that fiscal year and
 18 redistribute sufficient amounts to those States able to obli-
 19 gate amounts in addition to those previously distributed
 20 during that fiscal year, giving priority to those States hav-
 21 ing large unobligated balances of funds apportioned under
 22 sections 104 and 144 of title 23, United States Code.

23 (e) APPLICABILITY OF OBLIGATION LIMITATIONS TO
 24 TRANSPORTATION RESEARCH PROGRAMS.—Obligation
 25 limitations imposed by subsection (a) shall apply to trans-

1 portation research programs carried out under chapter 5
2 of title 23, United States Code, and under title V of this
3 Act; except that obligation authority made available for
4 such programs under such limitations shall remain avail-
5 able for a period of 3 fiscal years and shall be in addition
6 to the amount of any limitation imposed on obligations
7 for Federal-aid highway and highway safety construction
8 programs for future fiscal years.

9 (f) SPECIAL RULE.—Obligation authority distributed
10 for a fiscal year under subsection (e)(2) for a section set
11 forth in subsection (e)(2) shall remain available until used
12 for obligation of funds for such section and shall be in
13 addition to the amount of any limitation imposed on obli-
14 gations for Federal-aid highway and highway safety con-
15 struction programs for future fiscal years.

16 (g) ADJUSTMENT IN OBLIGATION LIMIT.—Limita-
17 tions on obligations imposed by subsection (a) for a fiscal
18 year shall be adjusted by an amount equal to the amount
19 determined pursuant to section 251(b)(1)(B) of the Bal-
20 anced Budget and Emergency Deficit Control Act of 1985
21 for such fiscal year, as amended by this Act. Any such
22 adjustment shall be distributed in accordance with this
23 section.

24 (h) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRA-
25 TIVE EXPENSES.—Notwithstanding any other provision of

1 law, the total amount of all obligations under section
2 104(a) of title 23, United States Code, shall not exceed—

3 (1) ~~\$350,000,000~~ for fiscal year 2004;

4 (2) ~~\$380,000,000~~ for fiscal year 2005;

5 (3) ~~\$400,000,000~~ for fiscal year 2006;

6 (4) ~~\$420,000,000~~ for fiscal year 2007;

7 (5) ~~\$440,000,000~~ for fiscal year 2008; and

8 (6) ~~\$460,000,000~~ for fiscal year 2009.

9 **SEC. 1103. APPORTIONMENTS.**

10 (a) **ADMINISTRATIVE EXPENSES.**—Section 104(a) of
11 title 23, United States Code, as amended by this Act, is
12 further amended in paragraph (1) by striking “1 1/6” and
13 inserting “1.4”.

14 (b) **METROPOLITAN PLANNING.**—Section 104(f) of
15 title 23, United States Code, is amended—

16 (1) in paragraph (1), by striking “not to ex-
17 ceed”; and by striking “authorized under this title”
18 and inserting “identified in such subsection, except
19 for the Federal lands highway program and the Ap-
20 palachian development highway program”;

21 (2) in paragraph (2), by striking “per centum”
22 and inserting “percent”;

23 (3) in paragraph (3), by striking “These funds
24 shall be matched in accordance with section 120(b)
25 unless the Secretary determines that the interests of

1 the Federal-aid highway program would be best
2 served without such matching.” and inserting “Any
3 funds that are not used to carry out section 134 of
4 this title may be made available by a metropolitan
5 planning organization to the State to fund activities
6 under section 135.”; and

7 (4) by adding the following after paragraph (5):

8 “(6) FEDERAL SHARE.—Funds apportioned to
9 a State under this subsection shall be matched in ac-
10 cordance with section 120(b) unless the Secretary
11 determines that the interests of the Federal-aid
12 highway program would be best served without such
13 matching.”.

14 (e) STATE DEFINED.—Section 1103(n) of the Trans-
15 portation Equity Act for the 21st Century (Public Law
16 105–178) is repealed.

17 (d) EXECUTIVE OFFICE COMPLEX.—Section 104 of
18 title 23, United States Code, is amended by adding after
19 subsection (q), as added by this Act, the following:

20 “(r) EXECUTIVE OFFICE COMPLEX.—On October 1
21 of each fiscal year for fiscal years 2004 through 2009,
22 the Secretary, after making the deductions authorized by
23 subsections (a) and (f), shall set aside \$2,000,000 for each
24 of fiscal years 2004 through 2006, \$14,000,000 for each
25 of fiscal years 2007 and 2008, and \$7,000,000 for fiscal

1 year 2009 of the remaining funds authorized to be appro-
 2 priated under subsection (b)(3) for the preferred option
 3 determined by a study for highway access near the Execu-
 4 tive Office complex.”.

5 (e) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title
 6 23, United States Code, is amended by striking
 7 “\$18,800,000 for each of fiscal years 1998 through 2002
 8 for the Alaska Highway” and substituting “\$18,800,000
 9 for each of fiscal years 2004 through 2009 for the Alaska
 10 Highway”.

11 **SEC. 1104. MINIMUM GUARANTEE.**

12 Section 105 of title 23, United States Code, is
 13 amended to read as follows:

14 **“§ 105. Minimum guarantee**

15 “(a) GENERAL RULE.—For each of fiscal years 2004
 16 through 2009, the Secretary shall allocate among the
 17 States amounts sufficient to ensure that each State’s per-
 18 centage of the total apportionments for such fiscal year
 19 of Interstate maintenance, national highway system,
 20 bridge, congestion mitigation and air quality improvement,
 21 surface transportation, highway safety improvement, min-
 22 imum guarantee, Appalachian development highway sys-
 23 tem, infrastructure performance and maintenance, and
 24 recreational trails programs shall equal the percentage
 25 listed for each State in subsection (b). The minimum

1 amount allocated to a State listed in subsection (b) under
 2 this section for a fiscal year shall be \$1,000,000.

3 “(b) STATE PERCENTAGES.—The percentage re-
 4 ferred to in subsection (a) for a State shall be determined
 5 in accordance with the following table:

“States:	Percentage:
Alabama	2.0269
Alaska	1.1915
Arizona	1.5581
Arkansas	1.3214
California	9.1962
Colorado	1.1673
Connecticut	1.5186
Delaware	0.4424
District of Columbia	0.3956
Florida	4.6176
Georgia	3.5104
Hawaii	0.5177
Idaho	0.7718
Illinois	3.3819
Indiana	2.3588
Iowa	1.2020
Kansas	1.1717
Kentucky	1.7365
Louisiana	1.5900
Maine	0.5263
Maryland	1.5087
Massachusetts	1.8638
Michigan	3.1535
Minnesota	1.4993
Mississippi	1.2186
Missouri	2.3615
Montana	0.9929
Nebraska	0.7768
Nevada	0.7248
New Hampshire	0.5163
New Jersey	2.5816
New Mexico	0.9884
New York	5.1628
North Carolina	2.8298
North Dakota	0.6553
Ohio	3.4257
Oklahoma	1.5419
Oregon	1.2183
Pennsylvania	4.9887
Rhode Island	0.5958
South Carolina	1.5910
South Dakota	0.7149
Tennessee	2.2646

“States:	Percentage:
Texas	7.2131
Utah	0.7831
Vermont	0.4573
Virginia	2.5627
Washington	1.7875
West Virginia	1.1319
Wisconsin	1.9916
Wyoming	0.6951.

1 “(c) SPECIAL RULE.—The Secretary shall allocate to
2 Puerto Rico \$1,000,000 for each of fiscal years 2004
3 through 2009. Such amounts shall be subject to the provi-
4 sions in paragraph (d) of this section.

5 “(d) TREATMENT OF FUNDS.—

6 “(1) PROGRAMMATIC DISTRIBUTION.—The Sec-
7 retary shall apportion 50 percent of the amounts
8 made available under this section so that the amount
9 apportioned to each State under this paragraph for
10 each program referred to in subsection (a) (other
11 than metropolitan planning, minimum guarantee,
12 Appalachian development highway system, infra-
13 structure performance and maintenance, and rec-
14 reational trails programs) is equal to the amount de-
15 termined by multiplying the amount to be appor-
16 tioned under this paragraph by the ratio that—

17 “(A) the amount of funds apportioned to
18 each State for each program referred to in sub-
19 section (a) (other than metropolitan planning,
20 minimum guarantee, Appalachian development
21 highway system, infrastructure performance

1 and maintenance, and recreational trails pro-
2 grams) for a fiscal year; bears to

3 “(B) the total amount of funds appor-
4 tioned to each State for all such programs for
5 such fiscal year.

6 “(2) REMAINING DISTRIBUTION.—The Sec-
7 retary shall allocate the remainder of funds made
8 available under this section to the States for use in
9 accordance with section 133; except that require-
10 ments of paragraphs (1) and (2) of section 133(d)
11 shall not apply to amounts apportioned pursuant to
12 this paragraph.

13 “(e) AUTHORIZATION.—There are authorized to be
14 appropriated out of the Highway Trust Fund (other than
15 the Mass Transit Account) such sums as may be necessary
16 to carry out this section for each of fiscal years 2004
17 through 2009.

18 “(f) GUARANTEE OF 90.5 PERCENTAGE RETURN.—

19 “(1) IN GENERAL.—Before making any appor-
20 tionment under this title for each of fiscal years
21 2004 through 2009, the Secretary shall adjust the
22 percentages in the table in subsection (b) to reflect
23 the estimated percentage of estimated tax payments
24 attributable to highway users in each State paid into
25 the Highway Trust Fund (other than the Mass

1 Transit Account) in the latest fiscal year for which
2 data is available, to ensure that no State's percent-
3 age return from such Trust Fund is less than 90.5
4 percent of the State's percentage contribution.

5 “(2) CONFORMING ADJUSTMENTS.—After mak-
6 ing any adjustments under paragraph (1) for a fiscal
7 year, the Secretary shall adjust the remaining per-
8 centages in the table set forth in subsection (b) to
9 ensure that the total of the percentages in the table,
10 as adjusted, do not exceed 100 percent for such fis-
11 cal year.

12 “(3) LIMITATION ON ADJUSTMENTS.—After
13 making any adjustments under paragraph (2) for a
14 fiscal year, the Secretary shall determine whether or
15 not any State's percentage return from the Highway
16 Trust Fund (other than the Mass Transit Account)
17 is less than 90.5 percent of the State's percentage
18 contribution to the Highway Trust fund as a result
19 of such adjustments and shall adjust the percentages
20 in the table for such fiscal year accordingly. Adjust-
21 ments of the percentages in the table under this
22 paragraph may not result in the total of such per-
23 centages exceeding 100 percent.

1 “(4) RATE OF RETURN.—A State’s percentage
2 return for such fiscal year shall be in the ratio
3 that—

4 “(A) the quotient obtained by dividing the
5 total amount of funds apportioned to each
6 State, except Puerto Rico, for the current fiscal
7 year for Interstate maintenance, national high-
8 way system, bridge, congestion mitigation and
9 air quality improvement, surface transportation,
10 minimum guarantee, highway safety improve-
11 ment, Appalachian development highway sys-
12 tem, infrastructure performance and mainte-
13 nance, and recreational trails programs by the
14 total amount of funds apportioned for such pro-
15 grams in all States, except Puerto Rico, for the
16 current fiscal year; bears to

17 “(B) the quotient obtained by dividing the
18 estimated tax payments attributable to highway
19 users in each State paid into the Highway
20 Trust Fund (other than the Mass Transit Ac-
21 count) in the latest fiscal year for which data
22 are available by the estimated tax payments at-
23 tributable to highway users in all States paid
24 into the Highway Trust Fund (other than the
25 Mass Transit Account) for such fiscal year.”.

1 **SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY (RABA)**2 **— AMENDMENTS.**

3 Section 110 of title 23, United States Code, is
4 amended—

5 (1) in subsections (a)(1) and (a)(2), by striking
6 “2000” and inserting “2006”;

7 (2) in subsection (a)(2), by striking “the sue-
8 ceeding” and inserting “that”, and by striking “and
9 the motor carrier safety grant program”;

10 (3) in subsection (b)(1)(A), by striking “and
11 the motor carrier safety grant program” and by
12 striking “, the Transportation Equity Act for the
13 21st Century, and subchapter I of chapter 311 of
14 title 49” after “under this title” and insert “and the
15 Safe, Accountable, Flexible, and Efficient Transpor-
16 tation Equity Act of 2003”;

17 (4) in subsection (c), by inserting “the highway
18 safety improvement program,” after “the surface
19 transportation program,”; and

20 (5) by striking subsections (e), (f), and (g).

21 **Subtitle B—New Programs**22 **SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.**

24 (a) **ESTABLISHMENT.**—The Secretary shall establish
25 and implement an Infrastructure Performance and Main-
26 tenance Program in accordance with this section.

1 (b) ELIGIBLE PROJECTS.—

2 (1) IN GENERAL.—A State may obligate funds
3 apportioned to it under this section only for highway
4 projects eligible under the Interstate Maintenance
5 Program, the National Highway System Program,
6 and the Surface Transportation Program that will—

7 (A) cost-effectively preserve, maintain, or
8 otherwise extend the useful life of existing high-
9 way infrastructure elements; or

10 (B) provide operational improvements, in-
11 cluding traffic management and intelligent
12 transportation system strategies and limited ca-
13 pacity enhancements, at points of recurring
14 highway congestion.

15 (2) TRANSFER PROHIBITION.—Notwithstanding
16 sections 104 and 126 of title 23, United States
17 Code, funds apportioned under this section shall not
18 be transferred to another Federal agency or pro-
19 gram.

20 (c) APPORTIONMENT OF INFRASTRUCTURE PER-
21 FORMANCE AND MAINTENANCE PROGRAM FUNDS.—

22 (1) IN GENERAL.—On October 1 of each fiscal
23 year the Secretary shall apportion to the States the
24 funds authorized to be appropriated to carry out this
25 section in accordance with the following formula:

1 (A) 25 percent of the apportionments in
2 the ratio that—

3 (i) the total lane miles of Federal-aid
4 highways in each State; bears to

5 (ii) the total lane miles of Federal-aid
6 highways in all States.

7 (B) 40 percent of the apportionments in
8 the ratio that—

9 (i) the total vehicle miles traveled on
10 lanes on Federal-aid highways in each
11 State; bears to

12 (ii) the total vehicle miles traveled on
13 lanes on Federal-aid highways in all
14 States.

15 (C) 35 percent of the apportionments in
16 the ratio that—

17 (i) the estimated tax payments attrib-
18 utable to highway users in each State paid
19 into the Highway Trust Fund (other than
20 the Mass Transit Account) in the latest
21 fiscal year for which data are available;
22 bears to

23 (ii) the estimated tax payments attrib-
24 utable to highway users in all States paid
25 into the Highway Trust Fund (other than

1 the Mass Transit Account) in the latest
2 fiscal year for which data are available.

3 ~~(2) MINIMUM APPORTIONMENT.~~—Notwith-
4 standing paragraph (1), each State shall receive a
5 minimum of $\frac{1}{2}$ of 1 percent of the funds appor-
6 tioned under this paragraph.

7 ~~(d) CONTRACT AUTHORITY.~~—Funds authorized to be
8 appropriated under section 1101(a)(16) of this Act to
9 carry out this section shall be available for obligation in
10 the same manner as if such funds were apportioned under
11 chapter 1 of title 23, United States Code, except that such
12 funds shall remain available for obligation only as provided
13 in subsection (e); shall not be subject to any deduction
14 or set aside requirement; and shall not be transferred to
15 another Federal agency or program in accordance with
16 subsection (b)(2).—

17 ~~(e) PERIOD OF AVAILABILITY.~~—

18 ~~(1) OBLIGATION WITHIN 6 MONTHS.~~—Funds
19 apportioned to a State under this section must be
20 obligated by such State within 6 months of the date
21 of apportionment. Any amounts that remain unobli-
22 gated at the end of that period shall be reappor-
23 tioned in accordance with subsection (f).

24 ~~(2) ONE YEAR.~~—All funds apportioned or re-
25 apportioned under this section shall remain available

1 for obligation until the last day of the fiscal year in
2 which they are apportioned. Any amounts appor-
3 tioned that remain unobligated at the end of the fis-
4 cal year shall lapse.

5 (f) REDISTRIBUTION OF APPORTIONED FUNDS AND
6 OBLIGATION AUTHORITY.—Six months after the date of
7 apportionment or as soon thereafter as feasible in each
8 fiscal year, the Secretary shall withdraw any funds appor-
9 tioned to a State under this section that remain unobli-
10 gated, along with an equal amount of obligation authority
11 provided for the use of such funds pursuant to section
12 1102(e) of this Act, and shall reapportion such funds and
13 redistribute such obligation authority to those States that
14 have fully obligated all amounts apportioned under this
15 section in such fiscal year and that demonstrate they are
16 able to obligate additional amounts for projects eligible
17 under this section before the end of the fiscal year. The
18 calculation and distribution of funds under section 105 of
19 title 23, United States Code, shall not be adjusted as a
20 result of the reapportionment of funds under this sub-
21 section.

22 (g) FEDERAL SHARE PAYABLE.—The Federal share
23 payable for a project funded under this section shall be
24 determined in accordance with the provisions of section
25 120 of title 23, United States Code.

1 (h) STATE DEFINED.—In this section, the term
 2 “State” has the meaning such term has under section
 3 101(a) of title 23, United States Code.

4 **SEC. 1202. CLARIFY FEDERAL-AID ELIGIBILITY FOR SECU-**
 5 **RITY PROJECTS.**

6 Section 101 of title 23, United States Code, is
 7 amended—

8 (1) by striking the word “and” at the end of
 9 paragraph (a)(3)(G);

10 (2) by striking the period at the end of para-
 11 graph (a)(3)(H) and inserting “; and”;

12 (3) by adding the following at the end of para-
 13 graph (a)(3)(H):

14 “(I) improvements directly re-
 15 lated to homeland security for detec-
 16 tion, preparedness, prevention, re-
 17 sponse, and recovery.”; and

18 (4) by inserting the words “protection and”
 19 after the words “means the” and by inserting “; se-
 20 cure,” after the word “safe” in section (a)(14).

21 **SEC. 1203. FUTURE OF THE INTERSTATE HIGHWAY SYSTEM.**

22 (a) DECLARATION OF POLICY.—Section 101 of title
 23 23, United States Code, is amended by striking subsection
 24 (b) and inserting the following:

1 “(b) It is hereby declared to be in the national inter-
2 est to accelerate the construction and reconstruction of the
3 Federal-aid highway systems since many of such high-
4 ways, or portions thereof, are in fact inadequate to meet
5 the needs of local and interstate commerce and national
6 and civil defense.

7 “‘It is further declared that it is in the national inter-
8 est to preserve and enhance the Dwight D. Eisenhower
9 National System of Interstate and Defense Highways
10 (hereafter referred to as the “Interstate System”) to meet
11 the nation’s needs for the 21st Century. Urban and long
12 distance personal travel and freight movement demands
13 continue to grow. Travel demand patterns will remain dy-
14 namic. Continued planning for and investment in the
15 Interstate System is critical to assure it adequately meets
16 the changing travel demands of the future. The Interstate
17 System must be safe, efficient, and reliable and must en-
18 sure national and interregional personal mobility, the flow
19 of interstate commerce, and travel movements essential for
20 national security. To the maximum extent possible, actions
21 under this title should address congestion and freight
22 transportation to provide for a strong and vigorous na-
23 tional economy. Special emphasis should be devoted to
24 providing safe and efficient access for the type and size

1 of commercial and military vehicles that access designated
2 National Highway System intermodal freight terminals.

3 “The Interstate System is further declared to be the
4 nation’s premiere highway system, essential for the na-
5 tion’s economic vitality, national security, and general wel-
6 fare. The Secretary is directed to take appropriate actions
7 to preserve and enhance the Interstate System to meet
8 the needs of the 21st Century.”.

9 **SEC. 1204. MILITARY VEHICLE ACCESS (OVERSIZE AND**
10 **OVERWEIGHT VEHICLES; RELIEF FROM**
11 **TOLLS).**

12 (a) PROCEDURES ON MILITARY VEHICLE ACCESS.—
13 The Secretary of Transportation is authorized to issue, in
14 consultation with the Secretary of Defense and the Sec-
15 retary of Homeland Security, procedures and orders that
16 will expedite the highway movement of all marked military
17 vehicles and convoys. The procedures shall specifically ad-
18 dress the expedited movement of marked military vehicles,
19 including the establishment of temporary vehicle size and
20 weight limits in excess of Federal and local maximum lim-
21 its, expedited oversize/overweight permits, and exemptions
22 from payment of local tolls and expedited movement
23 through toll facilities.

24 (b) PREEMPTION.—A law, regulation, order, ruling,
25 provision, or other requirement of a State, territory, In-

1 dian tribe, or political subdivision thereof, which covers the
 2 vehicles and movements described in paragraph (a) and
 3 which is not consistent with the procedures or related limi-
 4 tations established by the Secretary under that paragraph;
 5 is preempted. The Secretaries of Transportation, Home-
 6 land Security, and Defense, may request the Attorney
 7 General to bring a civil action seeking appropriate relief
 8 respecting the effect of such laws, regulations, orders, rul-
 9 ings, provisions or other requirements in any court of com-
 10 petent jurisdiction. Nothing in this section shall be con-
 11 strued as limiting claims or remedies otherwise available
 12 under law or equity.

13 (c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE
 14 ACT.—A procedure established by the Secretary under
 15 paragraph (a) shall be exempt from the provisions of 5
 16 U.S.C. 553.

17 **SEC. 1205. FREIGHT TRANSPORTATION GATEWAYS;**
 18 **FREIGHT INTERMODAL CONNECTIONS.**

19 (a) FREIGHT TRANSPORTATION GATEWAYS.—Chap-
 20 ter 3 of title 23, United States Code, is amended by add-
 21 ing after section 324 the following new section:

22 **“§ 325. Freight transportation gateways**

23 **“(a) IN GENERAL.—**

24 **“(1) ESTABLISHMENT.—**The Secretary shall es-
 25 tablish a freight transportation gateways program to

1 improve productivity, security, and safety of freight
2 transportation gateways, while mitigating congestion
3 and community impacts in the area of such gate-
4 ways.

5 “(2) PURPOSES.—The purposes of the freight
6 transportation gateways program shall be—

7 “(A) to facilitate and support multimodal
8 freight transportation initiatives at the State
9 and local levels in order to improve freight
10 transportation gateways and mitigate the im-
11 pact of congestion on the environment in the
12 area of such gateways;

13 “(B) to provide capital funding to address
14 infrastructure and freight operational needs at
15 freight transportation gateways;

16 “(C) to encourage adoption of new financ-
17 ing strategies to leverage State, local, and pri-
18 vate investment in freight transportation gate-
19 ways; and

20 “(D) to support military mobilization and
21 readiness.

22 “(b) STATE RESPONSIBILITIES.—

23 “(1) PROJECT DEVELOPMENT PROCESS.—Each
24 State shall ensure that intermodal freight transpor-
25 tation, trade facilitation, and economic development

1 needs are adequately addressed and fully integrated
2 into the project development process, including
3 transportation planning, through final design and
4 construction of freight related transportation
5 projects.

6 “(2) FREIGHT TRANSPORTATION COORDINATOR
7 POSITION.—Each State shall designate a freight
8 transportation coordinator. The coordinator shall be
9 responsible for fostering public and private sector
10 collaboration needed to implement complex solutions
11 to freight transportation and freight transportation
12 gateway problems, including coordination of metro-
13 politan and statewide transportation activities with
14 trade and economic interests and coordination with
15 other States, local Department of Defense officials,
16 local Department of Homeland Security officials,
17 agencies, and organizations to find regional solutions
18 to freight transportation problems. The coordinator
19 shall also be responsible for advancing freight pro-
20 fessional capacity building programs for the State.

21 “(c) INNOVATIVE FINANCE.—States and localities
22 are encouraged to adopt innovative financing strategies for
23 freight transportation gateway improvements, including
24 new user fees; modifications to existing user fees, includ-
25 ing trade facilitation charges; revenue options that incor-

1 porate private sector investment, and a blending of Fed-
 2 eral-aid and innovative finance programs. The Secretary
 3 shall provide technical assistance to States and localities
 4 with respect to such strategies.

5 “(d) INTERMODAL FREIGHT TRANSPORTATION
 6 PROJECTS.—

7 “(1) USE OF SURFACE TRANSPORTATION PRO-
 8 GRAM FUNDS.—A State may obligate funds appor-
 9 tioned to it under section 104(b)(3) of this title for
 10 publicly owned intermodal freight transportation
 11 projects that provide community and highway bene-
 12 fits by addressing economic, congestion, security,
 13 safety, and environmental issues associated with
 14 freight transportation gateways.

15 “(2) ELIGIBLE PROJECTS.—Projects eligible for
 16 funding under this section—

17 “(A) may include publicly-owned inter-
 18 modal freight transfer facilities; access to such
 19 facilities; and operational improvements for
 20 such facilities (including capital investment for
 21 Intelligent Transportation Systems); except that
 22 projects located within the boundaries of port
 23 terminals shall only include the transportation
 24 infrastructure modifications necessary to facili-

1 tate direct intermodal access into and out of
2 such port; and

3 “(B) may involve the combining of private
4 and public sector funds.”—

5 (b) ELIGIBILITY FOR SURFACE TRANSPORTATION
6 PROGRAM FUNDS.—Section 133(b) of title 23, United
7 States Code, is amended by adding at the end the fol-
8 lowing new paragraph:

9 “(15) Intermodal freight transportation projects
10 in accordance with section 325(d)(2) of this title.”.

11 (c) FREIGHT INTERMODAL CONNECTIONS TO
12 NHS.—Section 103(b) of such title, is amended by adding
13 at the end the following new paragraph:

14 “(7) FREIGHT INTERMODAL CONNECTIONS TO
15 THE NHS—

16 “(A) FUNDING SET-ASIDE.—Of the funds
17 apportioned to a State in each fiscal year under
18 section 104(b)(1) of this title, an amount deter-
19 mined in accordance with subparagraph (B) of
20 this paragraph shall only be available to such
21 State to be obligated for projects on—

22 “(i) National Highway System routes
23 connecting to intermodal freight terminals
24 identified according to criteria set forth in
25 the report to Congress entitled “Pulling

1 Together: The National Highway System
2 and its Connections to Major Intermodal
3 Terminals” dated May 24, 1996, ref-
4 erenced in paragraph (1) of this sub-
5 section, and any modifications to these
6 connections consistent with paragraph (4)
7 of this subsection, and

8 “(ii) Strategic Highway Network
9 (STRAHNET) connectors to strategic
10 military deployment ports.

11 “(B) DETERMINATION OF AMOUNT.—The
12 amount of funds for each State in a fiscal year
13 that shall be set aside pursuant to subpara-
14 graph (A) of this paragraph shall be—

15 “(i) equal to the total amount of
16 funds apportioned to such State under sec-
17 tion 104(b)(1) of this title multiplied by
18 the percentage of miles that routes set
19 forth in subparagraph (A) of this para-
20 graph constitute of the total miles on the
21 National Highway System in such State,
22 or

23 “(ii) two percent of the annual appor-
24 tionment to the State of funds under
25 104(b)(1), whichever is greater.

1 “(C) EXEMPTION FROM SET-ASIDE.—In
 2 any fiscal year, a State may obligate the funds
 3 otherwise set aside by this paragraph on any
 4 project which is both eligible under paragraph
 5 (6) of this subsection and located in such State
 6 on a segment of the National Highway System
 7 set forth in paragraph (2) of this subsection if
 8 such State certifies and the Secretary concurs
 9 that—

10 “(i) the routes described in subpara-
 11 graph (A) of this paragraph are in good
 12 condition and provide an adequate level of
 13 service for military vehicle and civilian
 14 commercial vehicle use; and

15 “(ii) significant needs on such routes
 16 are being met or do not exist.”.

17 (d) DEFINITIONS AND DECLARATION OF POLICY.—

18 Section 101(a) of such title is amended by redesignating
 19 paragraphs (11) through (37) as paragraphs (12) through
 20 (38), respectively, and inserting new paragraph (11) as
 21 follows:

22 “(11) FREIGHT TRANSPORTATION GATEWAY.—

23 The term ‘freight transportation gateway’ means a
 24 nationally or regionally significant transportation
 25 port of entry or hub for domestic and global trade;

1 military mobilization, and includes freight inter-
2 modal and Strategic Highway Network connections
3 that provide access to and from these gateways.”.

4 (e) FEDERAL SHARE PAYABLE.—Section 120 of such
5 title is amended by adding at the end the following new
6 subsection:

7 “(m) INCREASED FEDERAL SHARE FOR CONNEC-
8 TORS.—On National Highway System intermodal freight
9 connections and Strategic Highway Network connectors to
10 strategic military deployment ports described in section
11 103(b)(7), the Federal share may be up to 90 percent of
12 the total cost of the project.”.

13 (f) LENGTH LIMITATIONS.—Section 31111(e) of title
14 49, United States Code, is amended by adding at the end
15 “In the interests of economic competitiveness, security,
16 and intermodal connectivity, States shall update these
17 qualifying highways within three years of enactment of the
18 Safe, Accountable, Flexible, and Efficient Transportation
19 Equity Act of 2003 to include Strategic Highway Network
20 connectors to strategic military deployment ports and Na-
21 tional Highway System intermodal freight connections
22 serving military and commercial truck traffic going to
23 major intermodal terminals as described in section
24 103(b)(7).”.

1 (g) CONFORMING AMENDMENT.—The analysis of
2 chapter 3 of title 23 is amended by adding at the end
3 the following:

“325. Freight transportation gateways.”

4 **SEC. 1206. AUTHORITY FOR ALTERNATIVE TIME-SAVING**
5 **PROCEDURES FOR CRITICAL TRANSPOR-**
6 **TATION SECURITY PROJECTS.**

7 (a) Critical, time sensitive highway and public trans-
8 portation security projects are projects that are necessary
9 to address an imminent threat to the security of a trans-
10 portation facility or to repair damage to a transportation
11 facility caused by a terrorist attack against the United
12 States. Such projects shall be identified by the Secretary
13 in consultation with the owner-operator of the facility and
14 with the Secretary of Homeland Security.

15 (b) The Secretary of Transportation shall develop
16 and implement expedited procedures for critical, time-sen-
17 sitive highway and public transportation security projects.
18 These procedures shall address planning, environmental
19 review, public involvement, acquisition of rights-of-way,
20 and contracting, and they shall be developed with the con-
21 currence of other affected Federal agencies whose authori-
22 ties will be affected by the procedures and in consultation
23 with any other Federal agencies that the Secretary deter-
24 mines have an interest in the procedures. For the limited
25 purpose of expediting interim measures needed to address

1 an imminent threat to the security of a transportation fa-
2 cility, the Secretary may provide that these procedures are
3 exclusive of any other statute relating to planning, envi-
4 ronmental reviews, public involvement, acquisition of
5 right-of-way, and contracting, so long as the Secretary de-
6 termines that such measures are necessary for the protec-
7 tion of the public and receives the concurrence of any
8 other Federal agency responsible for administering such
9 statutes. The Secretary shall issue rules establishing these
10 procedures within one year of the enactment of this law.

11 **Subtitle C—Finance**

12 **SEC. 1301. FEDERAL SHARE.**

13 Section 120 of title 23, United States Code, is
14 amended—

15 (1) in subsection (a), by striking “shall be 90
16 percent” and all that follows through the end of the
17 subsection and inserting “shall not exceed 90 per-
18 cent of the total cost of the project.”;

19 (2) in subsection (b), by striking “shall be” and
20 all that follows through the end of the subsection
21 and inserting “shall not exceed 80 percent of the
22 total cost of the project.”; and

23 (3) by striking subsection (d) and inserting the
24 following:

1 “(d) INCREASED FEDERAL SHARE.—The Federal
2 share payable under (a) and (b) may be increased in the
3 case of any State containing nontaxable Indian lands, pub-
4 lic lands (both reserved and unreserved), national forests,
5 and national parks and monuments. The Federal share
6 for any project subject to this section shall be increased
7 by a percentage of the remaining cost equal to the percent-
8 age that the area of all such lands in a State is of its
9 total area not to exceed 95 percent of the total cost of
10 the project. These rates shall be revised as needed based
11 on data provided by the Federal agencies responsible for
12 maintaining the data.”.

13 **SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.**

14 Section 104(m) of title 23, as redesignated by this
15 Act, is amended to read as follows:

16 “(m) TRANSFER OF HIGHWAY AND TRANSIT
17 FUNDS.—

18 “(1) TRANSFER OF HIGHWAY FUNDS FOR
19 TRANSIT PROJECTS.—Funds made available for
20 transit projects or transportation planning under
21 this title may be transferred to and administered by
22 the Secretary in accordance with chapter 53 of title
23 49, except that the provisions of this title relating to
24 the non-Federal share shall apply to the transferred
25 funds.

1 ~~“(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-~~
2 ~~WAY PROJECTS.—~~Funds made available for highway
3 ~~projects or transportation planning under chapter 53~~
4 ~~of title 49 may be transferred to and administered~~
5 ~~by the Secretary in accordance with this title, except~~
6 ~~that the provisions of such chapter relating to the~~
7 ~~non-Federal share shall apply to the transferred~~
8 ~~funds.~~

9 ~~“(3) TRANSFER OF HIGHWAY FUNDS TO OTHER~~
10 ~~FEDERAL AGENCIES.—~~Except as provided in para-
11 ~~graphs (1) and (2), when an expenditure is specifi-~~
12 ~~cally authorized in Federal-aid highway legislation,~~
13 ~~as a line item in an appropriation act, or when a~~
14 ~~State transportation department consents to a trans-~~
15 ~~fer of funds under this title that are derived from~~
16 ~~the Highway Trust Fund (other than the Mass~~
17 ~~Transit account), such funds may be transferred to~~
18 ~~another Federal agency subject to subparagraphs~~
19 ~~(A), (B), (C), and (D) of this paragraph—~~

20 ~~“(A) if the Secretary determines, after~~
21 ~~consultation with the State transportation de-~~
22 ~~partment as appropriate, that another Federal~~
23 ~~agency should carry out a project with funds~~
24 ~~made available under this title or any other act~~

1 that are derived from Highway Trust Fund
2 (other than the Mass Transit account);

3 “(B) the project will be administered by
4 the Federal agency under its procedures, and
5 such funds shall not be deemed to be an aug-
6 mentation of that agency’s appropriations;

7 “(C) such other Federal agency agrees to
8 accept the transfer of funds and to administer
9 those funds; and

10 “(D) the provisions of this title or the acts
11 referred to above relating to the non-Federal
12 share shall apply to the transferred funds, ex-
13 cept where the Secretary determines that it is
14 in the best interest of the United States that
15 such share be waived.

16 “(4) TRANSFER OF FUNDS AMONG STATES OR
17 TO THE FEDERAL HIGHWAY ADMINISTRATION.—The
18 Secretary may, at the request of a State, transfer
19 funds apportioned or allocated to such State to an-
20 other State or to the Federal Highway Administra-
21 tion for the purpose of funding a specific project or
22 projects. The funds transferred shall be used for the
23 same purpose and in the same manner for which
24 they were authorized. Such transfer shall have no ef-
25 fect on any apportionment formula used to dis-

1 tribute funds to the States under sections 104, 105,
 2 or 144. Funds that are apportioned or allocated to
 3 a State under section 104(b)(3) and attributed to
 4 urbanized areas of a State with a population of over
 5 200,000 individuals under section 133(d)(2) may be
 6 transferred under this subsection only if the metro-
 7 politan planning organization designated for the
 8 area concurs, in writing, with the transfer request.

9 “(5) **TRANSFER OF OBLIGATION AUTHORITY.**—

10 Obligation authority shall be transferred in the same
 11 manner and amount as the funds for the projects
 12 are transferred under this section.”.

13 **SEC. 1303. STATE INFRASTRUCTURE BANK PILOT PRO-**
 14 **GRAM.**

15 (a) **DEFINITIONS.**—In this section, the following defi-
 16 nitions apply:

17 (1) **CAPITAL PROJECT.**—The term “capital
 18 project” has the meaning such term has under sec-
 19 tion 5302 of title 49, United States Code.

20 (2) **OTHER ASSISTANCE.**—The term “other as-
 21 sistance” includes any use of funds in an infrastruc-
 22 ture bank—

23 (A) to provide credit enhancements;

24 (B) to serve as a capital reserve for bond
 25 or debt instrument financing;

1 (C) to subsidize interest rates;

2 (D) to ensure the issuance of letters of
3 credit and credit instruments;

4 (E) to finance purchase and lease agree-
5 ments with respect to transit projects;

6 (F) to provide bond or debt financing in-
7 strument security; and

8 (G) to provide other forms of debt financ-
9 ing and methods of leveraging funds that are
10 approved by the Secretary and that relate to
11 the project with respect to which such assist-
12 ance is being provided.

13 (3) STATE.—The term “State” has the mean-
14 ing such term has under section 101 of title 23,
15 United States Code.

16 (4) CAPITALIZATION.—The term “capitaliza-
17 tion” means the process used for depositing funds as
18 initial capital into a State Infrastructure Bank to es-
19 tablish the infrastructure bank.

20 (5) COOPERATIVE AGREEMENT.—The term “co-
21 operative agreement” means the written consent be-
22 tween a State and the Secretary which sets forth the
23 manner in which the State Infrastructure Bank will
24 be administered.

1 (6) LOAN.—The term “loan” means any form
2 of direct financial assistance from the State Infra-
3 structure Bank, required to be repaid over a period
4 of time, which is provided to a project sponsor for
5 all or part of project costs.

6 (7) GUARANTEE.—The term “guarantee”
7 means a contract or contracts entered into by the
8 State Infrastructure Bank in which the State Infra-
9 structure Bank agrees to take responsibility for all
10 or a portion of a project sponsor’s financial obliga-
11 tions for a project under specified conditions.

12 (8) INITIAL ASSISTANCE.—The term “initial as-
13 sistance” means the first round of State Infrastruc-
14 ture Bank funds that must be loaned or used for
15 credit enhancement for purposes limited to highway
16 construction under title 23 or transit capital projects
17 under title 49.

18 (9) LEVERAGE.—The term “leverage” means a
19 financial structure used to increase State Infrastruc-
20 ture Bank funds through debt issuance. A State In-
21 frastructure Bank is considered leveraged if its total
22 potential liabilities exceed its equity.

23 (b) PILOT PROGRAM.—

24 (1) COOPERATIVE AGREEMENTS.—Subject to
25 the provisions of this section, the Secretary may

1 enter into cooperative agreements with up to five
2 States, including States that entered into coopera-
3 tive agreements under section ~~1511~~ of the Transpor-
4 tation Equity Act for the 21st Century, as amended,
5 for the establishment of State infrastructure banks
6 for making loans and providing other forms of credit
7 assistance to public and private entities carrying out
8 or proposing to carry out projects eligible for assist-
9 ance under this section.

10 (2) APPLICATION.—To participate in the pilot
11 program, a State shall submit an application to the
12 Secretary.

13 (3) SELECTION CRITERIA.—In evaluating appli-
14 cations for participation in the pilot program, the
15 Secretary shall establish selection criteria that shall
16 include—

17 (A) the State's ability to provide non-Fed-
18 eral funds to capitalize the bank;

19 (B) the existence of State enabling legisla-
20 tion that clearly allows for full State Infrastruc-
21 ture Bank participation;

22 (C) the State's strategy for encouraging
23 non-Federal repayment sources from project
24 sponsors;

1 (D) the amount of Federal funds the State
2 will commit to the State Infrastructure Bank as
3 a percentage of its Federal-aid apportionments;

4 (E) the State's eligibility under section
5 1511 of the Transportation Equity Act for the
6 21st Century, as amended; and

7 (F) the State's past experience with a
8 State Infrastructure Bank, including the pro-
9 gram established under section 1511 of the
10 Transportation Equity Act for the 21st Cen-
11 tury, as amended, or comparable financing
12 mechanisms.

13 (4) TERMINATION OF COOPERATIVE AGREE-
14 MENT.—If a State that has been selected for this
15 pilot program does not fund its State Infrastructure
16 Bank within 90 days after execution of the coopera-
17 tive agreement, the Secretary may terminate the co-
18 operative agreement and may select another State to
19 participate in the pilot program in accordance with
20 this subsection.

21 (c) INTERSTATE COMPACTS.—Congress grants con-
22 sent to 2 or more of the States, entering into a cooperative
23 agreement under subsection (b)(1) with the Secretary for
24 the establishment of a multi-state infrastructure bank, to

1 enter into an interstate compact establishing such bank
2 in accordance with this section.

3 (d) FUNDING.—

4 (1) HIGHWAY ACCOUNT.—Subject to subsection
5 (i), the Secretary may permit a State entering into
6 a cooperative agreement under this section to con-
7 tribute not to exceed—

8 (A) 10 percent of the funds apportioned to
9 the State for each of fiscal years 2004 through
10 2009 under each of sections 104(b)(1),
11 104(b)(3), 104(b)(4), and 144, of title 23,
12 United States Code, and

13 (B) 10 percent of the funds allocated to
14 the State for each of such fiscal years under
15 section 105 of such title into the highway ac-
16 count of the infrastructure bank established by
17 the State. Federal funds contributed to such ac-
18 count under this paragraph shall constitute for
19 purposes of this section a capitalization grant
20 for the highway account of the infrastructure
21 bank.

22 (2) TRANSIT ACCOUNT.—Subject to subsection
23 (i), the Secretary may permit a State entering into
24 a cooperative agreement under this section, and any
25 other Federal transit grant recipient, to contribute

1 not to exceed 10 percent of the funds made available
2 to the State or other Federal transit grant recipient
3 in each of fiscal years 2004 through 2009 for capital
4 projects under sections 5307, 5309, and 5311 of
5 title 49, United States Code, into the transit account
6 of the infrastructure bank established by the State.
7 Federal funds contributed to such account under
8 this paragraph shall constitute for purposes of this
9 section a capitalization grant for the transit account
10 of the infrastructure bank.

11 (3) SPECIAL RULE FOR URBANIZED AREAS OF
12 OVER 200,000.—Funds that are attributed to ur-
13 banized areas of States with urbanized populations
14 of over 200,000 under section 133(d)(2) of title 23,
15 as amended by this Act, may be used to provide as-
16 sistance with respect to a project only if the metro-
17 politan planning organization designated for such
18 area concurs, in writing, with the provision of such
19 assistance.

20 (4) DISCONTINUANCE OF FUNDING.—If the
21 Secretary determines that a State is not imple-
22 menting the State Infrastructure Bank in accord-
23 ance with the cooperative agreement, the Secretary
24 may prohibit a State from contributing additional
25 Federal funds to its State Infrastructure Bank.

1 (e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE
2 BANKS.—An infrastructure bank established under this
3 section may make loans or provide other credit assistance
4 to a public or private entity in an amount equal to all
5 or part of the cost of carrying out a project eligible for
6 assistance under this section. The amount of any loan or
7 other credit assistance provided for such project may be
8 subordinated to any other debt financing for the project.
9 Initial assistance provided with respect to a project from
10 Federal funds contributed to an infrastructure bank under
11 this section may not be made in the form of a grant

12 (f) QUALIFYING PROJECTS.—Subject to paragraph
13 (e), funds in an infrastructure bank established under this
14 section may be used only to provide assistance with respect
15 to projects eligible for assistance under title 23, United
16 States Code, for capital projects (as defined in section
17 5302 of title 49, United States Code), or for any other
18 project related to surface transportation that the Sec-
19 retary determines to be appropriate.

20 (g) INFRASTRUCTURE BANK REQUIREMENTS.—In
21 order to establish an infrastructure bank under this sec-
22 tion, each State establishing the bank shall—

23 (1) contribute, at a minimum, into each account
24 of the bank from non-Federal sources an amount
25 equal to 25 percent of the amount of each capitaliza-

1 tion grant made to the State and contributed to the
2 bank, except that if the contribution is into the high-
3 way account of the bank and the State has a lower
4 non-Federal share under section 120(d) of title 23,
5 as amended by this Act, such percentage shall be ad-
6 justed by the Secretary to correspond with such
7 lower non-Federal share. The non-Federal share
8 must be in the form of cash;

9 (2) ensure that the bank maintains on a con-
10 tinuing basis an investment grade rating on its debt
11 or has a sufficient level of bond or debt financing in-
12 strument insurance to maintain the viability of the
13 bank;

14 (3) ensure that investment income generated by
15 funds contributed to an account of the bank will
16 be—

17 (A) credited to the account;

18 (B) available for use in providing loans
19 and other assistance to projects eligible for as-
20 sistance from the account; and

21 (C) invested in United States Treasury se-
22 curities, bank deposits, or such other financing
23 instruments as the Secretary may approve to
24 earn interest to enhance the leveraging of
25 projects assisted by the bank;

1 (4) ensure that any loan from the bank will
2 bear interest at or below market interest rates, as
3 determined by the State, to make feasible the project
4 that is the subject of the loan;

5 (5) ensure that repayment of any loan from the
6 bank will commence not later than 5 years after the
7 project has been completed or, in the case of a high-
8 way project, the facility has opened to traffic, which-
9 ever is later;

10 (6) ensure that the term for repaying any loan
11 will not exceed 30 years after the date of the first
12 payment on the loan under paragraph (5); and

13 (7) require the bank to make an annual report
14 to the Secretary on its status, and to make such
15 other reports as the Secretary may require by guide-
16 lines.

17 (h) SECRETARIAL REQUIREMENTS.—In admin-
18 istering this section, the Secretary shall—

19 (1) issue guidelines to ensure that all require-
20 ments of title 23, United States Code, or title 49,
21 United States Code, that would otherwise apply to
22 funds made available under such title and projects
23 assisted with such funds apply to—

1 (A) funds made available under such title
2 and contributed to an infrastructure bank es-
3 tablished under this section; and

4 (B) projects assisted by the bank through
5 the use of such funds; except to the extent that
6 the Secretary determines that any requirement
7 of such title (other than sections 113 and 114
8 of title 23 and section 5333 of title 49), is not
9 consistent with the objectives of this section;
10 and

11 (2) specify procedures and guidelines for estab-
12 lishing, operating, and providing assistance from the
13 bank.

14 (i) ~~APPLICABILITY OF FEDERAL LAW TO REPAY-~~
15 ~~MENTS.~~—The requirements of title 23 and title 49, United
16 States Code, shall apply to projects financed from repay-
17 ments to an infrastructure bank from projects assisted by
18 the bank. Such repayments shall be considered to be Fed-
19 eral funds for the purpose of this subsection.

20 (j) ~~UNITED STATES NOT OBLIGATED.~~—The con-
21 tribution of Federal funds into an infrastructure bank es-
22 tablished under this section shall not be construed as a
23 commitment, guarantee, or obligation on the part of the
24 United States to any third party, nor shall any third party
25 have any right against the United States for payment sole-

1 ly by virtue of the contribution. Any security or debt-fi-
 2 nancing instrument issued by the infrastructure bank
 3 shall expressly state that the security or instrument does
 4 not constitute a commitment, guarantee, or obligation of
 5 the United States.

6 (k) ~~MANAGEMENT OF FEDERAL FUNDS.~~—Sections
 7 ~~3335~~ and ~~6503~~ of title ~~31~~, United States Code, shall not
 8 apply to funds contributed under this section.

9 (l) ~~PROGRAM ADMINISTRATION.~~—For each of fiscal
 10 years 2004 through 2009, a State may expend not to ex-
 11 ceed 2 percent of the Federal funds contributed to an in-
 12 frastructure bank established by the State under this see-
 13 tion to pay the reasonable costs of administering the bank.
 14 This limitation shall not apply to non-Federal funds.

15 **SEC. 1304. TRANSPORTATION INFRASTRUCTURE FINANCE**
 16 **AND INNOVATION ACT (TIFIA) AMENDMENTS.**

17 (a) ~~DEFINITIONS.~~—Section ~~181~~ of title ~~23~~, United
 18 States Code is amended—

19 (1) in paragraph (3), by striking “category”
 20 and “offered into the capital markets”;

21 (2) by striking paragraph (7) and redesignating
 22 paragraphs (8) through (15) as paragraphs (7)
 23 through (14) respectively;

24 (3) by amending paragraph (8)(D), as redesign-
 25 nated, to read as follows—

1 “(D) a public or private freight rail facil-
 2 ity; an intermodal freight transfer facility; ac-
 3 cess to such facilities; and service improvements
 4 for such facilities including capital investment
 5 for Intelligent Transportation Systems; or a
 6 group of such projects with the common objec-
 7 tive of improving the flow of goods; except that
 8 projects located within the boundaries of port
 9 terminals shall only include the transportation
 10 infrastructure modifications necessary to facili-
 11 tate direct intermodal access into and out of
 12 such port. Such a project may involve the com-
 13 bining of private and public sector funds, in-
 14 cluding investment of public funds in private
 15 sector facility improvements.”; and

16 (4) in paragraph (10); as redesignated, by
 17 striking “bond” and inserting “credit”.

18 (b) DETERMINATION OF ELIGIBILITY AND PROJECT
 19 SELECTION.—Section 182 of such title is amended—

20 (1) in subsection (a)—

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

23 “(1) INCLUSION IN TRANSPORTATION PLANS
 24 AND PROGRAMS.—The project shall satisfy the appli-
 25 cable planning and programming requirements of

1 sections 134 and 135 at such time as an agreement
 2 to make available a Federal credit instrument is en-
 3 tered into under this subchapter.

4 “(2) APPLICATION.—A State, a local govern-
 5 ment, public authority, public-private partnership, or
 6 any other legal entity undertaking the project and
 7 authorized by the Secretary, shall submit a project
 8 application to the Secretary.”;

9 (B) in paragraph (3)(A)(i), by striking
 10 “\$100,000,000” and inserting “\$50,000,000”;
 11 and

12 (C) in paragraph (4), by striking “Project
 13 financing” and inserting “The Federal credit
 14 instrument” and by adding at the end of the
 15 sentence “that also secure the project obliga-
 16 tions”; and

17 (2) in subsection (b)(1), by striking “criteria”
 18 after “eligibility” and inserting “requirements” and
 19 in subsection (b)(2)(B) by inserting “, which may be
 20 the Federal credit instrument,” after “obligations”.

21 (c) SECURED LOANS.—Section 183 of such title is
 22 amended—

23 (1) in subsection (a)—

1 (A) by striking “of any project selected
2 under section 182.” at the end of paragraph
3 (1);

4 (B) by inserting “of any project selected
5 under section 182” after “costs” in paragraphs
6 (1)(A) and (1)(B); and

7 (C) in paragraph (4), by striking “fund-
8 ing” and inserting “execution” and by inserting
9 a period in place of the comma after “receiving
10 an investment grade rating” and striking all
11 that follows to the end of the paragraph;

12 (2) in subsection (b)—

13 (A) by inserting “the lesser of” after “ex-
14 ceed” and “or the amount of the senior project
15 obligations” after “costs”;

16 (B) by inserting “that also secure the sen-
17 ior project obligations” in paragraph (3)(A)(i)
18 after “sources”; and

19 (C) by striking “marketable” in paragraph
20 (4); and

21 (3) in subsection (c); by striking paragraph (3)
22 and redesignating paragraphs (4) and (5) as para-
23 graphs (3) and (4) respectively;

24 (d) LINES OF CREDIT.—Section 184 of such title is
25 amended—

1 (1) in subsection (b)—

2 (A) in paragraph (3), by striking the
3 comma after “interest” and by striking “any
4 debt service reserve fund, and any other avail-
5 able reserve”, and by inserting “but not includ-
6 ing reasonably required financing reserves”;

7 (B) in paragraph (4), by striking “market-
8 able”; by striking “on which” after “date” and
9 inserting “of execution of”; and by striking “is
10 obligated” after “credit” and inserting “agree-
11 ment”; and

12 (C) in paragraph (5)(A)(i), by inserting
13 “that also secure the senior project obligations”
14 after “sources”; and

15 (2) in subsection (c)—

16 (A) in paragraph (2) by striking “sched-
17 uled”, by inserting “be scheduled to” after
18 “shall”, and by striking “be fully repaid, with
19 interest,” and inserting “to conclude, with full
20 repayment of principle and interest,”; and

21 (B) by striking paragraph (3).

22 (e) PROGRAM ADMINISTRATION.—Section 185 of
23 such title is amended to read as follows:

1 **“§ 185. Program administration**

2 “(a) REQUIREMENT.—The Secretary shall establish
3 a uniform system to service the Federal credit instruments
4 made available under this subchapter.

5 “(b) FEES.—The Secretary may establish fees at a
6 level to cover all or a portion of the costs to the Federal
7 government of servicing the Federal credit instruments.

8 “(c) SERVICER.—The Secretary may identify a finan-
9 cial entity to assist the Secretary in servicing the Federal
10 credit instruments. The servicer—

11 “(1) shall act as the agent for the Secretary;
12 and

13 “(2) shall receive a servicing fee, subject to ap-
14 proval by the Secretary.

15 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
16 retary may retain the services of expert firms, including
17 counsel, in the field of municipal and project finance to
18 assist in the underwriting and servicing of Federal credit
19 instruments.”.

20 (f) FUNDING.—Section 188 of such title is amended
21 to read as follows:

22 **“§ 188. Funding**

23 “(a) FUNDING.—

24 “(1) IN GENERAL.—There are authorized to be
25 appropriated from the Highway Trust Fund (other
26 than the Mass Transit Account) \$130,000,000 for

1 each of fiscal years 2004 through 2009 to carry out
2 this subchapter.

3 “(2) ADMINISTRATIVE COSTS.—From funds
4 made available under paragraph (1), the Secretary
5 may use, for the administration of this subchapter,
6 not more than \$3,000,000 for each of fiscal years
7 2004 through 2009.

8 “(3) AVAILABILITY.—Amounts made available
9 under paragraph (1) shall remain available until ex-
10 pended.

11 “(b) CONTRACT AUTHORITY.—

12 “(1) IN GENERAL.—Notwithstanding any other
13 provision of law, approval by the Secretary of a Fed-
14 eral credit instrument that uses funds made avail-
15 able under this subchapter shall be deemed to be ac-
16 ceptance by the United States of a contractual obli-
17 gation to fund the Federal credit investment.

18 “(2) AVAILABILITY.—Amounts authorized
19 under this section for a fiscal year shall be available
20 for obligation on October 1 of the fiscal year.

21 “(c) LIMITATIONS ON CREDIT AMOUNTS.—For each
22 of fiscal years 2004 through 2009, principal amounts of
23 Federal credit instruments made available shall be limited
24 to \$2,600,000,000.”

25 (g) Section 189 of such title is repealed.

1 (h) CONFORMING AMENDMENTS.—The analysis of
2 chapter 1 of title 23 is amended by—

3 (1) revising the item relating to section 185 to
4 read as follows:

“185. Program administration.”;

5 and

6 (2) striking the item relating to section 189.

7 **SEC. 1305. INTERNATIONAL REGISTRATION PLAN AND**
8 **INTERNATIONAL FUEL TAX AGREEMENT FA-**
9 **CILITATION.**

10 The Secretary may provide assistance to any State
11 that is participating in the International Registration Plan
12 and International Fuel Tax Agreement, as provided in sec-
13 tions 31704 and 31705 of title 49, United States Code,
14 and that serves as a base jurisdiction for motor carriers
15 that are domiciled in Mexico, to help the State with ad-
16 ministration needs resulting from serving as a base juris-
17 diction for motor carriers from Mexico.

18 **SEC. 1306. COMMERCIALIZED REST AREA PILOT PROJECTS.**

19 (a) IN GENERAL.—The Secretary shall permit the
20 States to conduct pilot projects to acquire, construct, oper-
21 ate, convert, and maintain rest areas along Interstate
22 highways in their States in accordance with subsection (b).

23 (b) COMMERCIAL OPERATIONS.—

24 (1) ELIGIBILITY.—Notwithstanding section 111
25 of title 23 United States Code, and the project

1 agreements required by section 111(a) and executed
 2 between the States and the Federal Highway Ad-
 3 ministration, the Secretary shall permit the rest
 4 areas in the pilot projects to include commercial op-
 5 erations that provide goods, services, and informa-
 6 tion that benefit the traveling public and the com-
 7 mercial motor carrier industry, and as deemed ap-
 8 propriate by the States, including—

9 (A) commercial advertising and displays if
 10 such advertising and media displays are—

11 (i) exhibited solely within any facility
 12 constructed in the rest area; and

13 (ii) not legible from the main traveled
 14 way;

15 (B) programs to provide commercial vehi-
 16 cle operators with special services designed to
 17 enhance motor carrier and highway safety; and

18 (C) State promotional or tourism-oriented
 19 items.

20 (2) PRIVATE OPERATORS.—The States may
 21 permit such commercial operations to be run by a
 22 private operator.

23 (e) PARTICIPATION.—Participation in this pilot
 24 project is limited to those proposals submitted to the Sec-

1 retary for approval during the one year period after the
 2 date of enactment of this Act.

3 ~~(d) PROPOSALS.—~~

4 ~~(1) The State proposals shall at a minimum—~~

5 ~~(A) describe the types of goods, services~~
 6 ~~and information to be provided;~~

7 ~~(B) demonstrate that the proposed~~
 8 ~~project(s) helps implement the strategies devel-~~
 9 ~~oped in the “Study of Adequacy of Parking Fa-~~
 10 ~~ilities” prepared pursuant to section 4027 of~~
 11 ~~the Transportation Equity Act for the 21st~~
 12 ~~Century;~~

13 ~~(C) contain a review and update of the in-~~
 14 ~~dividual State action plans for addressing com-~~
 15 ~~mercial truck parking shortages; and~~

16 ~~(D) prepare a plan for evaluating the re-~~
 17 ~~sults of the pilot project(s) in that State.~~

18 ~~(2) The Secretary must determine that com-~~
 19 ~~mercial rest area projects being advanced under this~~
 20 ~~pilot program will meet all of the design standards~~
 21 ~~applicable to rest areas on the Interstate system.~~

22 ~~(e) LIMITATION ON USE OF REVENUES.—Any reve-~~
 23 ~~nues received by a State from the commercial operations~~
 24 ~~in a rest area under this section that are in excess of~~
 25 ~~amounts required for the proper operation and mainte-~~

1 nance of the rest area shall be used by the State for
2 projects eligible under title 23, United States Code.

3 (f) CONSIDERATIONS.—The Secretary shall consider
4 the benefit to the traveling public and the impact on local
5 businesses in carrying out this section.

6 (g) VENDING MACHINES.—If vending machines are
7 placed in a pilot project, the State shall give priority to
8 vending machines operated through the State licensing
9 agency designated under the Randolph-Sheppard Act.

10 **SEC. 1307. HIGHWAY USE TAX EVASION PROJECTS.**

11 (a) ELIGIBLE ACTIVITIES.—Section 143(b) of title
12 23, United States Code, is amended as follows:

13 (1) INTERGOVERNMENTAL ENFORCEMENT EF-
14 FORTS.—Paragraph (2) is amended by inserting a
15 comma after “Secretary” and adding “except that
16 for each of fiscal years 2004 through 2009,
17 \$2,000,000 shall be available only to carry out inter-
18 governmental enforcement efforts, including research
19 and training”.

20 (2) CONDITIONS ON FUNDS ALLOCATED TO IN-
21 TERNAL REVENUE SERVICE.—Paragraph (3) is
22 amended by inserting a comma after “subsection”
23 and adding “except as otherwise provided in this
24 section”.

1 (3) LIMITATION ON USE OF FUNDS.—Para-
2 graph (4) is amended—

3 (A) by striking “and” at the end of sub-
4 paragraph (F);

5 (B) by striking the period at the end of
6 subparagraph (G) and inserting a semicolon;
7 and

8 (C) by adding at the end the following:

9 “(H) to support efforts between States and
10 tribes to address issues related to state motor
11 fuel taxes; and—

12 “(I) to analyze and implement programs to
13 reduce tax evasion associated with foreign im-
14 ported fuel.”.

15 (4) REPORTS.—The following new paragraph is
16 added at the end:

17 “(9) REPORTS.—The Internal Revenue Service
18 and States shall submit to the Secretary annual re-
19 ports that describe the projects, examinations, and
20 criminal investigations funded by and carried out
21 under this section. The reports must specify the an-
22 nual yield estimated for each project funded under
23 this section.”.

24 (b) EXCISE FUEL REPORTING SYSTEM.—Section
25 143(c) of such title is amended—

1 (1) in paragraph (1) by striking “Not later
 2 than August 1, 1998,” and inserting “Not later
 3 than 90 days after enactment of the Safe, Account-
 4 able, Flexible, and Efficient Transportation Equity
 5 Act of 2003,”; by striking “development” and insert-
 6 ing “completion, operation,”; by striking “an excise
 7 fuel reporting system” and inserting “the excise
 8 summary terminal activity reporting system”; and
 9 by striking “(in this subsection referred to as the
 10 “system”)”;

11 (2) in paragraph (2)—

12 (A) by striking “the system” each place it
 13 appears and inserting “the excise summary ter-
 14 minal activity reporting system”;

15 (B) in subparagraph (A), by striking “de-
 16 velop” and inserting “complete”;

17 (C) by striking “and” at the end of sub-
 18 paragraph (B);

19 (D) by striking the period at the end of
 20 subparagraph (C) and inserting “; and”; and

21 (E) by adding at the end the following new
 22 subparagraph:

23 “(D) the Commissioner of the Internal
 24 Revenue Service shall submit and the Secretary
 25 shall approve a budget and project plan for the

1 completion, operation, and maintenance of the
 2 excise summary terminal activity reporting sys-
 3 tem.”; and

4 ~~(3)~~ by amending paragraph ~~(3)~~ to read as fol-
 5 lows:

6 “~~(3)~~ FUNDING.—Of the amounts made avail-
 7 able to carry out this section for each of fiscal years
 8 2004 through 2009, the Secretary shall make funds
 9 available to the Internal Revenue Service to com-
 10 plete, operate, and maintain the excise summary ter-
 11 minal activity reporting system in accordance with
 12 this subsection.”.

13 ~~(c)~~ REGISTRATION SYSTEM AND ELECTRONIC DATA-
 14 BASE.—Section 14~~3~~ as amended by this Act is further
 15 amended by adding at the end the following new sub-
 16 sections:

17 “~~(d)~~ PIPELINE, VESSEL, AND BARGE REGISTRATION
 18 SYSTEM.—

19 “~~(1)~~ IN GENERAL.—Not later than 90 days
 20 after enactment of the Safe, Accountable, Flexible,
 21 and Efficient Transportation Equity Act of 200~~3~~,
 22 the Secretary shall enter into a memorandum of un-
 23 derstanding with the Commissioner of the Internal
 24 Revenue Service for the purposes of the develop-
 25 ment, operation, and maintenance of a registration

1 system for pipelines, vessels, and barges, and opera-
2 tors of such pipelines, vessels, and barges, that make
3 bulk transfers of taxable fuel.

4 “(2) ELEMENTS OF MEMORANDUM OF UNDER-
5 STANDING.—The memorandum of understanding
6 shall provide that—

7 “(A) the Internal Revenue Service shall de-
8 velop and maintain the registration system
9 through contracts;

10 “(B) the Commissioner of the Internal
11 Revenue Service shall submit and the Secretary
12 shall approve a budget and project plan for de-
13 velopment, operation, and maintenance of the
14 registration system;

15 “(C) the registration system shall be under
16 the control of the Internal Revenue Service; and

17 “(D) the registration system shall be made
18 available for use by appropriate State and Fed-
19 eral revenue, tax, and law enforcement authori-
20 ties, subject to section 6103 of the Internal
21 Revenue Code of 1986.

22 “(3) FUNDING.—Of the amounts made avail-
23 able to carry out this section for each of fiscal years
24 2004 through 2009, the Secretary shall make funds
25 available to the Internal Revenue Service to com-

1 plete, operate, and maintain a registration system
2 for pipelines, vessels, and barges, and operators of
3 such pipelines, vessels, and barges, that make bulk
4 transfers of taxable fuel in accordance with this sub-
5 section.

6 “(e) HEAVY VEHICLE USE TAX PAYMENT DATA-

7 BASE.—

8 “(1) IN GENERAL.—Not later than 90 days
9 after enactment of the Safe, Accountable, Flexible,
10 and Efficient Transportation Equity Act of 2003,
11 the Secretary shall enter into a memorandum of un-
12 derstanding with the Commissioner of the Internal
13 Revenue Service for the purposes of the establish-
14 ment, operation, and maintenance of an electronic
15 database of heavy vehicle highway use tax payments.

16 “(2) ELEMENTS OF MEMORANDUM OF UNDER-
17 STANDING.—The memorandum of understanding
18 shall provide that—

19 “(A) the Internal Revenue Service shall es-
20 tablish and maintain the electronic database
21 through contracts;

22 “(B) the Commissioner of the Internal
23 Revenue Service shall submit and the Secretary
24 shall approve a budget and project plan for es-

1 establishment, operation, and maintenance of the
2 electronic database;

3 ~~“(C) the electronic database shall be under~~
4 ~~the control of the Internal Revenue Service; and~~

5 ~~“(D) the electronic database shall be made~~
6 ~~available for use by appropriate State and Fed-~~
7 ~~eral revenue, tax, and law enforcement authori-~~
8 ~~ties, subject to section 6103 of the Internal~~
9 ~~Revenue Code of 1986.~~

10 ~~“(3) FUNDING.—Of the amounts made avail-~~
11 ~~able to carry out this section for each of fiscal years~~
12 ~~2004 through 2009, the Secretary shall make funds~~
13 ~~available to the Internal Revenue Service to estab-~~
14 ~~lish, operate, and maintain an electronic database of~~
15 ~~heavy vehicle highway use tax payments in accord-~~
16 ~~ance with this subsection.~~

17 ~~“(f) REPORTS.—By March 30 and September 30 of~~
18 ~~each year, the Internal Revenue Service shall provide re-~~
19 ~~ports to the Secretary on the status of the Internal Rev-~~
20 ~~enue Service projects funded under this section related to~~
21 ~~the excise summary terminal activity reporting system; the~~
22 ~~pipeline, vessel, and barge registration system; and the~~
23 ~~heavy vehicle use tax electronic database.”.~~

24 ~~(d) ALLOCATIONS.—Of the amounts authorized to be~~
25 ~~appropriated under section 1101(a)(14) of this Act for~~

1 Highway Use Tax Evasion Projects for each of fiscal years
 2 2004 through 2009, \$4,500,000 shall be allocated to the
 3 States, and for fiscal year 2004, \$20,050,000 shall be allo-
 4 cated to the Internal Revenue Service, of which
 5 \$10,500,000 shall be dedicated to the excise summary ter-
 6 minal activity reporting system, for each of fiscal years
 7 2005 and 2006, \$48,000,000 shall be allocated to the In-
 8 ternal Revenue Service, of which \$4,500,00 shall be dedi-
 9 cated to the excise summary terminal activity reporting
 10 system, for fiscal year 2007, \$38,000,000 shall be allo-
 11 cated to the Internal Revenue Service, of which \$4,500,00
 12 shall be dedicated to the excise summary terminal activity
 13 reporting system, and for each of fiscal years 2008 and
 14 2009, \$4,500,000 shall be allocated to the Internal Rev-
 15 enue Service, which shall be used for the excise summary
 16 terminal activity reporting system.

17 **Subtitle D—Program Efficiencies**
 18 **and Improvements—Safety**

19 **SEC. 1401. NATIONAL HIGHWAY SAFETY GOAL; NATIONAL**
 20 **BLUE RIBBON COMMISSION ON HIGHWAY**
 21 **SAFETY.**

22 (a) NATIONAL HIGHWAY SAFETY GOAL.—Section
 23 101 of title 23, United States Code, is amended by adding
 24 at the end the following new subsection:

1 “(f) It is hereby declared to be in the national interest
 2 that the number of deaths attributable to traffic accidents
 3 on America’s highways be significantly reduced. To
 4 achieve this goal, a national initiative targeted at saving
 5 lives through improved engineering, education, enforce-
 6 ment, and emergency response in cooperation with new
 7 and existing State and local safety programs is hereby au-
 8 thorized.”.

9 (b) NATIONAL BLUE RIBBON COMMISSION ON HIGH-
 10 WAY SAFETY.—

11 (1) ESTABLISHMENT.—The Secretary shall es-
 12 tablish a National Blue Ribbon Commission on
 13 Highway Safety (hereinafter in this section referred
 14 to as “the Commission”).

15 (2) MEMBERSHIP.—

16 (A) COMPOSITION.—The Commission shall
 17 be composed of 15 members as follows—

18 (i) the Secretary or the Secretary’s
 19 delegate;

20 (ii) the Administrators of the Federal
 21 Highway Administration; the National
 22 Highway Traffic Safety Administration;
 23 the Federal Motor Carrier Safety Adminis-
 24 tration; and the Federal Railroad Adminis-

1 tration, or the Administrators' delegates;
2 and

3 (iii) 10 members appointed by the
4 Secretary from among individuals who rep-
5 resent the interests of States and political
6 subdivisions of States, the safety commu-
7 nity, public health, and State and local law
8 enforcement agencies, and who have been
9 nominated by the Committee on Environ-
10 ment and Public Works and the Committee
11 on Commerce, Science and Transportation
12 of the United States Senate and the Com-
13 mittee on Transportation and Infrastruc-
14 ture of the United States House of Rep-
15 resentatives.

16 (B) APPOINTMENT.—The Secretary shall
17 select the individuals to be appointed under this
18 subsection on the basis of their knowledge, ex-
19 pertise, or experience related to highway safety.
20 Half of the appointments shall be made from
21 nominees submitted by the Committee on Envi-
22 ronment and Public Works and the Committee
23 on Commerce, Science and Transportation of
24 the Senate and the other half from the nomi-
25 nees submitted by the Committee on Transpor-

1 tation and Infrastructure of the House of Rep-
2 resentatives. Each of these committees shall
3 nominate 20 individuals qualified to serve on
4 the Commission.

5 (C) TERMS.—The term of each member of
6 the Commission shall be 6 years. Any vacancy
7 shall be filled in the manner the original ap-
8 pointment was made. The vacancy does not af-
9 fect the Commission’s powers.

10 (3) FUNCTION.—The Commission, to carry out
11 the direction of Congress, under section 101(f) of
12 title 23, United States Code as amended by this Act,
13 that the number of deaths attributable to traffic ac-
14 cidents on America’s highways be significantly re-
15 duced, shall—

16 (A) oversee a comprehensive study evalu-
17 ating the Nation’s highway safety needs over
18 the next three decades in the areas of engineer-
19 ing, education, enforcement, and emergency re-
20 sponse and, based on such study, make specific
21 recommendations to the Secretary for an
22 achievable national goal for the reduction of
23 highway fatalities and for the funding necessary
24 to achieve such goal;

1 (B) assist in developing a national con-
2 sensus in support of such goal; and

3 (C) advise, consult with, and make rec-
4 ommendations to, the Secretary to assist in
5 identifying specific measures for achieving the
6 national highway safety goal.

7 (4) SPECIFIC MATTERS TO BE ADDRESSED.—

8 The national highway safety goal study conducted by
9 the Commission shall examine the roles of highway
10 infrastructure, drivers, and vehicles in fatalities on
11 all public roads; identify high risk areas and activi-
12 ties associated with the greatest numbers of highway
13 fatalities; examine the roles of various levels of gov-
14 ernment agencies and non-governmental organiza-
15 tions in reducing highway fatalities and recommend
16 ways to strengthen highway safety partnerships; and
17 identify measures that will save the most lives both
18 long term and short term. The study shall consider,
19 among other things, the findings, conclusions, and
20 recommendations of highway safety studies and re-
21 search conducted by the Transportation Research
22 Board, including studies related to implementation
23 of the American Association of State Highway and
24 Transportation Officials' Strategic Highway Safety
25 Plan.

1 (5) REPORTS TO CONGRESS.—

2 (A) INITIAL REPORT.—Not later than Sep-
3 tember 30, 2006, the Commission shall trans-
4 mit to Congress an initial report on the results
5 of the national highway safety goal study, in-
6 cluding recommendations and such legislative
7 recommendations as the President judges nec-
8 essary and expedient for an achievable national
9 goal for the reduction of highway fatalities and
10 for preliminary strategies to be implemented to
11 achieve such goal.

12 (B) FINAL REPORT.—Not later than Feb-
13 ruary 1, 2009, the Commission shall transmit
14 to Congress a final report on the results of the
15 national highway safety goal study, including
16 recommendations and such legislative rec-
17 ommendations as the President judges nec-
18 essary and expedient for a comprehensive plan
19 with specific strategies to achieve the fatality
20 reduction goal recommended in the initial re-
21 port and for the level of funding necessary to
22 implement such fatality reduction plan and
23 strategies.

24 (6) TERMINATION OF COMMISSION.—The Com-
25 mission shall terminate on the 180th day following

1 the date of transmittal of the final report to Con-
2 gress under paragraph (5)(B) of this subsection. By
3 the 180th day, all records and papers of the Com-
4 mission shall be delivered to the Administrator of
5 the General Services Administration for deposit in
6 the National Archives.

7 (7) AUTHORIZATION OF APPROPRIATIONS.—

8 There are authorized to be appropriated out of the
9 Highway Trust Fund (other than the Mass Transit
10 Account) up to \$3,000,000 for fiscal year 2004,
11 \$1,000,000 for fiscal year 2005, \$1,000,000 for fis-
12 cal year 2006, \$1,000,000 for fiscal year 2007,
13 \$500,000 for fiscal year 2008, and \$500,000 for fis-
14 cal year 2009 for the purposes of carrying out this
15 subsection.

16 (8) APPLICABILITY OF TITLE 23.—Funds au-
17 thorized by this subsection shall be available for obli-
18 gation in the same manner as if such funds were ap-
19 portioned under chapter 1 of title 23, United States
20 Code, except that the Federal share of the cost of
21 the study and the Commission under this section
22 shall be 100 percent, and such funds shall remain
23 available until expended.

1 **SEC. 1402. HIGHWAY SAFETY IMPROVEMENT PROGRAM;**
2 **FLEXIBILITY FOR SAFETY INITIATIVES.**

3 (a) ESTABLISHMENT OF PROGRAM.—Chapter 4 of
4 title 23, United States Code, is amended by inserting the
5 following new section after section 149:

6 **“§ 150. Highway Safety Improvement Program**

7 “(a) ESTABLISHMENT.—The Secretary shall estab-
8 lish and implement a highway safety improvement pro-
9 gram in accordance with this section, in order to signifi-
10 cantly reduce fatalities and serious injuries on the Na-
11 tion’s roadway system.

12 “(b) PROGRAM.—

13 “(1) STATE RESPONSIBILITIES.—To receive
14 funds under this section, each State shall have a
15 process in place that identifies and analyzes highway
16 safety problems and opportunities and will produce
17 a program of projects for funding under this section
18 based on this analysis. Such process and program of
19 projects shall be known as the Highway Safety Im-
20 provement Program. The statewide program shall
21 identify hazardous locations, sections, and elements
22 including roadside obstacles, railway-highway cross-
23 ing needs, and unmarked or poorly marked roads
24 that may constitute a danger to motorists, bicyclists,
25 pedestrians, and other highway users. States shall
26 also have crash data systems and the ability to per-

1 form safety problem identification and counter-
2 measure analysis.

3 “(2) PROGRAM ADMINISTRATION.—The Sec-
4 retary shall establish implementing guidelines for
5 this program, which shall include at a minimum the
6 following components:

7 “(A) STRATEGIC APPROACH TO HIGHWAY
8 SAFETY.—Each State shall, as appropriate,
9 adopt strategic and performance-based goals for
10 its Highway Safety Improvement Program.
11 This statewide program shall address safety
12 problems and opportunities on all roadways
13 within the State, focus resources on areas of
14 greatest need, and be complementary to the
15 programs developed in response to section 402
16 of this title.

17 “(B) DATA IMPROVEMENT PROGRAM.—
18 Each State shall, as appropriate, advance its
19 capabilities for traffic records data collection,
20 analysis, and integration with other sources of
21 safety data such as roadway inventories. Such
22 a data improvement program shall be com-
23plementary to the programs supported by sec-
24tions 402 and 412 of this title; include all pub-
25lic roads; and contain provisions to identify haz-

1 ardous locations, sections, and elements on
2 these public roads that constitute a danger to
3 motorists, bicyclists, and pedestrians.

4 “(C) PROGRAM OF IMPROVEMENTS.—Each
5 State shall determine priorities for the correc-
6 tion of hazardous roadway locations, sections,
7 and elements, including railway-highway cross-
8 ing improvements, as identified through crash
9 data analysis; identify opportunities for pre-
10 venting the development of such hazardous con-
11 ditions; and establish and implement a schedule
12 of safety improvement projects for hazard cor-
13 rection and hazard prevention.

14 “(D) EVALUATION.—Each State shall, as
15 appropriate, establish an evaluation process to
16 analyze and assess results achieved by safety
17 improvement projects carried out in accordance
18 with procedures and criteria established by this
19 section, and such information shall be used in
20 setting priorities for safety improvement
21 projects.

22 “(e) REPORTS.—Each State shall report to the Sec-
23 retary on progress being made to implement safety im-
24 provement projects under this section and the effective-

1 ness of such improvements. The Secretary shall establish
2 the content and schedule for such reports.

3 “(d) ELIGIBLE PROJECTS.—

4 “(1) IN GENERAL.—A State may obligate funds
5 apportioned to it under this section for any safety
6 improvement project on any public road or publicly-
7 owned bicycle or pedestrian pathway or trail.

8 “(2) SAFETY IMPROVEMENT PROJECT.—For
9 purposes of this section the term ‘safety improve-
10 ment project’ means a project that corrects or im-
11 proves a hazardous roadway location or feature, or
12 proactively addresses highway safety problems, in-
13 cluding: intersection improvements, pavement and
14 shoulder widening, installation of rumble strips and
15 other warning devices, improving skid resistance, im-
16 provements for pedestrian or bicyclist safety, rail-
17 way-highway crossing safety, traffic calming, elimi-
18 nation of roadside obstacles, improving highway
19 signage and pavement marking, installing priority
20 control systems for emergency vehicles at signalized
21 intersections, installing traffic control or warning de-
22 vices at locations with high accident potential, safety
23 conscious planning, and improving crash data collec-
24 tion and analysis.

1 “(e) FUNDING.—Sums authorized to be appropriated
2 to carry out this section shall be apportioned in accordance
3 with section 104(b)(5).

4 “(f) FEDERAL SHARE.—The Federal share payable
5 on account of any project carried out under this section
6 shall be 90 percent of the cost thereof.

7 “(g) USE OF FUNDS.—Beginning in fiscal year 2005
8 and for each fiscal year thereafter, 10 percent of the funds
9 available to a State to carry out the highway safety im-
10 provement program established in accordance with this
11 section shall be obligated for projects under section 402
12 of this title, unless by October 1 of the fiscal year in which
13 funds become available to a State the State has enacted
14 a primary safety belt law or the State demonstrates that
15 the safety belt use rate in that State meets or exceeds
16 90 percent. A State subject to the provisions of this sub-
17 section must have in place or adopt a strategic highway
18 safety plan in accordance with section 151 of this title.
19 Activities funded under this subsection shall be consistent
20 with such a plan.

21 “(h) USE OF OTHER FUNDING FOR SAFETY.—Noth-
22 ing in this section shall be interpreted to prohibit the use
23 of funds made available under other sections of this title
24 for highway safety improvement projects, and States are
25 to be encouraged to address the full scope of their safety

1 needs and opportunities by using other funds unless provi-
 2 sions exist that prohibit such use.”.

3 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-
 4 PROVEMENT PROGRAM FUNDS.—Section 104 of such title
 5 is amended—

6 (1) by inserting in subsection (a) “the Highway
 7 Safety Improvement Program under section 150,”
 8 after “section 204,”;

9 (2) by inserting in subsection (b) “the Highway
 10 Safety Improvement Program,” after “Improvement
 11 Program,”; and

12 (3) by adding at the end of subsection (b) the
 13 following new paragraph:

14 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
 15 GRAM.—

16 “(A) IN GENERAL.—For the Highway
 17 Safety Improvement Program, in accordance
 18 with the following formula:

19 “(i) 25 percent of the apportionments
 20 in the ratio that—

21 “(I) the total lane miles of Fed-
 22 eral-aid highways in each State; bears
 23 to

24 “(II) the total lane miles of Fed-
 25 eral-aid highways in all States.

1 “(ii) 40 percent of the apportionments
2 in the ratio that—

3 “(I) the total vehicle miles trav-
4 eled on lanes on Federal-aid highways
5 in each State; bears to

6 “(II) the total vehicle miles trav-
7 eled on lanes on Federal-aid highways
8 in all States.

9 “(iii) 35 percent of the apportion-
10 ments in the ratio that—

11 “(I) the estimated tax payments
12 attributable to highway users in each
13 State paid into the Highway Trust
14 Fund (other than the Mass Transit
15 Account) in the latest fiscal year for
16 which data are available; bears to

17 “(II) the estimated tax payments
18 attributable to highway users in all
19 States paid into the Highway Trust
20 Fund (other than the Mass Transit
21 Account) in the latest fiscal year for
22 which data are available.

23 “(B) MINIMUM APPORTIONMENT.—Not-
24 withstanding subparagraph (A), each State

1 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
2 the funds apportioned under this paragraph.”.

3 (c) FLEXIBILITY FOR SAFETY INITIATIVES.—Chap-
4 ter 1 of such title, as amended by this Act, is further
5 amended—

6 (1) by repealing section 152;

7 (2) by redesignating section 151 as section 152;

8 and

9 (3) by inserting the following new section 151
10 after section 150:

11 **“§ 151. Flexibility for safety initiatives**

12 “(a) IN GENERAL.—As provided in this section, a
13 State that develops and implements a strategic highway
14 safety plan and comprehensive safety planning process
15 shall have the flexibility to use funds available under sec-
16 tion 150 of this title, the Highway Safety Improvement
17 Program, for title 23 safety purposes not otherwise eligible
18 under such section, including funding for public aware-
19 ness, education, and enforcement.

20 “(b) STRATEGIC HIGHWAY SAFETY PLAN.—To qual-
21 ify for flexible safety funding as provided under this sec-
22 tion, the State strategic highway safety plan must—

23 “(1) be based on a collaborative process that in-
24 cludes the State Department of Transportation, the
25 Governor’s Representative for Highway Safety, per-

1 sons responsible for administering section 130 of
2 this title at the State level, and other major State
3 and local safety stakeholders, including Operation
4 Lifesaver;

5 “(2) address engineering, education, enforce-
6 ment, and emergency services elements of highway
7 safety;

8 “(3) consider the results of existing State
9 transportation and highway safety planning proc-
10 esses; and

11 “(4) be certified by the Secretary, in consulta-
12 tion with the Federal Highway Administration and
13 the National Highway Traffic Safety Administra-
14 tion, as based on a comprehensive, collaborative
15 process, and effective analyses of State crash data.

16 “(e) SAFETY ACTIVITIES CONSISTENT WITH
17 PLAN.—To qualify for the flexible use of funds available
18 under sections 150 and 402(k) in accordance with this sec-
19 tion, activities must be consistent with the State strategic
20 highway safety plan.

21 “(d) OTHER TRANSPORTATION AND HIGHWAY SAFE-
22 TY PLANS.—Nothing in this section shall require a State
23 to revise existing State processes, plans, or programs.

24 “(e) FLEXIBLE FUNDING.—A State that receives
25 funds under section 150 shall use such funds for projects

1 eligible under such section, except that up to 50 percent
 2 of such funds may be used for activities eligible for assist-
 3 ance under section 402 of this title that are consistent
 4 with the State's strategic highway safety plan and not oth-
 5 erwise eligible for assistance under section 150.".

6 (d) ~~ELIMINATION OF SURFACE TRANSPORTATION~~
 7 ~~PROGRAM SET-ASIDE.~~—Section 133(d) of such title is
 8 amended by striking paragraph (1) and by redesignating
 9 paragraphs (2) through (5) as paragraphs (1) through
 10 (4), respectively.

11 (e) ~~CONFORMING AMENDMENTS.~~—

12 (1) The analysis for chapter 1 of such title is
 13 amended—

14 (A) by striking the item relating to section
 15 152;

16 (B) by renumbering “151. National bridge
 17 inspection program.” as “152”; and

18 (C) by inserting after the item relating to
 19 section 149 the following:

“150. Highway Safety Improvement Program.
 “151. Flexibility for safety initiatives.”.

20 (2) Section 130 of such title is amended—

21 (A) by striking subsections (e) and (f) and
 22 redesignating subsections (g) through (j) as (e)
 23 through (h), respectively; and

1 (B) in subsection (f), as redesignated by
2 this Act, by striking “authorized to be appro-
3 priated to carry out this section” and inserting
4 “made available as provided under section 150
5 of this title to carry out this section”.

6 (3) Section 154(e)(3) of such title is amended
7 by striking “152” and inserting “150”.

8 (4) Section 164(b)(3) of such title is amended
9 by striking “152” and inserting “150”.

10 (5) Section 409 of such title is amended by
11 striking “152” and inserting “150”.

12 **SEC. 1403. OPERATION LIFESAVER.**

13 Section 104(d)(1) of title 23, United States Code, is
14 amended by striking “\$500,000” and inserting
15 “\$600,000”.

16 **SEC. 1404. HIGHWAY SAFETY PROGRAMS; CERTIFICATION**
17 **OF PUBLIC ROAD MILEAGE.**

18 Section 402(e) of title 23, United States Code, is
19 amended by striking in the fifth sentence “the Governor
20 of”.

1 **Subtitle E—Program Efficiencies**
 2 **and Improvements—Planning**

3 **SEC. 1501. METROPOLITAN PLANNING.**

4 Section 134 of title 23, United States Code, is
 5 amended by striking subsections (a) through (o) and in-
 6 serting the following:

7 “Metropolitan planning shall be carried out in ac-
 8 cordance with section 5203 of title 49, United States
 9 Code.”.

10 **SEC. 1502. STATEWIDE PLANNING.**

11 Section 135 of title 23, United States Code, is
 12 amended by striking subsections (a) through (i) and in-
 13 serting the following:

14 “Statewide planning shall be carried out in accord-
 15 ance with section 5204 of title 49, United States Code.”.

16 **SEC. 1503. STATE PLANNING AND RESEARCH.**

17 (a) **STATE PLANNING AND RESEARCH.**—Chapter 5
 18 of title 23, United States Code, is amended by striking
 19 section 505.

20 (b) **CONFORMING AMENDMENT.**—The analysis for
 21 chapter 5 of such title is amended by striking the item
 22 related to section 505.

23 (c) **APPORTIONMENT.**—Section 104 of title 23,
 24 United States Code, is amended—

1 (1) by redesignating subsections (i), (j), (k),
2 and (l) as subsections (k), (l), (m), and (n), respec-
3 tively; and

4 (2) by inserting after subsection (h) the fol-
5 lowing:

6 “(i) STATE PLANNING AND RESEARCH.—

7 “(1) IN GENERAL.—Two and ½ percent of the
8 sums apportioned to a State for each fiscal year
9 under this section (other than subsections (f) and
10 (h)) and under sections 105 and 144 of this title
11 shall be available for expenditure by the State, in
12 consultation with the Secretary, only for the fol-
13 lowing purposes:

14 “(A) Engineering and economic surveys
15 and investigations.

16 “(B) The planning of future highway and
17 local public transportation systems, the plan-
18 ning of the financing of such systems, and met-
19 ropolitan and statewide planning under sections
20 134 and 135 of this title, including freight
21 planning, safety planning, transportation sys-
22 tems management and operations planning,
23 transportation-related land use planning, and
24 transportation-related growth management ac-
25 tivities within these planning processes and

1 planning capacity building activities described
2 in section 104(j) of this title.

3 “(C) Development and implementation of
4 infrastructure management and traffic moni-
5 toring systems under section 303 of this title
6 and for asset management activities.

7 “(D) Studies of the economy, safety, and
8 convenience of highway and local public trans-
9 portation systems and the desirable regulation
10 and equitable taxation of their use.

11 “(E) Research, development, and tech-
12 nology transfer activities necessary in connec-
13 tion with the planning, design, construction,
14 management, maintenance, regulation, and tax-
15 ation of the use of highway, local public trans-
16 portation, and intermodal transportation sys-
17 tems.

18 “(F) Study, research, and training on the
19 engineering standards and construction mate-
20 rials, including accreditation of inspection and
21 testing, for highway, local public transportation,
22 and intermodal transportation systems.

23 “(2) MINIMUM EXPENDITURES ON RESEARCH,
24 DEVELOPMENT, AND TECHNOLOGY TRANSFER AC-
25 TIVITIES.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), not less than 20 percent of the
3 funds subject to paragraph (1) for a fiscal year
4 shall be expended by the State for research, de-
5 velopment, and technology transfer activities
6 described in paragraph (1); relating to highway,
7 local public transportation; and intermodal
8 transportation systems.

9 “(B) WAIVERS.—The Secretary may waive
10 the application of subparagraph (A) with re-
11 spect to a State for a fiscal year if the State
12 certifies to the Secretary for the fiscal year that
13 the funds described in subparagraph (A) are
14 not needed for research, development, and tech-
15 nology transfer and the Secretary accepts such
16 certification.

17 “(C) NONAPPLICABILITY OF ASSESS-
18 MENT.—Funds expended under subparagraph
19 (A) shall not be considered to be part of the ex-
20 tramural budget of the agency for the purpose
21 of section 9 of the Small Business Act (15
22 U.S.C. 638).

23 “(3) MINIMUM EXPENDITURES FOR IMPROVING
24 THE QUALITY OF COLLECTION AND REPORTING OF
25 STRATEGIC SURFACE TRANSPORTATION DATA.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), not less than 20 percent of the
3 funds subject to paragraph (1) for a fiscal year
4 shall be expended by the State to improve the
5 collection and reporting of strategic surface
6 transportation data to provide critical informa-
7 tion about the extent, condition, use, perform-
8 ance, and financing of the Nation’s highways
9 (including intermodal connectors) for passenger
10 and freight movement.

11 “(B) WAIVERS.—The Secretary may waive
12 the application of subparagraph (A) with re-
13 spect to a State for a fiscal year if the State
14 certifies to the Secretary for the fiscal year that
15 the State is collecting and reporting strategic
16 data consistent with quality assurance guide-
17 lines developed cooperatively with the States
18 and the Secretary approves such certification.
19 If such waiver is approved, the funds may be
20 used for the activities described in paragraph
21 (1) of this subsection.

22 “(4) FEDERAL SHARE.—The Federal share of
23 the cost of a project carried out using funds subject
24 to paragraph (1) shall be matched in accordance
25 with section 120(b) unless the Secretary determines

1 that the interests of the Federal-aid highway pro-
2 gram would be best served without such matching.

3 “(5) ADMINISTRATION OF SUMS.—Funds sub-
4 ject to paragraph (1) shall be combined and admin-
5 istered by the Secretary as a single fund and shall
6 be available for obligation for the same period as
7 funds apportioned under section 104(b)(1).”

8 **SEC. 1504. CRITICAL REAL PROPERTY ACQUISITION.**

9 Section 108 of title 23, United States Code, is
10 amended by adding at the end the following:

11 “(d) CRITICAL REAL PROPERTY ACQUISITION.—

12 “(1) Subject to paragraph (2), funds appor-
13 tioned to a State under this title may be used to
14 participate in the payment of costs incurred in the
15 acquisition of real property that is deemed critical,
16 as determined under paragraph (2), for any project
17 proposed for funding under this title, prior to the
18 completion of any required environmental reviews for
19 property acquisition.

20 “(2) The Federal share payable of the costs de-
21 scribed in paragraph (1) shall be eligible for reim-
22 bursement out of funds apportioned to a State under
23 this title if, prior to acquisition, the State dem-
24 onstrates to the Secretary, and the Secretary deter-
25 mines, that the property is offered for sale on the

1 open market, that the State will comply fully with
2 the Uniform Relocation Assistance and Real Prop-
3 erty Acquisition Policies Act in acquiring the prop-
4 erty, and that immediate acquisition of the property
5 is critical because either—

6 “(A) normal appraisal techniques show
7 that the property’s value is increasing signifi-
8 cantly;

9 “(B) there is an imminent threat of devel-
10 opment or redevelopment of the property; or

11 “(C) the property is necessary for the im-
12 plementation of the goals as stated in the
13 project proposal.

14 “(3) An acquisition undertaken pursuant to this
15 section shall be considered to be an exempt project
16 under section 176 of the Clean Air Act and its im-
17 plementing regulations.

18 “(4) No project development activity may be
19 undertaken on property acquired in accordance with
20 paragraph (2) until any required environmental re-
21 views for the project have been completed.

22 “(5) The number of critical acquisitions associ-
23 ated with a project shall be limited and shall not af-
24 fect the consideration of project alternatives during
25 the environmental review process.

1 “(6) Section 156 (e) of this title shall not apply
2 to the sale, use or lease of any property acquired in
3 accordance with paragraph (2).”.

4 **SEC. 1505. PLANNING CAPACITY BUILDING INITIATIVE.**

5 Section 104 of title 23, United States Code, is
6 amended by inserting after subsection (i), as added by this
7 Act, the following:

8 “(j) **PLANNING CAPACITY BUILDING INITIATIVE.**—

9 “(1) **IN GENERAL.**—The Secretary shall estab-
10 lish a planning capacity building initiative to support
11 enhancements in transportation planning, in order
12 to—

13 “(A) strengthen metropolitan and state-
14 wide transportation planning under chapter 52
15 of title 49;

16 “(B) enhance tribal capacity to conduct
17 joint transportation planning under Chapter 2
18 of this title; and

19 “(C) participate in the metropolitan and
20 statewide transportation planning programs
21 under chapter 52 of title 49.

22 “(2) **PRIORITY.**—The Secretary shall give pri-
23 ority to planning practices and processes that sup-
24 port homeland security planning, performance based
25 planning, safety planning, operations planning,

1 freight planning, and integration of environment and
2 planning.

3 “(3) USE OF FUNDS.—Funds authorized for
4 this program may be used for research, program de-
5 velopment, information collection and dissemination,
6 and technical assistance. The Secretary may use
7 these funds independently or make grants to, or
8 enter into contracts, cooperative agreements, and
9 other transactions, with a Federal agency, State
10 agency, local agency, federally recognized Indian
11 tribal government or tribal consortium, authority,
12 association, nonprofit or for-profit corporation, or in-
13 stitution of higher education, to carry out the pur-
14 poses of this subsection.

15 “(4) SET-ASIDE.—On October 1 of each fiscal
16 year, the Secretary, after making the deductions au-
17 thorized by subsections (a) and (f) of section 104 of
18 this title, shall set aside \$20,000,000 of the remain-
19 ing funds authorized for the Surface Transportation
20 Program to carry out the requirements of this sub-
21 section.

22 “(5) FEDERAL SHARE.—The Federal share of
23 the cost of an activity carried out using such funds
24 shall be up to 100 percent, and such funds shall re-
25 main available until expended.

1 “(6) ADMINISTRATION.—This initiative shall be
2 administered by the Federal Highway Administra-
3 tion in cooperation with the Federal Transit Admin-
4 istration.”.

5 **Subtitle F—Program Efficiencies**
6 **and Improvements—Environment**

7 **SEC. 1601. CONGESTION MITIGATION AND AIR QUALITY IM-**
8 **PROVEMENT PROGRAM.**

9 (a) ELIGIBLE PROJECTS.—Section 149(b) of title 23,
10 United States Code, is amended—

11 (1) in the first paragraph, by inserting “and,
12 the project or program will reduce emissions to con-
13 tribute to the attainment or maintenance of the Na-
14 tional Ambient Air Quality Standard for which the
15 area is or was designated nonattainment,” after
16 “December 31, 1997,”;

17 (2) in subsection (1)(A), by striking “(other
18 than clause (xvi) of such section)”;

19 (3) in paragraph (1)(A)(ii), by inserting “by
20 providing new or enhanced transportation facilities
21 or services to further reduce emissions” after
22 “area”;

23 (4) in paragraph (1)(B), by inserting “or” at
24 the end after “section”;

1 (5) in paragraph (2), by inserting “or program”
2 after “and the project”, and by striking “have air
3 quality benefits;” and inserting “reduce emissions;
4 or”;

5 (6) in paragraph (3), by—

6 “(A) inserting “if” after “(3)”;

7 “(B) striking “contribute to the attain-
8 ment of a national ambient air quality stand-
9 ard” and inserting “reduce emissions”;

10 “(C) striking the comma after “traveled”
11 and inserting “or”; and

12 “(D) inserting “through technological im-
13 provements such as anti-idling equipment and
14 diesel retrofits for trucks, school buses, transit
15 buses and other vehicles” after “consumption.”;

16 (7) in paragraph (4), by inserting “if the
17 project or program is” after “(4)”, and by striking
18 “contribute to the attainment of a national ambient
19 air quality standard” and inserting “reduce emis-
20 sions”;

21 (8) in paragraph (5), by striking “that are eli-
22 gible for assistance under this section on the day be-
23 fore the date of enactment of this paragraph” and
24 inserting “that will reduce emissions”; and

1 (9) in the final unnumbered paragraph, by
2 striking the second sentence.

3 (b) STATES RECEIVING MINIMUM APPORTION-
4 MENT.—Section 149(c) of such title is amended in para-
5 graphs (1) and (2) by inserting “OR MAINTENANCE”
6 after “NONATTAINMENT” in the heading of each para-
7 graph.

8 (c) SELECTION OF PROJECTS.—Section 149 of such
9 title is amended by adding at the end the following new
10 paragraph:

11 “(f) INTERAGENCY CONSULTATION.—The Secretary
12 shall encourage States and metropolitan planning organi-
13 zations to consult with State and local air quality agencies
14 in nonattainment and maintenance areas on the estimated
15 emissions reductions from proposed congestion mitigation
16 and air quality improvement programs and projects.”.

17 (d) EVALUATION AND ASSESSMENT OF PROJECTS.—
18 Section 149 of such title is amended by adding at the end
19 the following new paragraph:

20 “(g) EVALUATION AND ASSESSMENT OF
21 PROJECTS.—

22 “(1) EVALUATION AND ASSESSMENT.—The
23 Secretary, in consultation with the Administrator of
24 the Environmental Protection Agency, shall evaluate
25 and assess a representative sample of projects fund-

1 ed under the Congestion Mitigation and Air Quality
 2 Improvement Program for their actual impact on
 3 emissions, and congestion levels and to assure effective
 4 program implementation. Using appropriate assessments
 5 of CMAQ-funded projects, and results from other research,
 6 the Secretary shall maintain a cumulative database on these
 7 impacts for broad dissemination.
 8

9 “(2) FUNDING.—Funds set aside under section
 10 104(o) of this title shall be available to carry out
 11 this subsection.”.

12 (c) FUNDING FOR EVALUATION AND ASSESSMENT OF
 13 PROJECTS.—Section 104 of such title is amended by adding
 14 at the end the following new subsection:

15 “(o) CONGESTION MITIGATION AND AIR QUALITY
 16 IMPROVEMENT PROGRAM EVALUATION AND ASSESSMENT
 17 OF PROJECTS.—Before making apportionments under
 18 subsection (b)(2) of this section for a fiscal year, the Secretary
 19 shall deduct 0.5 percent from the amount to be apportioned
 20 for such fiscal year for the purpose of carrying
 21 out the requirements of section 149(g) of this title.”.

22 (f) APPORTIONMENTS.—Section 104(b) of such title
 23 is amended—

24 (1) in paragraph (2)(B), by striking “or” after
 25 “ozone” and inserting a comma, and by inserting “,

1 or fine particulate matter (PM-2.5)” after “carbon
2 monoxide”;

3 (2) by amending paragraph (2)(B)(i) to read as
4 follows:

5 “(i) 1.0 if at the time of the appor-
6 tionment, the area is a maintenance
7 area;”;

8 (3) in paragraph (2)(B)(vi), by striking “or”
9 after the semicolon;

10 (4) in paragraph (2)(B)(vii), by inserting “for
11 ozone” after “maintenance area”, and striking “for
12 ozone” after “section 149(b)” and inserting “or for
13 PM-2.5”;

14 (5) by adding at the end of paragraph (2)(B)
15 two new clauses to read as follows:

16 “(viii) 1.0 if, at the time of appor-
17 tionment, any county, not designated as a non-
18 attainment or maintenance area under the
19 1-hour ozone standard, is designated as
20 nonattainment under the 8-hour ozone
21 standard; or

22 “(ix) 1.2 if, at the time of appor-
23 tionment, the area is not a nonattainment or
24 maintenance area as described in section
25 149(b) for ozone or carbon monoxide; but

1 is an area designated nonattainment under
2 the PM-2.5 standard.”;

3 (6) by amending paragraph (2)(C) to read as
4 follows:

5 “(C) ADDITIONAL ADJUSTMENT FOR CAR-
6 BON MONOXIDE AREAS.—If, in addition to
7 being designated as a nonattainment or mainte-
8 nance area for ozone as described in section
9 149(b), any county within the area was also
10 classified under subpart 3 of part D of title I
11 of such Act (42 U.S.C. 7512 et seq.) as a non-
12 attainment or maintenance area described in
13 section 149(b) for carbon monoxide, the weight-
14 ed nonattainment or maintenance area popu-
15 lation of the county, as determined under
16 clauses (i) through (vi) of subparagraph (B),
17 shall be further multiplied by a factor of 1.2.”;
18 and

19 (7) by redesignating paragraphs (2)(D) and
20 (2)(E) as (2)(E) and (2)(F) and inserting after
21 paragraph (2)(C) a new paragraph (2)(D) to read as
22 follows:

23 “(D) ADDITIONAL ADJUSTMENT FOR PM
24 2.5 AREAS.—If, in addition to being designated
25 as a nonattainment or maintenance area for

1 ozone, carbon monoxide or both as described in
 2 section 149(b), any county within the area was
 3 also designated under the PM-2.5 standard as
 4 a nonattainment or maintenance area, the
 5 weighted nonattainment or maintenance area
 6 population of those counties shall be further
 7 multiplied by a factor of 1.2.”.

8 **SEC. 1602. EFFICIENT ENVIRONMENTAL REVIEWS FOR**
 9 **PROJECT DECISIONMAKING.**

10 (a) **POLICY AND PURPOSE.—**

11 (1) **POLICY.—**The Enlibra principles, as ini-
 12 tially developed by the Western Governors Associa-
 13 tion and adopted by the National Governors Associa-
 14 tion, represent a sound basis for interaction among
 15 the Federal, State, local governments, and tribes on
 16 environmental matters and should be followed to the
 17 maximum extent practicable in the development of
 18 highway construction and public transit improve-
 19 ments. These principles are:

20 (A) Assign responsibilities at the right
 21 level.

22 (B) Use collaborative processes to break
 23 down barriers and find solutions.

24 (C) Move to a performance-based system.

1 ~~(D) Separate subjective choices from objec-~~
2 ~~tive data gathering.~~

3 ~~(E) Pursue economic incentives whenever~~
4 ~~appropriate.~~

5 ~~(F) Ensure environmental understanding.~~

6 ~~(G) Make sure environmental decisions are~~
7 ~~fully informed.~~

8 ~~(H) Use appropriate geographic bound-~~
9 ~~aries for environmental problems.~~

10 ~~(2) PURPOSE.—The purpose of this section is~~
11 ~~to reduce delays in the delivery of highway construc-~~
12 ~~tion and public transit projects arising from the en-~~
13 ~~vironmental review process, while continuing to en-~~
14 ~~sure the protection of the human and natural envi-~~
15 ~~ronment.~~

16 ~~(b) COORDINATED ENVIRONMENTAL REVIEW PROC-~~
17 ~~ESS.—~~

18 ~~(1) DEVELOPMENT AND IMPLEMENTATION.—~~

19 ~~The Secretary shall develop and implement a coordi-~~
20 ~~nated environmental review process for highway con-~~
21 ~~struction and public transit projects that require—~~

22 ~~(A) the preparation of an environmental~~
23 ~~impact statement or environmental assessment~~
24 ~~under the National Environmental Policy Act of~~
25 ~~1969 (42 U.S.C. 4321 et seq.), except that the~~

1 Secretary may decide not to apply this section
2 to the preparation of an environmental assess-
3 ment under such Act; or

4 (B) the conduct of any other environ-
5 mental review or analysis; rendering of an opin-
6 ion; or issuance of an environmental permit, li-
7 cense, or approval under Federal law.

8 (2) MEMORANDUM OF UNDERSTANDING.—

9 (A) IN GENERAL.—The coordinated envi-
10 ronmental review process may be specified for a
11 particular project, class of projects, or program
12 and shall ensure that, whenever practicable (as
13 specified in this section), all environmental re-
14 views, analyses, opinions, and any permits, li-
15 censes, or approvals that must be issued or
16 made by any Federal agency for the project
17 concerned shall be conducted concurrently and
18 completed within a cooperatively determined
19 time period. Such process for a project, class of
20 projects, or program may be incorporated into
21 a memorandum of understanding between the
22 Department of Transportation and affected
23 Federal agencies (and, where appropriate, State
24 and local agencies and federally recognized
25 tribes).

1 (B) ESTABLISHMENT OF TIME PERIODS.—

2 In establishing the time period referred to in
3 subparagraph (A), and any time periods for re-
4 view within such period, the Department and all
5 such agencies shall take into account their re-
6 spective resources and statutory commitments.

7 (c) ELEMENTS OF COORDINATED ENVIRONMENTAL
8 REVIEW PROCESS.—For each project, the coordinated en-
9 vironmental review process established under this section
10 shall provide, at a minimum, for the following elements:

11 (1) FEDERAL AGENCY IDENTIFICATION.—The
12 Secretary shall, at the earliest possible time, identify
13 all potential Federal agencies that—

14 (A) have jurisdiction by law over or special
15 expertise related to environmental-related issues
16 that may be affected by the project and the
17 analysis of which would be part of any environ-
18 mental document required by the National En-
19 vironmental Policy Act of 1969 (42 U.S.C.
20 4321 et seq.); or

21 (B) may be required by Federal law to
22 independently—

23 (i) conduct an environmental-related
24 review or analysis for the project;

- 1 (ii) determine whether to issue a per-
2 mit, license, or approval for the project; or
3 (iii) render an opinion on the environ-
4 mental impact of the project.

5 (2) TIME LIMITATIONS AND CONCURRENT RE-
6 VIEW.—If requested by the project sponsor, the Sec-
7 retary and the head of each Federal agency identi-
8 fied under paragraph (1)—

9 (A)(i) shall jointly develop and establish
10 time periods for review for—

11 (I) all Federal agency comments with
12 respect to any environmental documents
13 required by the National Environmental
14 Policy Act of 1969 (42 U.S.C. 4321 et
15 seq.) for the project; and

16 (II) all other independent Federal
17 agency environmental analyses, reviews,
18 opinions, and decisions on any permits, li-
19 censes, and approvals that must be issued
20 or made for the project; such that each
21 such Federal agency's review shall be un-
22 dertaken and completed within such estab-
23 lished time periods for review; or

1 (ii) may enter into an agreement to estab-
2 lish such time periods for review with respect to
3 a class of projects or programs; and

4 (B) shall ensure, in establishing such time
5 periods for review, that the conduct of any such
6 analysis or review, rendering of such opinion,
7 and the issuance of such decision is undertaken
8 concurrently with all other environmental re-
9 views for the project, including the reviews re-
10 quired by the National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.); except
12 that such review may not be concurrent if the
13 affected Federal agency can demonstrate that
14 such concurrent review would result in a signifi-
15 cant adverse impact to the environment or sub-
16 stantively alter the operation of Federal law or
17 would not be possible without information de-
18 veloped as part of the environmental review
19 process.

20 (3) FACTORS TO BE CONSIDERED.—Time peri-
21 ods for review established under this section shall be
22 consistent with the time periods established by the
23 Council on Environmental Quality under sections
24 1501.8 and 1506.10 of title 40, Code of Federal
25 Regulations.

1 (4) EXTENSIONS.—The Secretary shall extend
2 any time periods for review under this section if,
3 upon good cause shown, the Secretary and any Fed-
4 eral agency concerned determine that additional time
5 for analysis and review is needed. Any memorandum
6 of understanding shall be modified to incorporate
7 any mutually agreed-upon extensions.

8 (d) CLARIFICATION REGARDING ENVIRONMENTAL
9 IMPACT STATEMENTS PREPARED BY STATE AND LOCAL
10 TRANSPORTATION AGENCIES.—Any project sponsor that
11 is a State or local governmental entity eligible to receive
12 funds under this Act, chapter I of title 23, United States
13 Code; or chapter 53 of title 49, United States Code, may,
14 at the discretion of the Secretary, serve as a joint lead
15 agency with the Department for purposes of preparing any
16 environmental document under the National Environ-
17 mental Policy Act of 1969, as amended (42 U.S.C. 4321,
18 et seq.); and may prepare any such environmental docu-
19 ments required in support of any action or approval by
20 the Secretary, provided that the Department furnishes
21 guidance in such preparation and independently evaluates
22 such document, and provided that the document is ap-
23 proved and adopted by the Secretary prior to the Sec-
24 retary taking any subsequent action or making any ap-
25 proval based on such document, whether or not the Sec-

1 retary's action or approval results in Federal funding. The
2 Secretary shall ensure that the project sponsor complies
3 with all design and mitigation commitments made jointly
4 by the Secretary and the project sponsor in such environ-
5 mental document, or that the document is appropriately
6 supplemented if project changes become necessary. Any
7 such environmental document prepared in accordance with
8 this subsection may be adopted or used by any Federal
9 agency making any approval to the same extent that such
10 Federal agency could adopt or use a document prepared
11 by another Federal agency.

12 (c) DISPUTE RESOLUTION.—When the Secretary de-
13 termines that a Federal agency which is subject to a time
14 period under this section for its environmental review has
15 failed to complete its review, analysis, opinion, or decision
16 on issuing any permit, license, or approval within the es-
17 tablished time period or within any agreed-upon extension
18 to such time period, the Secretary may, after notice and
19 consultation with such agency, close the record on the
20 matter before the Secretary. If the Secretary finds, after
21 timely compliance with this section, that an environmental
22 issue related to the project over which an affected Federal
23 agency has jurisdiction under Federal law has not been
24 resolved, the Secretary and the head of the Federal agency
25 shall resolve the matter not later than 30 days after the

1 date of the finding by the Secretary. The dispute resolu-
2 tion procedures established pursuant to this subsection
3 may be initiated by the Secretary or by the Governor of
4 any State in which a highway construction or public tran-
5 sit project is located, or by the head of any Federal agency
6 subject to the time period under this subsection.

7 (f) PARTICIPATION OF STATE AGENCIES.—For any
8 project eligible for assistance under chapter 4 of title 23,
9 United States Code, a State, under State law, may require
10 that all State agencies that have jurisdiction by State or
11 Federal law over environmental-related issues that may be
12 affected by the project, or that are required to issue any
13 environmental-related reviews, analyses, opinions, or de-
14 terminations on issuing any permits, licenses, or approvals
15 for the project, be subject to the coordinated environ-
16 mental review process established under this section unless
17 the Secretary determines that a State agency's participa-
18 tion would not be in the public interest. If a State wishes
19 to participate in the review process, the State must require
20 all such State agencies with jurisdiction by law to be sub-
21 ject to and comply with the review process to the same
22 extent as a Federal agency.

23 (g) ASSISTANCE TO AFFECTED STATE AND FEDERAL
24 AGENCIES.—

1 (1) IN GENERAL.—The Secretary may approve
2 a request by a State to provide funds made available
3 under chapter 1 of title 23, United States Code, or
4 for a public transit project made available under
5 chapter 53 of title 49, United States Code, to the
6 State for the project, class of projects, or program
7 subject to the coordinated environmental review
8 process established under this section, to affected
9 Federal agencies, including the Department of
10 Transportation, to State agencies participating in
11 the coordinated environmental review process, and to
12 federally recognized tribes, to provide the resources
13 necessary to meet any time limits established under
14 this section. The Secretary also may use funds made
15 available under section 204 of title 23, United States
16 Code, for the purposes specified under this sub-
17 section.

18 (2) AMOUNTS.—Such requests under paragraph
19 (1) shall be approved only—

20 (A) for the additional amounts that the
21 Secretary determines are necessary for the af-
22 fected Federal agencies to meet the time limits
23 for environmental review; and

24 (B) if such time limits are less than the
25 customary time necessary for such review.

1 (h) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

2 (1) JUDICIAL REVIEW.—Except as set forth
3 under subsection (i), nothing in this section shall af-
4 fect the reviewability of any final Federal agency ac-
5 tion in a court of the United States.

6 (2) SAVINGS CLAUSE.—Nothing in this section
7 shall affect the applicability of the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
9 or any other Federal environmental statute or affect
10 the responsibility of any Federal officer to comply
11 with or enforce any such statute.

12 (i) LIMITATIONS ON CLAIMS.—Notwithstanding any
13 other provision of law, a claim arising under Federal law
14 seeking judicial review of a permit, license, or approval
15 issued by a Federal agency for a highway construction or
16 public transit project shall be barred unless it is filed with-
17 in one hundred eighty days after the permit, license, or
18 approval is final pursuant to the statute under which the
19 agency action is taken, unless a shorter time is specified
20 in the Federal law pursuant to which judicial review is
21 allowed. Nothing in this subsection shall create a right to
22 judicial review or place any limit on filing a claim that
23 a person has violated the terms of a permit, license, or
24 approval.

1 (j) REPEAL.—Section 1309 of the Transportation
 2 Equity Act for the 21st Century (Public Law 105–178;
 3 112 Stat. 232; June 9, 1998) is repealed.

4 **SEC. 1603. ASSUMPTION OF RESPONSIBILITY FOR CAT-**
 5 **EGORICAL EXCLUSIONS.**

6 (a) GENERAL.—Section 138 of title 23, United
 7 States Code, is repealed and the following new section is
 8 inserted:

9 **”§ 138. Assumption of responsibility for categorical**
 10 **exclusions**

11 “(a) CATEGORICAL EXCLUSION DETERMINATIONS.—
 12 Upon mutual agreement, the Secretary may assign and
 13 a State may assume responsibility for determining wheth-
 14 er certain designated activities are included within classes
 15 of action identified in regulation by the Secretary that are
 16 categorically excluded from requirements for environ-
 17 mental assessments or environmental impact statements
 18 pursuant to regulations promulgated by the Council on
 19 Environmental Quality, or other successor law or regula-
 20 tion. Such determinations shall be made by a State pursu-
 21 ant to criteria established by the Secretary and only for
 22 types of activities specifically designated by the Secretary.
 23 Such criteria shall include provision for public availability
 24 of information consistent with the Freedom of Information
 25 Act (5 U.S.C. 552).

1 “(b) OTHER APPLICABLE FEDERAL LAWS.—Upon
2 mutual agreement, the Secretary may assign and the
3 State may assume some or all of the Department’s respon-
4 sibilities for environmental review, consultation, or other
5 related actions required under any Federal law applicable
6 to activities that are classified by the Secretary as categor-
7 ical exclusions, with the exception of government-to-gov-
8 ernment consultation with Indian tribes, if the State also
9 assumes decision-making authority under this section. The
10 State shall assume this responsibility subject to the same
11 procedural and substantive requirements as would be re-
12 quired if that responsibility was carried out by the Depart-
13 ment. When a State assumes such responsibility under a
14 Federal law, it shall be solely responsible and solely liable
15 for complying with and carrying out that law in lieu of
16 the Department.

17 “(c) AGREEMENTS.—The Secretary and the State
18 shall enter into a memorandum of understanding setting
19 forth the responsibilities to be assigned under this section
20 and the terms and conditions under which such assign-
21 ments are to be made. Such memorandums of under-
22 standing shall be established for periods of no more than
23 three years. In the memorandum of understanding the
24 State shall consent to accept the jurisdiction of the Fed-
25 eral courts for the compliance, discharge, and enforcement

1 of any responsibility of the Secretary it may assume. The
2 Secretary shall monitor the State department of transpor-
3 tation's compliance with the memorandum of under-
4 standing as well as the effectiveness of the delegation, and
5 will take into account the State's performance in deciding
6 whether and under what conditions to renew a memo-
7 randum of understanding.

8 “(d) TERMINATION.—The Secretary may terminate
9 any assumption of responsibility under this section upon
10 a determination that a State is not adequately carrying
11 out its assigned responsibilities.

12 “(e) STATE SUBJECT TO FEDERAL LAWS.—For pur-
13 poses of assuming the Secretary's responsibilities under
14 this section, the State agency signing the agreement in
15 subsection (e) is deemed to be a Federal agency to the
16 extent the State is carrying out the Secretary's respon-
17 sibilities under the National Environmental Policy Act,
18 under this title, and under any other Federal law.”.

19 “(b) CONFORMING AMENDMENT.—The analysis of
20 chapter 1 of title 23 is amended by striking “Preservation
21 of parklands” in the item relating to section 138 and in-
22 serting “Assumption of responsibility for categorical exclu-
23 sions.”.

1 **SEC. 1604. SECTION 4(F) POLICY ON LANDS, WILDLIFE AND**
2 **WATERFOWL REFUGES, AND HISTORIC SITES.**

3 Section 303 of title 49, United States Code, is
4 amended to read as follows:

5 **§ 303. Policy on lands, wildlife and waterfowl refuges,**
6 **and historic sites**

7 “(a) It is the policy of the United States Government
8 that special effort should be made to preserve the natural
9 beauty of the countryside and public park and recreation
10 lands, wildlife and waterfowl refuges, and historic sites.

11 “(b) The Secretary of Transportation shall cooperate
12 and consult, when appropriate, with the Secretaries of the
13 Interior, Housing and Urban Development, and Agri-
14 culture, and with the States, in developing transportation
15 plans and programs that include measures to maintain or
16 enhance the natural beauty of lands crossed by transpor-
17 tation activities or facilities.

18 “(c)(1) The Secretary of Transportation may approve
19 a transportation program or project requiring the use of
20 publicly owned land of a public park, recreation area, or
21 wildlife and waterfowl refuge of national, State, or local
22 significance, or land of a historic site of national, State,
23 or local significance (as determined by the Federal, State,
24 or local officials having jurisdiction over the park, area,
25 refuge or site) only if—

1 “(A) there is no feasible and prudent alter-
2 native to using that land, and

3 “(B) the program or project includes all pos-
4 sible planning to minimize harm to the park, recre-
5 ation area, wildlife and waterfowl refuge, or historic
6 site resulting from the use.

7 “(2) In making approvals under this subsection, the
8 Secretary shall apply the following standards:

9 “(A) The Secretary may eliminate an alter-
10 native as infeasible if the Secretary finds that the al-
11 ternative cannot be implemented as a matter of
12 sound engineering.

13 “(B) The Secretary shall consider the following
14 when determining whether it would be prudent to
15 avoid the use of land of a resource subject to preser-
16 vation under this section:

17 “(i) The relative significance of the land of
18 the resource being protected.

19 “(ii) The views of the official or officials
20 with jurisdiction over the land.

21 “(iii) The relative severity of the adverse
22 effects on the protected activities, attributes, or
23 features that qualify a resource for protection.

24 “(iv) The ability to mitigate adverse ef-
25 fects.

1 “(v) The magnitude of the adverse effects
2 that would result from the selection of an alter-
3 native that avoids the use of the land of the re-
4 source.

5 “(C) A mitigation measure or mitigation alter-
6 native under paragraph (c)(1)(B) of this section is
7 possible if it is feasible and prudent. In evaluating
8 the feasibility and prudence of a mitigation measure
9 or mitigation alternative under paragraph (c)(1)(B)
10 of this section, the Secretary shall be governed by
11 the standards of paragraphs (c)(2)(A) and (B) of
12 this subsection.

13 “(d) The requirements of this section do not apply
14 to—

15 “(1) a project for a park road, parkway, or ref-
16 uge road under section 204 of title 23; or

17 “(2) a highway project on land administered by
18 an agency of the Federal government, when the pur-
19 pose of the project is to serve or enhance the values
20 for which the land would otherwise be protected
21 under this section, as jointly determined by the Sec-
22 retary of Transportation and the head of the appro-
23 priate Federal land managing agency.

24 “(e) The requirements of this section are deemed to
25 be satisfied where the treatment of an historic site (other

1 than a National Historic Landmark) has been agreed
2 upon in accordance with Section 106 of the National His-
3 toric Preservation Act (16 U.S.C. 470f). The Secretary,
4 in consultation with the Advisory Council on Historic
5 Preservation, shall develop administrative procedures to
6 review the implementation of this subsection to ensure
7 that the objectives of the National Historic Preservation
8 Act are being met.

9 “(f)(1) The Secretary may approve a request by a
10 State to provide funds made available under chapter 1 of
11 title 23, United States Code, to a State historic preserva-
12 tion office, Tribal historic preservation office, or to the Ad-
13 visory Council on Historic Preservation to provide the re-
14 sources necessary to expedite the historic preservation re-
15 view and consultation process under section 303 of title
16 49 and under section 470f of title 16, United States Code.

17 “(2) The Secretary shall encourage States to provide
18 such funding to State historic preservation officers, tribal
19 historic preservation officers or the Advisory Council on
20 Historic Preservation where the investment of such funds
21 will accelerate completion of a project or classes of projects
22 or programs by reducing delays in historic preservation
23 review and consultation.

24 “(3) Such requests under paragraph (1) shall be ap-
25 proved only for the additional amounts that the Secretary

1 determines are necessary for a State historic preservation
2 office, tribal historic preservation office, or the Advisory
3 Council on Historic Preservation to expedite the review
4 and consultation process and only where the Secretary de-
5 termines that such additional amounts will permit comple-
6 tion of the historic preservation process in less than the
7 time customarily required for such process.”.

8 **SEC. 1605. NATIONAL SCENIC BYWAYS PROGRAM.**

9 (a) IN GENERAL.—Section 162 of title 23, United
10 States Code, is amended—

11 (1) in subsection (a)(1), by inserting a comma
12 after “Byways” and by striking “or All-American
13 Roads” and inserting “All-American Roads, or one
14 of America’s Byways”;

15 (2) in subsection (b)(1)(A), by inserting a
16 comma after “Byways” and by striking “or All-
17 American Roads,” and inserting “All-American
18 Roads, or one of America’s Byways,”;

19 (3) in subsection (b)(2)(A), by inserting a
20 comma after “Byway” and by striking “or All-Amer-
21 ican Road” and inserting “All-American Road, or
22 one of America’s Byways”;

23 (4) in subsection (b)(2)(B), by inserting a
24 comma after “Byway” and by striking “or All-Amer-

1 ican Road” and inserting “All-American Road, or
2 one of America’s Byways”; and

3 (5) in subsection (e)(4), by striking “passing
4 lane.”.

5 (b) RESEARCH, TECHNICAL ASSISTANCE, MAR-
6 KETING, AND PROMOTION.—Section 162 of such title is
7 further amended—

8 (1) by redesignating subsections (d), (e), and
9 (f) as subsections (e), (f), and (g), respectively;

10 (2) by inserting after subsection (e) the fol-
11 lowing new subsection:

12 “(d) RESEARCH, TECHNICAL ASSISTANCE, MAR-
13 KETING, AND PROMOTION.—

14 “(1) IN GENERAL.—The Secretary may carry
15 out research, technical assistance, marketing, and
16 promotion with respect to State scenic byways, Na-
17 tional Scenic Byways, All-American Roads, or Amer-
18 ica’s Byways.

19 “(2) COOPERATION, GRANTS, AND CON-
20 TRACTS.—The Secretary may make grants to or
21 enter into contracts, cooperative agreements, and
22 other transactions with any Federal agency, State
23 agency, authority, association, institution, for-profit
24 or nonprofit corporation, organization, foreign coun-
25 try, or person, including the center for national sec-

1 nie byways in Duluth, Minnesota, to carry out the
2 provisions of this subsection.

3 “(3) FUNDS.—The Secretary may use funds
4 made available for the National Scenic Byways Pro-
5 gram to carry out projects and activities under this
6 subsection.

7 “(4) PRIORITY.—The Secretary shall give pri-
8 ority to partnerships that leverage private, Federal
9 , or other public funds for research, technical assist-
10 ance, marketing and promotion.”; and

11 (3) by adding the following at the end of sub-
12 section (g): “The Federal share of the cost of
13 projects or activities under subsection (d) may be up
14 to 100 percent.”.

15 **SEC. 1606. RECREATIONAL TRAILS PROGRAM.**

16 (a) RECREATIONAL TRAILS PROGRAM FORMULA.—
17 Section 104(h)(1) of title 23, United States Code, is
18 amended by striking “research and technical assistance
19 under the recreational trails program and for the adminis-
20 tration of the National Recreational Trails Advisory Com-
21 mittee” and inserting “research, technical assistance, and
22 training under the recreational trails program”.

23 (b) RECREATIONAL TRAILS PROGRAM ADMINISTRA-
24 TION.—Section 206 of title 23, United States Code, is
25 amended—

1 (1) by striking subsection (c) and inserting the
2 following:

3 “(c) STATE RESPONSIBILITIES.—

4 “(1) ELIGIBILITY.—To be eligible for appor-
5 tionments under this section—

6 “(A) the Governor of the State shall des-
7 ignate the State agency or agencies that will be
8 responsible for administering apportionments
9 made to the State under this section; and

10 “(B) the State shall establish a State rec-
11 reational trail committee that—

12 “(i) has not less than 30 percent of
13 its voting membership representing non-
14 motorized recreational trail users;

15 “(ii) has not less than 30 percent of
16 its voting membership representing motor-
17 ized recreational trail users;

18 “(iii) must meet not less than once
19 per Federal fiscal year in a publicly an-
20 nounced public meeting; and

21 “(iv) must be used to develop state-
22 wide trail program policy and to rate,
23 rank, and recommend recreational trails
24 program projects for funding.

1 “(2) OBLIGATION REQUIREMENT.—If a State
2 does not meet the committee requirements within a
3 fiscal year, it is not eligible for an apportionment in
4 the following fiscal year.”;

5 (2) by striking subsection (d)(2) and inserting
6 the following:

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

10 “(A) maintenance and restoration of exist-
11 ing recreational trails;

12 “(B) development and rehabilitation of
13 trailside and trailhead facilities and trail link-
14 ages for recreational trails;

15 “(C) purchase and lease of recreational
16 trail construction and maintenance equipment;

17 “(D) construction of new recreational
18 trails, except that, in the case of new rec-
19 reational trails crossing Federal lands, con-
20 struction of the trails shall be—

21 “(i) permissible under other law;

22 “(ii) necessary and recommended by a
23 statewide comprehensive outdoor recreation
24 plan that is required by the Land and
25 Water Conservation Fund Act of 1965 (16

1 U.S.C. 460~~l~~-4 et seq.) and that is in ef-
2 feet;

3 “(iii) approved by the administering
4 agency of the State designated under sub-
5 section (e)(1)(A); and

6 “(iv) approved by each Federal agency
7 having jurisdiction over the affected lands
8 under such terms and conditions as the
9 head of the Federal agency determines to
10 be appropriate, except that the approval
11 shall be contingent on compliance by the
12 Federal agency with all applicable laws, in-
13 cluding the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4321 et. seq.), the
15 Forest and Rangeland Renewable Re-
16 sources Planning Act of 1974 (16 U.S.C.
17 1600 et. seq.), and the Federal Land Pol-
18 icy and Management Act of 1976 (43
19 U.S.C. 1701 et. seq.);

20 “(E) acquisition of easements and fee sim-
21 ple title to property for recreational trails or
22 recreational trail corridors;

23 “(F) assessment of trail conditions for ac-
24 cessibility and maintenance;

1 “(G) use of trail crews, youth conservation
2 or service corps, or other appropriate means to
3 carry out activities under this section;

4 “(H) operation of educational programs to
5 promote safety and environmental protection as
6 those objectives relate to the use of recreational
7 trails, supporting non-law enforcement trail
8 safety and trail use monitoring patrol pro-
9 grams, and providing trail-related training, but
10 in an amount not to exceed 5 percent of the ap-
11 portionment made to the State for the fiscal
12 year; and

13 “(I) payment of costs to the State incurred
14 in administering the program, but in an amount
15 not to exceed 7 percent of the apportionment
16 made to the State for the fiscal year to carry
17 out this section.”;

18 ~~(3)~~ by striking subsection ~~(d)(3)(C)~~ and insert-
19 ing the following:

20 “(C) USE OF YOUTH CONSERVATION OR
21 SERVICE CORPS.—A State shall make available
22 not less than 10 percent of its apportionments
23 for grants, cooperative agreements, or contracts
24 with qualified youth conservation or service

1 corps to perform recreational trails program ac-
2 tivities.”;

3 (4) in subsection (d)(3)(D), by striking
4 “(2)(F)” and inserting “(2)(I)”;

5 (5) by amending subsection (f)—

6 (A) in paragraph (1)—

7 (i) by inserting “and the Federal
8 share of the administrative costs of a
9 State” after “project”; and

10 (ii) by striking “not exceed 80 per-
11 cent” and inserting in its place “be deter-
12 mined in accordance with section 120(b)”;

13 (B) in paragraph (2)(A), by striking “80
14 percent of” and inserting “the amount deter-
15 mined in accordance with section 120(b) for”;

16 (C) in paragraph (2)(B), by inserting
17 “sponsoring the project” after “Federal agen-
18 cy”;

19 (D) by striking paragraph (5);

20 (E) by redesignating paragraph (4) as
21 paragraph (5), and by striking “80 percent”
22 and inserting in its place “the Federal share as
23 determined in accordance with section 120(b)”;
24 and

25 (F) by inserting after paragraph (3)—

1 “(4) USE OF RECREATIONAL TRAILS PROGRAM
2 FUNDS TO MATCH OTHER FEDERAL PROGRAM
3 FUNDS.—Notwithstanding any other provision of
4 law, funds made available under this section may be
5 used toward the non-Federal matching share for
6 other Federal program funds that are—

7 (A) expended in accordance with the re-
8 quirements of the Federal program relating to
9 activities funded and populations served; and

10 (B) expended on a project that is eligible
11 for assistance under this section.”;

12 (6) by inserting after subsection (h)(1)(B) the
13 following:

14 “(C) PLANNING AND ENVIRONMENTAL AS-
15 SESSMENT COSTS INCURRED PRIOR TO PROJECT
16 APPROVAL.—A project funded under sub-
17 sections (d)(2)(A) through (H) may allow pre-
18 approval planning and environmental compli-
19 ance costs to be credited toward the non-Fed-
20 eral share in accordance with subsection (f),
21 limited to costs incurred less than 18 months
22 prior to project approval.”; and

23 (7) by striking paragraph (h)(2) and inserting
24 the following:

1 ~~“(2) WAIVER OF HIGHWAY PROGRAM REQUIRE-~~
 2 ~~MENTS.—A project funded under this section is in-~~
 3 ~~tended to enhance recreational opportunity and is~~
 4 ~~not considered a highway project. Projects funded~~
 5 ~~under this section are not subject to sections 112,~~
 6 ~~113, 114, 116, 134, 135, 217, or 301 of this title;~~
 7 ~~or section 303 of title 49.”.~~

8 **SEC. 1607. EXEMPTION OF THE INTERSTATE SYSTEM.**

9 Subsection 103(e) of title 23, United States Code, is
 10 amended by inserting the following after paragraph (4):

11 ~~“(5) EXEMPTION OF THE INTERSTATE SYS-~~
 12 ~~TEM.—The Interstate Highway System, or any por-~~
 13 ~~tion thereof, as designated pursuant to subsection~~
 14 ~~103(e) of this title, shall not be considered an his-~~
 15 ~~toric site of national, State or local significance for~~
 16 ~~purposes of 49 U.S.C. 303, 16 U.S.C. 470f, or 16-~~
 17 ~~U.S.C. 470h-2 by virtue of being listed as a re-~~
 18 ~~source on, or eligible for listing in, the National Reg-~~
 19 ~~ister of Historic Places. At the discretion of the Sec-~~
 20 ~~retary, with the advice of the Department of the In-~~
 21 ~~terior, individual elements of the Interstate Highway~~
 22 ~~System may receive the protection of section 106 or~~
 23 ~~section 110 of the National Historic Preservation~~
 24 ~~Act (16 U.S.C. 470f and 470h-2).”.~~

1 **SEC. 1608. MODIFICATION TO NHS/STP FOR INVASIVE SPE-**
2 **CIES, WETLANDS, BROWNFIELDS, AND ENVI-**
3 **RONMENTAL RESTORATION.**

4 (a) MODIFICATIONS TO THE NHS FOR INVASIVE
5 SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRON-
6 MENTAL RESTORATION.—

7 (1) TECHNICAL CORRECTIONS.—Section 103

8 (b)(6) of title 23, United States Code, is amended
9 in subparagraph (M)—

10 (A) by striking “1990” and inserting
11 “2000”; and

12 (B) by striking “101-640” and inserting
13 “106-541”.

14 (2) STATE RESPONSIBILITY.—Section 103

15 (b)(6) is further amended in subparagraph (M) by
16 inserting “as determined by the State” after “to the
17 maximum extent practicable”.

18 (3) ELIGIBLE PROJECTS FOR NHS.—Section

19 103 (b)(6) is further amended by adding at the end
20 the following new subparagraphs:

21 “(Q) Environmental restoration and pollu-
22 tion abatement to minimize or mitigate impacts
23 of any transportation project funded under this
24 title (including the retrofit or construction of
25 storm water treatment systems to meet State
26 and Federal National Pollutant Discharge

1 Elimination System requirements under Section
2 402 of the Clean Water Act) to address water
3 pollution or environmental degradation caused
4 or contributed to by transportation facilities.
5 When transportation facilities are undergoing
6 reconstruction, rehabilitation, resurfacing, or
7 restoration, the expenditure of funds under this
8 section for any such environmental restoration
9 or pollution abatement project shall not exceed
10 20 percent of the total cost of the reconstruc-
11 tion, rehabilitation, resurfacing, or restoration
12 project.

13 “(R) In accordance with all applicable
14 Federal law (including applicable Federal regu-
15 lations), participation in the control of invasive
16 plant species and the establishment of native
17 species related to projects funded under this
18 title, which may include participation in state-
19 wide inventories of both invasive and desirable
20 plant species and regional native plant habitat
21 conservation and mitigation, and restoration
22 plans. Contributions to the measures described
23 in the preceding sentence may take place con-
24 current with or in advance of project construc-
25 tion; except that contributions in advance of

1 project construction may occur only if the ef-
 2 forts are consistent with all applicable require-
 3 ments of Federal law (including applicable Fed-
 4 eral regulations) and State transportation plan-
 5 ning processes.

6 “(S) Remediation associated with the con-
 7 struction of a project funded under this title on
 8 a brownfield site, as defined in 42 U.S.C.
 9 9601.”.

10 (b) MODIFICATIONS TO THE SURFACE TRANSPOR-
 11 TATION PROGRAM FOR INVASIVE SPECIES, WETLANDS,
 12 BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.—

13 (1) TECHNICAL CORRECTIONS.—Section 133

14 (b)(11) of title 23, is amended—

15 (A) by striking “1990” and inserting
 16 “2000”; and

17 (B) by striking “101–640” and inserting
 18 “106–541”;

19 (2) STATE RESPONSIBILITY.—Section 133

20 (b)(11) is further amended by inserting “determined
 21 by the State” after “to the maximum extent prac-
 22 ticable”.

23 (3) ELIGIBLE PROJECTS FOR SURFACE TRANS-
 24 PORTATION PROGRAM.—

1 (A) ENVIRONMENTAL RESTORATION AND
2 POLLUTION ABATEMENT.—Section 133 of title
3 23, United States Code, is amended by striking
4 (b)(14) and inserting the following:

5 “(14) Environmental restoration and pollution
6 abatement to minimize or mitigate impacts of any
7 transportation project funded under this title (in-
8 cluding the retrofit or construction of storm water
9 treatment systems to meet State and Federal Na-
10 tional Pollutant Discharge Elimination System re-
11 quirements under Section 402 of the Clean Water
12 Act) to address water pollution or environmental
13 degradation caused or contributed to by transpor-
14 tation facilities. When transportation facilities are
15 undergoing reconstruction, rehabilitation, resur-
16 facing, or restoration, the expenditure of funds
17 under this section for any such environmental res-
18 toration or pollution abatement project shall not ex-
19 ceed 20 percent of the total cost of the reconstruc-
20 tion, rehabilitation, resurfacing, or restoration
21 project.”.

22 (B) INVASIVE SPECIES CONTROL AND
23 BROWNFIELDS REMEDIATION EFFORTS.—Sec-
24 tion 133(b) of such title, as amended by this

1 Act, is further amended by adding at the end
2 the following new paragraphs:

3 “(16) In accordance with all applicable Federal
4 law (including regulations), participation in the con-
5 trol of invasive plant species and the establishment
6 of native species related to projects funded under
7 this title, which may include participation in state-
8 wide inventories of both invasive and desirable plant
9 species and regional native plant habitat conserva-
10 tion and mitigation, and restoration plans. Contribu-
11 tions to the measures described in the preceding sen-
12 tence may take place concurrent with or in advance
13 of project construction; except that contributions in
14 advance of project construction may occur only if the
15 efforts are consistent with all applicable require-
16 ments of Federal law (including regulations) and
17 State transportation planning processes.

18 “(17) Remediation associated with the con-
19 struction of a project funded under this title on a
20 brownfield site, as defined in 42 U.S.C. 9601.”.

21 **SEC. 1609. STANDARDS.**

22 (a) IN GENERAL.—Section 109(a) of title 23 of the
23 United States Code is amended by—

24 (1) striking “and” at the end of paragraph (1);

1 (2) striking the period at the end of paragraph
2 (2) and inserting “; and”; and

3 (3) adding the following paragraph at the end
4 of subsection (a):

5 “~~(3)~~ consider the preservation, historic, scenic,
6 natural environment, and community values.”.

7 (b) **CONTEXT SENSITIVE DESIGN.**—Section 109 of
8 such title is amended by striking subsection (p) and insert-
9 ing the following:

10 “(p) **CONTEXT SENSITIVE DESIGN.**—

11 “(1) The Secretary shall encourage States to
12 design projects funded under title 23 to—

13 “(A) allow for the preservation of environ-
14 mental, scenic, community, and/or historic val-
15 ues;

16 “(B) ensure safe use of the facility for
17 both passenger and freight movement;

18 “(C) provide for consideration of the con-
19 text of the locality;

20 “(D) encourage access for other modes of
21 transportation; and

22 “(E) comply with subsection (a).

23 “(2) Notwithstanding subsections (b) and (c),
24 the Secretary may approve a project for the Na-
25 tional Highway System if the project is designed to

1 achieve the criteria of subparagraphs (A) through
2 (E).”.

3 **SEC. 1610. USE OF HOV LANES.**

4 Section 102 of title 23, United States Code, is
5 amended by striking subsection (a) and inserting the fol-
6 lowing:

7 “(a) **HIGH OCCUPANCY VEHICLE (HOV) PASSENGER**
8 **REQUIREMENTS.—**

9 “(1) **IN GENERAL.—**A State transportation de-
10 partment or other responsible local agencies shall es-
11 tablish the occupancy requirements of vehicles oper-
12 ating in HOV facilities; except that no fewer than 2
13 occupants per vehicle may be required, unless other-
14 wise provided in paragraph (2).

15 “(2) **EXCEPTIONS TO HOV OCCUPANCY RE-**
16 **QUIREMENTS.—**

17 “(A) **MOTORCYCLES.—**Motorcycles shall
18 not be considered single occupant vehicles and
19 shall be allowed to use HOV facilities, except
20 that upon certification by the responsible agen-
21 cy to the Secretary, the agency may restrict
22 such use by motorcycles if such use would cre-
23 ate a safety hazard.

24 “(B) **LOW EMISSION AND ENERGY-EFFI-**
25 **CIENT VEHICLES.—**

1 “(i) Responsible agencies shall have
2 the option of allowing qualifying low emis-
3 sion and energy-efficient vehicles to use
4 HOV facilities if they do not satisfy the es-
5 tablished occupancy requirements.

6 “(ii) Responsible agencies that allow
7 qualifying low emission and energy-effi-
8 cient vehicles to use HOV facilities shall—

9 “(I) establish a program that ad-
10 dresses how such qualifying vehicles
11 are selected and certified;

12 “(II) establish requirements for
13 labeling qualifying vehicles and proce-
14 dures for enforcing such vehicles;

15 “(III) continuously monitor,
16 evaluate, and report on performance;
17 and

18 “(IV) establish the policies and
19 procedures that will limit or restrict
20 the use of such vehicles as necessary,
21 to ensure that the performance of in-
22 dividual facilities or the entire system
23 does not become seriously degraded.

24 “(iii) As used in this subparagraph,
25 the term “low emission and energy-effi-

1 cient vehicles” means vehicles that have
2 been certified—

3 “(I) by the Administrator of the
4 Environmental Protection Agency to
5 have a 45-mile-per-gallon or greater
6 fuel economy highway rating; or are
7 defined as an alternative fuel vehicle
8 under section 301(2) of the Energy
9 Policy Act of 1992 (42 U.S.C.
10 13211(2)); and

11 “(II) as meeting Tier II emission
12 level established in regulations pre-
13 scribed by the Administrator of the
14 Environmental Protection Agency
15 under section 202(i) of the Clean Air
16 Act (42 U.S.C. 7521(i)) for that make
17 and model year vehicle.

18 “(C) BICYCLES.—Responsible agencies
19 shall have the option of allowing bicycles on
20 surface street HOV facilities when there is in-
21 sufficient space within the roadway or public
22 right-of-way to establish and designate a bicycle
23 lane.

24 “(D) TOLLING OF VEHICLES.—Responsible
25 agencies may permit vehicles, in addition to

1 those vehicles described in paragraphs (A), (B),
2 and (E) that do not satisfy the established oc-
3 cupancy requirements, to use an HOV facility
4 only if they charge such vehicles a toll. The au-
5 thority of an agency to impose a toll shall be
6 subject to section 129 of this title. Any agency
7 electing to toll such vehicles shall also—

8 “(i) establish a program that address-
9 es how motorists can enroll and partici-
10 pate;

11 “(ii) develop, manage, and maintain a
12 system that will automatically collect the
13 tolls that vehicles must pay;

14 “(iii) continuously monitor, evaluate,
15 and report on performance;

16 “(iv) establish the policies and proce-
17 dures for varying the toll that is charged
18 to manage the demand to use the subject
19 facilities and enforcing violations; and

20 “(v) establish procedures that will
21 limit or restrict the use of such vehicles as
22 necessary, to ensure that the performance
23 of individual facilities or the entire system
24 does not become seriously degraded.

1 “(E) DESIGNATED PUBLIC TRANSPOR-
2 TATION VEHICLES.—

3 “(i) In this subparagraph, the term
4 “designated public transportation vehicles”
5 means vehicles that provide designated
6 public transportation, as defined under
7 section 12141 of title 42, and that are
8 owned or operated by a public entity or
9 that are operating under contract to a pub-
10 lic entity.

11 “(ii) Responsible agencies may permit
12 designated public transportation vehicles to
13 use HOV facilities if they do not satisfy
14 the established occupancy requirements.

15 “(iii) Any agency that permits des-
16 ignated public transportation vehicles to
17 use HOV facilities if they do not satisfy
18 the established occupancy requirements
19 shall—

20 “(I) establish requirements for
21 clearly and identifiably labeling vehi-
22 cles operating under contract to the
23 public entity with the name of the
24 public entity on all sides of the vehi-
25 cle;

1 ~~“(II) establish the policies and~~
2 ~~procedures to ensure that vehicles op-~~
3 ~~erating under contract to the public~~
4 ~~entity are in compliance with the la-~~
5 ~~beling requirement under subclause~~
6 ~~(I) of this clause;~~

7 ~~“(III) continuously monitor,~~
8 ~~evaluate, and report on performance;~~
9 ~~and~~

10 ~~“(IV) establish the policies and~~
11 ~~procedures that will limit or restrict~~
12 ~~the use of such vehicles as necessary,~~
13 ~~to ensure that the performance of in-~~
14 ~~dividual facilities or the entire system~~
15 ~~does not become seriously degraded.~~

16 ~~“(3) HOV FACILITY MANAGEMENT, OPERATION,~~
17 ~~AND MONITORING.—Agencies that permit any of the~~
18 ~~exceptions specified in paragraph (a)(2) shall be re-~~
19 ~~sponsible for the following:~~

20 ~~“(A) PERFORMANCE MONITORING, EVAL-~~
21 ~~UATION, AND REPORTING.—Responsible agen-~~
22 ~~cies shall be required to establish, manage, and~~
23 ~~support a performance monitoring, evaluation,~~
24 ~~and reporting program if they permit any of the~~
25 ~~exceptions specified in paragraph (a)(2). This~~

1 program shall continuously monitor, assess, and
2 report on the impacts that any of these specific
3 types of allowed vehicles may have on the oper-
4 ation of individual HOV facilities and the entire
5 HOV system.

6 “(B) OPERATION OF HOV FACILITY OR
7 SYSTEM.—Responsible agencies shall limit or
8 discontinue permitting any of the exceptions
9 specified in paragraph (a)(2), if the presence of
10 any of these specific types of allowed vehicles
11 seriously degrades the operation of individual
12 HOV facilities or the entire HOV system. For
13 purposes of this section, “seriously degraded”
14 means that an HOV facility located on a free-
15 way, or similar type of roadway, fails to main-
16 tain a minimum average operating speed of at
17 least 45 miles per hour 90 percent of the time
18 over a consecutive six-month period during
19 weekday peak travel periods. For HOV facilities
20 on other types of roadways, the minimum aver-
21 age operating speed, performance threshold,
22 and associated time period shall be established
23 based on the conditions unique to each roadway
24 and agreed to by the responsible agencies.”.

1 **SEC. 1611. BICYCLE TRANSPORTATION AND PEDESTRIAN**
2 **WALKWAYS.**

3 (a) **IN GENERAL.**—Section 217 of title 23, United
4 States Code, is amended—

5 (1) in subsection (a), by inserting “pedestrian
6 and” after “safe”;

7 (2) in subsection (c), by striking “bicycles”
8 each time it appears and inserting “pedestrians or
9 bicyclists” in each instance;

10 (3) by striking subsection (f) and inserting the
11 following:

12 “(f) **FEDERAL SHARE.**—The Federal share of the
13 construction of bicycle transportation facilities and pedes-
14 trian walkways and for carrying out nonconstruction
15 projects related to safe pedestrian and bicycle use shall
16 be determined in accordance with section 120(b).”;

17 (4) in subsection (j), by inserting after para-
18 graph (4) the following:

19 “(5) **SHARED USE PATH.**—The term “shared
20 use path” means a multi-use trail or other path,
21 physically separated from motorized vehicular traffic
22 by an open space or barrier, either within a highway
23 right-of-way or within an independent right-of-way,
24 and usable for transportation purposes. Shared use
25 paths may be used by pedestrians, bicyclists, skat-

1 ers, equestrians, and other nonmotorized users.”;
2 and

3 (5) by adding after subsection (j) the following:

4 “(k) USER FEES.—At the option of each State, a
5 shared use path funded under this section is not subject
6 to the provisions of 23 U.S.C. 301, provided that the
7 shared use path is not within a highway right-of-way, and
8 the income received from user fees is used for ongoing
9 maintenance and operation of shared use paths within the
10 State.

11 “(l) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

12 “(1) IN GENERAL.—The Secretary shall make
13 grants to a national, not-for-profit organization en-
14 gaged in promoting bicycle and pedestrian safety
15 to—

16 “(A) operate a national bicycle and pedes-
17 trian clearinghouse;

18 “(B) develop information and educational
19 programs; and

20 “(C) disseminate techniques and strategies
21 for improving bicycle and pedestrian safety.

22 “(2) FUNDING.—Funds provided under section
23 104(p) of this title shall be available to carry out the
24 provisions of this section.

1 “(3) APPLICABILITY OF TITLE 23.—Funds au-
2 thorized by this subsection shall be available for obli-
3 gation in the same manner as if such funds were ap-
4 portioned under chapter 1 of title 23, United States
5 Code, except that the funds shall remain available
6 until expended.”.

7 (b) SET-ASIDE.—Section 104 of title 23, United
8 States Code, is amended by adding, after subsection (o),
9 as added by this Act, the following:

10 “(p) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—
11 On October 1 of each fiscal year for fiscal years 2004
12 through 2009, the Secretary, after making the deductions
13 authorized by subsections (a) and (f), shall set-aside
14 \$500,000 of the remaining funds authorized to be appor-
15 tioned under subsection (b)(3) for carrying out the Bicycle
16 and Pedestrian Safety Grants under section 217 of this
17 title.”.

18 **SEC. 1612. TRANSPORTATION, ENERGY, AND ENVIRON-**
19 **MENT.**

20 (a) IN GENERAL.—As part of the National Climate
21 Change Technology Initiative and the Climate Change Re-
22 search Initiative, the Secretary shall establish and carry
23 out a multimodal energy and climate change program to
24 study the relationship of transportation, energy, and eli-
25 mate change.

1 (b) CONTENTS.—The program to be carried out
2 under this section shall include, but not be limited to, re-
3 search designed to—

4 (1) identify, develop and evaluate strategies to
5 improve energy efficiency and reduce greenhouse gas
6 emissions from transportation sources; and

7 (2) identify and evaluate the potential effects of
8 climate changes on the nation's transportation sys-
9 tems; and strategies to address these effects;

10 (c) PROJECT SELECTION.—Activities to be under-
11 taken in this program will be determined by an internal
12 steering committee established by the Secretary of Trans-
13 portation. This intermodal committee shall include rep-
14 resentatives from the Office of the Secretary and oper-
15 ating administrations within the Department of Transpor-
16 tation as designated by the Secretary.

17 (d) GRANTS, COOPERATIVE AGREEMENTS AND CON-
18 TRACTS.—The Secretary may carry out this program inde-
19 pendently or by making grants to, or entering into con-
20 tracts, cooperative agreements, and other transactions,
21 with a Federal agency, State agency, local agency, author-
22 ity, association, nonprofit or for-profit corporation, or in-
23 stitution of higher education.

24 (e) FUNDING.—

25 (1) HIGHWAY ACCOUNT.—

1 (A) FUNDING.—There is authorized to be
2 appropriated from the Highway Trust Fund
3 (other than the Mass Transit Account) to carry
4 out this section \$3,600,000 for fiscal year
5 2004, \$2,200,000 for fiscal year 2005,
6 \$2,200,000 for fiscal year 2006, \$2,200,000 for
7 fiscal year 2007, \$2,700,000 for fiscal year
8 2008, and \$2,700,000 for fiscal year 2009.

9 (B) CONTRACT AUTHORITY.—Funds au-
10 thorized from the Highway Trust Fund (other
11 than the Mass Transit Account) to carry out
12 this Section shall be available for obligation in
13 the same manner as if the funds were appor-
14 tioned under Chapter 1 of Title 23, United
15 States Code, except that the Federal share of
16 the cost of a project or activity carried out
17 using such funds shall not exceed 100 percent
18 and such funds shall remain available until ex-
19 pended.

20 (2) MASS TRANSIT ACCOUNT.—

21 (A) FUNDING.—There is authorized to be
22 appropriated from the Mass Transit Account of
23 the Highway Trust Fund to carry out this sec-
24 tion \$400,000 for fiscal year 2004, \$300,000
25 for fiscal year 2005, \$300,000 for fiscal year

1 2006, \$300,000 for fiscal year 2007, \$300,000
2 for fiscal year 2008, and \$300,000 for fiscal
3 year 2009.

4 (B) CONTRACT AUTHORITY.—A grant or
5 contract that is financed with amounts paid
6 under this subparagraph from the Mass Transit
7 Account is a contractual obligation of the
8 United States Government to pay the Govern-
9 ment's share of the cost of the project.

10 (3) AIRPORT AND AIRWAY TRUST FUND.—
11 There is authorized to be appropriated from the
12 Airport and Airway Trust Fund to carry out
13 this section \$500,000 for fiscal year 2005,
14 \$500,000 for fiscal year 2006, and \$500,000
15 for fiscal year 2007.

16 **SEC. 1613. IDLING REDUCTION FACILITIES IN INTERSTATE**
17 **RIGHTS-OF-WAY.**

18 Section 111 of Title 23 of the United States Code
19 is hereby amended by adding at the end the following:

20 “(d) IDLING REDUCTION FACILITIES IN INTERSTATE
21 RIGHTS-OF-WAY.—Notwithstanding the prohibition on
22 commercial establishments set forth in subsection (a), any
23 State may permit electrification or other idling reduction
24 facilities and equipment, for use by motor vehicles used
25 for commercial purposes, to be placed in rest and recre-

1 ation areas, and in safety rest areas, constructed or lo-
 2 cated on rights-of-way of the Interstate System in such
 3 State, and may charge, or permit charges for the use of
 4 such facilities. The exclusive purpose of such facilities or
 5 technologies shall be to enable operators of such vehicles
 6 to turn off their engines while parked and still have heat-
 7 ing, air conditioning, electricity, and communication serv-
 8 ices in the vehicle.”.

9 **SEC. 1614. APPROPRIATION FOR TRANSPORTATION PUR-**
 10 **POSES OF LANDS OR INTEREST IN LANDS**
 11 **OWNED BY THE UNITED STATES.**

12 (a) IN GENERAL.—Section 317 of title 23, United
 13 States Code, is amended to read as follows:

14 **“§ 317. Appropriation for transportation purposes of**
 15 **lands or interest in lands owned by the**
 16 **United States**

17 “(a) IN GENERAL.—If the Secretary determines that
 18 any part of the lands or interests in land owned by the
 19 United States are reasonably necessary for any project ad-
 20 ministered under this title or as a source for materials
 21 for such a project, the Secretary is authorized to file with
 22 the Secretary of the Department supervising the adminis-
 23 tration of such lands or interests in lands a description
 24 and a map showing the portion of such lands or interests
 25 in lands which it is necessary to appropriate. The Sec-

1 retary of such Department shall have a period of up to
2 four months to review the proposed appropriation and to
3 designate reasonable mitigation measures necessary to
4 protect the adjacent federal lands from adverse environ-
5 mental impacts, or to certify that the proposed appropria-
6 tion is contrary to the purposes for which such lands or
7 materials have been reserved. If no such certification is
8 received, the Secretary may appropriate and transfer such
9 lands or interests in lands to the State transportation de-
10 partment, or its nominee, subject to such reasonable miti-
11 gation measures designated above. If at any time the need
12 for such lands or materials for transportation purposes
13 shall no longer exist, notice of the fact shall be given by
14 the State transportation department to the Secretary and
15 the Secretary of the Department from which they had
16 been appropriated. Such lands or materials may, at the
17 discretion of the Secretary of the Department from which
18 they had been appropriated or its designee, revert to the
19 United States, under the control of such Secretary, or its
20 designee. Unless otherwise instructed by the Secretary,
21 prior to any such reversion the State transportation de-
22 partment shall restore the land to its former condition.

23 “(b) PRIOR RESTRICTIONS OR ENCUMBRANCES.—
24 Notwithstanding any other provision of law, the acquisi-
25 tion and use of land under this section may proceed irre-

1 spective of any prior deed restrictions or other encum-
 2 brances that were imposed as a condition on the receipt
 3 of Federal funds.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
 5 chapter 3 of such title is revised by amending the item
 6 relating to section 317 to read as follows:

“317. Appropriation for transportation purposes of lands or interest in lands
 owned by the United States.”.

7 **SEC. 1615. TOLL PROGRAMS.**

8 (a) INTERSTATE SYSTEM RECONSTRUCTION AND RE-
 9 HABILITATION PILOT PROGRAM.—Sec. 1216(b) of the
 10 Transportation Equity Act for the 21st Century is amend-
 11 ed—

12 (1) in paragraph (1), by striking “that could
 13 not otherwise be adequately maintained or function-
 14 ally improved without the collection of tolls”;

15 (2) in paragraph (3), by striking subparagraph
 16 (C) and inserting the following:

17 “(C) An analysis demonstrating that fi-
 18 nancing the reconstruction or rehabilitation of
 19 the facility with the collection of tolls under this
 20 pilot program is the most efficient, economical,
 21 or expeditious way to advance the project.”; and
 22 (3) in paragraph (4),

23 (A) by striking subparagraph (A) and in-
 24 serting the following:

1 “(A) the State’s analysis showing that fi-
2 nancing the reconstruction or rehabilitation of
3 this facility with the collection of tolls under
4 this program is the most efficient, economical,
5 or expeditious way to advance the project is
6 reasonable;”;

7 (B) by striking subparagraph (B) and in-
8 serting the following:

9 “(B) the facility needs reconstruction or
10 rehabilitation;”;

11 (C) by striking subparagraph (C); and

12 (D) by redesignating subparagraphs (D)
13 and (E) as subparagraphs (C) and (D), respec-
14 tively.

15 (b) VARIABLE TOLL PRICING PROGRAM.—

16 (1) ESTABLISHMENT.—The Secretary, notwith-
17 standing sections 129 and 301 of title 23, United
18 States Code, may permit a State or public authority
19 to toll any highway, bridge, or tunnel, including fa-
20 cilities on the Interstate System, to manage existing
21 high levels of congestion or reduce emissions in a
22 nonattainment area or maintenance area.

23 (2) BASIC PROGRAM.—The following conditions
24 apply to any variable toll pricing program estab-
25 lished under this section:

1 (A) LIMITATION ON USE OF REVENUES.—

2 All toll revenues received from the operation of
3 the toll facility shall be used first for debt serv-
4 ice, reasonable return on investment of any pri-
5 vate financing, and the costs necessary for
6 proper operation and maintenance of the toll fa-
7 cility (including reconstruction, resurfacing, res-
8 toration, and rehabilitation). If the State or
9 public authority certifies annually that the
10 tolled facility is being adequately maintained,
11 then the State or public authority may use any
12 excess toll revenues for projects eligible for Fed-
13 eral assistance under title 23, United States
14 Code.

15 (B) AGREEMENT.—Before the Secretary

16 may permit tolling under this subsection, and
17 for each facility that may be tolled, the Sec-
18 retary and the State or public authority must
19 enter into an agreement providing for the con-
20 ditions in subparagraphs (A) and (C) of this
21 paragraph. The agreement shall terminate upon
22 the decision of the State or public authority to
23 discontinue its variable tolling program for that
24 facility. If there is any debt outstanding on the
25 facility at the time the decision is made to dis-

1 continue the program; the facility may continue
2 to be tolled in accordance with the terms of the
3 agreement until the debt is retired.

4 (C) REQUIREMENTS.—

5 (i) VARIABLE PRICE REQUIREMENT.—

6 The Secretary shall require, for each facil-
7 ity that may be tolled under this sub-
8 section, that the tolls vary in price accord-
9 ing to time of day, as appropriate, to man-
10 age congestion or to improve air quality.

11 (ii) HOV PASSENGER REQUIRE-

12 MENTS.—In addition to the exceptions to
13 the high occupancy vehicle passenger re-
14 quirements established under section
15 102(a)(2) of title 23, United States Code,
16 a State may permit vehicles with fewer
17 than 2 occupants to operate in high occu-
18 paney vehicle lanes as part of a variable
19 toll pricing program established under this
20 subsection.

21 (D) LIMITATION ON FEDERAL SHARE.—

22 The Federal share payable for projects on the
23 tolled facility, including projects to install toll
24 collection facilities, shall be a percentage deter-

1 mined by the State but shall not exceed 80 per-
2 cent.

3 ~~(3) ELIGIBILITY.—~~To be eligible to participate
4 in the program, a State or public authority shall
5 provide to the Secretary—

6 ~~(A)~~ a description of the congestion or air
7 quality problems sought to be addressed under
8 this program;

9 ~~(B)~~ an identification of the goals sought to
10 be achieved and the performance measures that
11 would be used to gauge the success made to-
12 ward reaching those goals; and

13 ~~(C)~~ such other information as the Sec-
14 retary may require.

15 ~~(4) DEFINITIONS.—~~

16 ~~(A) MAINTENANCE AREA.—~~The term
17 “maintenance area” has the same meaning
18 given the term under section 101 of title 23,
19 United States Code.

20 ~~(B) NONATTAINMENT AREA.—~~The term
21 “nonattainment area” has the same meaning
22 given the term under section 7501 of title 42,
23 United States Code.

24 ~~(c) REPEAL.—~~Section 1012(b) of the Intermodal
25 Surface Transportation Efficiency Act, as amended by

1 section 1216(a) of the Transportation Equity Act for the
 2 21st Century, is repealed. Notwithstanding the repeal of
 3 section 1012(b), the Secretary shall monitor and allow any
 4 value pricing program established under a cooperative
 5 agreement in effect on the date of enactment of this Act
 6 to continue.

7 **SEC. 1616. OZONE STANDARDS, PARTICULATE MATTER**
 8 **STANDARDS, AND REGIONAL HAZE PRO-**
 9 **GRAM.**

10 (a) **TITLE.**—The heading of title VI of the Transpor-
 11 tation Equity Act for the 21st Century (Public Law 105–
 12 178; 112 Stat. 463; June 9, 1998) is amended to read
 13 as follows:

14 **“TITLE VI—OZONE STANDARDS,**
 15 **PARTICULATE MATTER**
 16 **STANDARDS, AND REGIONAL**
 17 **HAZE PROGRAM”**

18 (b) **FINDINGS AND PURPOSE.**—Section 6101 of such
 19 Act is amended to read as follows:

20 **“§ 6101. Findings and Purpose**

21 “(a) The Congress finds that—

22 “(1) the fine particle (PM-2.5) standards pro-
 23 mulgated by the Administrator of the Environmental
 24 Protection Agency (referred to in this title as “Ad-

1 administrator”) in July 1997 were established to pro-
2 tect the public health and welfare;

3 “(2) there is a continuing need for PM-2.5 air
4 quality monitoring data;

5 “(3) with three years of PM-2.5 air quality
6 monitoring data for all areas expected to be available
7 by 2003 it is important to move forward to des-
8 ignate areas as attainment or nonattainment and
9 proceed with implementation of these standards;

10 “(4) it will be beneficial to States to develop
11 and submit implementation plans for the PM-2.5
12 standards and the regional haze program at the
13 same time; and

14 “(5) Western States that participated in the
15 Grand Canyon Visibility Transport Commission
16 should be permitted to submit plans in 2003 to im-
17 plement recommendations set forth in the Commis-
18 sion’s report.

19 “(b) The purposes of this title are—

20 “(1) to ensure the availability of PM-2.5 air
21 quality monitoring data;

22 “(2) to establish a deadline for the designation
23 of areas for the PM-2.5 standards; and

24 “(3) to ensure that States are able to develop
25 PM-2.5 and regional haze implementation plans at

1 the same time for all areas within a State, while
 2 continuing to allow nine Western States the option
 3 of submitting regional haze plans in 2003 to imple-
 4 ment regional haze requirements based on the 1996
 5 recommendations of the Grand Canyon Visibility
 6 Transport Commission.”.

7 (c) PARTICULATE MATTER AND REGIONAL HAZE.—

8 (1) The heading of section 6102 of the Trans-
 9 portation Equity Act for the 21st Century is amend-
 10 ed to read as follows:

11 “§ 6102. Particulate matter and regional haze pro-
 12 grams”

13 (2) Section 6102(c) of such Act is amended to
 14 read as follows:

15 “(c)(1) The Governors shall be required to submit
 16 designations referred to in section 107(d)(1) of the Clean
 17 Air Act (42 U.S.C. 7407(d)(1)) for each area following
 18 promulgation of the July 1997 PM-2.5 national ambient
 19 air quality standard by September 30, 2003, based on air
 20 quality monitoring data collected in accordance with any
 21 applicable Federal reference methods for the relevant
 22 areas. Only data from the monitoring network designated
 23 in subsection (a) and other Federal reference method PM-
 24 2.5 monitors shall be considered for such designations.
 25 Nothing in the previous sentence shall be construed as af-

1 feeting the Governor's authority to designate an area ini-
2 tially as nonattainment, and the Administrator's authority
3 to promulgate the designation of an area as nonattain-
4 ment, under section 107(d)(1) of the Clean Air Act, based
5 on its contribution to ambient air quality in a nearby non-
6 attainment area.

7 “(2)(A) Each State shall submit, for the entire State,
8 the State implementation plan revisions to meet the re-
9 quirements promulgated by the Administrator under sec-
10 tion 169B(e)(1) of the Clean Air Act (42 U.S.C.
11 7492(e)(1)) (hereinafter in this paragraph referred to as
12 ‘the regional haze requirements’) by 3 years after the date
13 the Administrator promulgates the designations referred
14 to in subsection (d) for such State.

15 “(B) The provisions of subparagraph (A) of this
16 paragraph shall not preclude the implementation of the
17 agreements and recommendations set forth in the Grand
18 Canyon Visibility Transport Commission Report dated
19 June 1996. These provisions shall not preclude the sub-
20 mission of State implementation plan revisions by the
21 States of Arizona, California, Colorado, Idaho, Nevada,
22 New Mexico, Oregon, Utah, or Wyoming by December 31,
23 2003, for implementation of the regional haze require-
24 ments as they apply to such States. Each of the aforemen-
25 tioned States submitting such plan revisions shall also

1 submit statewide implementation plan revisions, as re-
 2 quired under subparagraph (A), to address, as necessary,
 3 any additional mandatory Class I Federal areas not ad-
 4 dressed by the revisions submitted pursuant to the pre-
 5 eeding sentence.”.

6 (3) Section 169B(e)(2) of the Clean Air Act
 7 (42 U.S.C. 7492(e)(2)) is repealed.

8 (4) Section 6102(d) of the Transportation Eq-
 9 uity Act for the 21st Century is amended to read as
 10 follows:

11 “(d) Notwithstanding any other provision of law, the
 12 Administrator shall promulgate the designations referred
 13 to in subsection (d) of section 107 of the Clean Air Act
 14 for each area of each State for the July 1997 PM-2.5
 15 national ambient air quality standards by December 31,
 16 2004.”.

17 (d) CONFORMING AMENDMENT.—Section 1(b) of the
 18 Transportation Equity Act for the 21st Century is amend-
 19 ed in the Table of Contents—

20 (1) in the heading for title VI, by striking
 21 “OZONE AND PARTICULATE MATTER
 22 STANDARDS” and inserting “OZONE STAND-
 23 ARDS, PARTICULATE MATTER STANDARDS,
 24 AND REGIONAL HAZE PROGRAM”; and

1 (2) in the item relating to section 6102, by
2 striking “monitoring program” and inserting “and
3 regional haze programs”.

4 **SEC. 1617. INDEMNIFICATION ON CERTAIN RAILBANKED**
5 **PROJECTS.**

6 Where, pursuant to a final judgment, a Federal court
7 finds the United States liable by operation of section 8(d)
8 the National Trails System Act (enacted by section 208
9 of Pub. L. 98-11, 97 Stat. 48) (16 U.S.C. 1247(d)), for
10 a taking of property under the Fifth Amendment to the
11 United States Constitution, a State that has received
12 funds, after the date of enactment of this Act, under a
13 Federal-aid highway program established under title 23,
14 United States Code, and that has used a portion of those
15 funds to acquire, develop, maintain or improve a railroad
16 right-of-way that is the subject of the judgment, shall in-
17 demnify the United States up to the lesser amount of the
18 judgment awarded (including attorney fees) or the Fed-
19 eral-aid highway program funds received in connection
20 with that railroad right-of-way.

1 **Subtitle G—Program Efficiencies**
 2 **and Improvements—Operations**

3 **SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND**
 4 **OPERATIONS.**

5 (a) DEFINITIONS.—Section 101(a) of title 23, United
 6 States Code, is amended—

7 (1) in paragraph (3)—

8 (A) by inserting “and intermodal oper-
 9 ations to enhance security” after “program” in
 10 the first sentence; and

11 (B) in subparagraph (G), by striking “traf-
 12 fic control systems,”;

13 (2) in paragraph (18), as redesignated by this
 14 Act, by inserting “costs incurred by transportation
 15 agencies attributed to operation of technology used
 16 to monitor critical transportation infrastructure for
 17 security purposes,” after “rent,” and by inserting
 18 “transportation systems management and operations
 19 and” after “with”;

20 (3) in paragraph (19)(A)(i), as redesignated by
 21 this Act, by inserting—

22 (A) “transportation system management
 23 and operations, including,” after “for”;

24 (B) “and transportation security” after
 25 “installation of traffic”; and

1 (C) “equipment and programs for trans-
2 portation response to manmade and natural dis-
3 asters,” after “incident management pro-
4 grams,”;

5 (4) by redesignating paragraphs (39) and (40),
6 as redesignated by this Act, as paragraphs (40) and
7 (41), respectively; and

8 (5) by inserting new paragraph (39) after para-
9 graph (38), as follows:

10 “(39) TRANSPORTATION SYSTEMS MANAGE-
11 MENT AND OPERATIONS.—The term ‘transportation
12 systems management and operations’ means an inte-
13 grated program to optimize the performance of ex-
14 isting infrastructure through the implementation of
15 multi- and intermodal, cross-jurisdictional systems,
16 services, and projects designed to preserve capacity
17 and improve security, safety, and reliability of Fed-
18 eral-aid highways. Transportation systems manage-
19 ment and operations includes regional operations
20 collaboration and coordination activities between
21 transportation and public safety agencies; and im-
22 provements such as traffic detection and surveil-
23 lance, arterial management, freeway management,
24 demand management, work zone management, emer-
25 gency management, electronic toll collection, auto-

1 mated enforcement, traffic incident management,
2 roadway weather management, traveler information
3 services, commercial vehicle operations, traffic con-
4 trol, freight management, and coordination of high-
5 way, rail, transit, bicycle, and pedestrian oper-
6 ations.”.

7 (b) CONGESTION MITIGATION AND AIR QUALITY IM-
8 PROVEDMENT PROGRAM ELIGIBILITY.—Section 149(b)(5)
9 of such title is amended by inserting “improve transpor-
10 tation systems management and operations,” after “inter-
11 sections,”.

12 (c) SURFACE TRANSPORTATION PROGRAM ELIGI-
13 BILITY.—Section 133(b) of such title, as amended by sec-
14 tion 1608 of this Act, is further amended by adding at
15 the end the following:

16 “(17) Regional transportation operations col-
17 laboration and coordination activities that are asso-
18 ciated with regional improvements, such as traffic
19 incident management, technology deployment, emer-
20 gency management and response, traveler informa-
21 tion, and regional congestion relief.”.

22 (d) TRANSPORTATION SYSTEMS MANAGEMENT AND
23 OPERATIONS.—Chapter 1 of such title, as amended by
24 this Act, is further amended by inserting the following new
25 section after section 164:

1 **“§ 165. Transportation systems management and op-**
2 **erations**

3 “(a) AUTHORITY.—To ensure efficient and effective
4 transportation systems management and operations on
5 Federal-aid highways, through collaboration, coordination,
6 and real-time information sharing, at a regional level, be-
7 tween transportation system managers and operators,
8 public safety officials, and the general public, and to man-
9 age and operate Federal-aid highways in a coordinated
10 manner to preserve the capacity and maximize the per-
11 formance of existing highway and transit facilities for
12 travelers and carriers, the Secretary of Transportation
13 may—

14 “(1) encourage transportation system man-
15 agers, operators, public safety officials, and trans-
16 portation planners within an urbanized area, who
17 are actively engaged in and responsible for con-
18 ducting the day-to-day management, operations,
19 public safety, and planning of transportation facili-
20 ties and services, to collaborate and coordinate on a
21 regional level in a continuous and sustained manner,
22 for improved transportation systems management
23 and operations, including, at a minimum—

24 “(A) developing a regional concept of oper-
25 ations that defines a regional strategy shared
26 by all transportation and public safety partici-

1 pants for how the regions' systems should be
2 managed, operated, and measured;

3 “(B) sharing of information among opera-
4 tors, service providers, public safety officials,
5 and the general public; and

6 “(C) guiding in a regionally-coordinated
7 manner, the implementation of regional trans-
8 portation system management and operations
9 initiatives including emergency evacuation and
10 response, traffic incident management, tech-
11 nology deployment, and traveler information
12 systems delivery, in a manner consistent with
13 and integrated into the ongoing Metropolitan
14 and Statewide transportation planning proc-
15 esses and regional intelligent transportation
16 system architecture, if required; and

17 “(2) encourage States to establish a system of
18 basic real-time monitoring capability for the surface
19 transportation system and provide the capability and
20 means to share that data among agencies (highways,
21 transit, public safety), jurisdictions (including states,
22 cities, counties, metropolitan planning organiza-
23 tions), private-sector entities; and the traveling pub-
24 lic.

1 “(b) EXECUTION.—To support the successful execu-
2 tion of transportation systems management and oper-
3 ations activities, the Secretary may undertake the fol-
4 lowing:

5 “(1) Assist and cooperate with other Federal
6 departments and agencies, State and local govern-
7 ments, metropolitan planning organizations, private
8 industry, and other interested parties to improve re-
9 gional collaboration and real-time information shar-
10 ing between transportation system managers and op-
11 erators, public safety officials, emergency managers,
12 and general public to increase security, safety, and
13 reliability of our Federal-aid highways.

14 “(2) Issue, if necessary, new guidance or regu-
15 lations for the procurement of transportation system
16 management and operations facilities, equipment,
17 and services, including but not limited to equipment
18 procured in preparation for manmade or natural dis-
19 asters and emergencies, system hardware, software,
20 and software integration services. In developing such
21 guidelines, the Secretary may consider innovative
22 procurement methods that support the timely and
23 streamlined execution of transportation system man-
24 agement and operations programs and projects.

1 “(3) Approve for Federal financial assistance
2 from funds apportioned under section 104(b)(3) of
3 this title support for regional operations collabora-
4 tion and coordination activities that are associated
5 with regional improvements, such as traffic incident
6 management, technology deployment, emergency
7 management and response, traveler information, and
8 congestion relief.”.

9 (c) CONFORMING AMENDMENT.—The analysis for
10 chapter 1 of such title is amended by inserting after the
11 item relating to section 164 the following:

“165. Transportation systems management and operations.”.

12 **SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMA-**
13 **TION PROGRAM.**

14 (a) GOALS AND PURPOSES.—

15 (1) GOALS.—The goals of the real-time system
16 management information program are to provide the
17 nationwide capability to monitor, in real-time, the
18 traffic and travel conditions of our nation’s major
19 highways and to widely share that information to
20 improve the security of the surface transportation
21 system, address congestion problems, support im-
22 proved response to weather events, and facilitate na-
23 tional and regional traveler information.

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

1 (A) establish a nationwide system of basic
2 real-time information for managing and oper-
3 ating our surface transportation system;

4 (B) identify longer range real-time high-
5 way and transit monitoring needs and develop
6 plans and strategies for meeting those needs;
7 and

8 (C) provide the capability and means to
9 share that data with state and local govern-
10 ments, and the traveling public.

11 (b) DATA EXCHANGE FORMATS.—Within one year of
12 enactment of this Act, the Secretary shall establish data
13 exchange formats to ensure that the data provided by
14 highway and transit monitoring systems, including state-
15 wide incident reporting systems can readily be exchanged
16 across jurisdictional boundaries, facilitating nationwide
17 availability of information.

18 (c) STATEWIDE INCIDENT REPORTING SYSTEM.—
19 Within 2 years of enactment of this legislation, each State
20 shall establish a statewide incident reporting system.

21 (d) REGIONAL INTELLIGENT TRANSPORTATION SYS-
22 TEM ARCHITECTURE.—

23 (1) As State and local governments develop or
24 update their regional ITS architectures, as specified
25 in section 940.9 of title 23, Code of Federal Regula-

1 tions (Regional ITS Architecture), they shall explic-
2 itly address their real-time highway and transit in-
3 formation needs and the systems needed to meet
4 those needs. This specific incorporation of informa-
5 tion needs should address coverage, monitoring sys-
6 tems, data fusion and archiving, and methods of ex-
7 changing or sharing this information.

8 (2) States are encouraged to incorporate the
9 data exchange formats developed by the Secretary to
10 ensure that the data provided by highway and tran-
11 sit monitoring systems can readily be exchanged
12 across state and local governments, and with the
13 traveling public.

14 (e) ELIGIBILITY.—

15 (1) USE OF SURFACE TRANSPORTATION PRO-
16 GRAM FUNDS.—Subject to project approval by the
17 Secretary, a State may obligate funds apportioned to
18 it under section 104(b)(3) of title 23, United States
19 Code, for activities related to the planning and de-
20 ployment of real-time monitoring elements.

21 (2) USE OF NATIONAL HIGHWAY SYSTEM
22 FUNDS.—Subject to project approval by the Sec-
23 retary, a State may obligate funds apportioned to it
24 under section 104(b)(1) of title 23, United States

1 Code, for activities related to the planning and de-
 2 ployment of real-time monitoring elements.

3 (3) USE OF STATE PLANNING AND RESEARCH
 4 FUNDS.—Subject to project approval by the Sec-
 5 retary, a State may obligate funds available under
 6 section 104(i) of title 23, United States Code, as
 7 amended by section 1503 of this Act, for activities
 8 related to the planning of real-time monitoring ele-
 9 ments.

10 (f) DEFINITION.—In this section, the term “state-
 11 wide incident reporting system” means a statewide system
 12 for facilitating the real-time electronic reporting of inci-
 13 dents to a central location for use in monitoring the event,
 14 providing accurate traveler information, and responding to
 15 the incident as appropriate.

16 **SEC. 1703. INTELLIGENT TRANSPORTATION SYSTEMS PER-**
 17 **FORMANCE INCENTIVE PROGRAM.**

18 (a) IN GENERAL.—The Secretary shall establish a
 19 comprehensive incentive program to accelerate the integra-
 20 tion and interoperability of intelligent transportation sys-
 21 tems in order to improve the performance of the surface
 22 transportation system in metropolitan and rural areas.

23 (b) DEFINITIONS.—

24 (1) INTELLIGENT TRANSPORTATION SYS-
 25 TEMS.—The term “intelligent transportation sys-

1 tems” has the meaning given the term under section
2 5507 of this Act.

3 (2) NATIONAL HIGHWAY SYSTEM.—The term
4 “National Highway System” means the Federal-aid
5 highway system described in section 103(b) of title
6 23, United States Code.

7 (3) REGION.—The term “region” means any
8 geographic area that identifies the boundaries of the
9 regional Intelligent Transportation Systems architec-
10 ture and is defined by the needs of the participating
11 agencies and their stakeholders for the purposes of
12 improving surface transportation operations. A re-
13 gion may include a metropolitan planning area, a
14 corridor, a State, or multiple states.

15 (c) GOAL.—The goal of the intelligent transportation
16 systems performance incentive program is to reduce traffic
17 congestion, improve transportation system reliability, pro-
18 vide better customer service to users of the highway sys-
19 tem, and improve safety and security by providing finan-
20 cial incentives to transportation agencies to invest in
21 proactively monitoring and managing the performance of
22 the transportation system.

23 (d) PURPOSE.—The purpose of the intelligent trans-
24 portation systems performance incentive program is to
25 support the deployment and integration of intelligent

1 transportation systems based on the performance of these
2 systems in improving the management and operation of
3 their surface transportation systems.

4 (e) REGULATIONS.—

5 (1) ISSUANCE.—The Secretary of Transpor-
6 tation shall issue regulations establishing a funding
7 formula for the distribution of funds under this sec-
8 tion.

9 (2) BASIS FOR FUNDING FORMULA.—The fund-
10 ing formula shall be based on criteria that reflect
11 each State's—

12 (A) reductions in delay due to incidents;

13 (B) improvements in the operation and
14 safety of signalized intersections;

15 (C) reductions in delay and improvements
16 in safety of work zones on the National High-
17 way System;

18 (D) improvements in the efficiency and re-
19 liability of transit services;

20 (E) overall improvement in integrated re-
21 gional transportation operations;

22 (F) improvements in the quality and avail-
23 ability of traveler information;

24 (G) improved crash notification; and

1 (H) improvements in the safety and pro-
2 ductivity of commercial vehicle operations on
3 the National Highway System.

4 (3) EFFECTIVE DATE.—The funding formula
5 shall take effect in the fiscal year established by the
6 Secretary in the regulations.

7 (4) APPORTIONMENT PHASE-IN.—The funding
8 formula shall provide for the apportionment of funds
9 in the following manner:

10 (A) FIRST FISCAL YEAR.—In the first fis-
11 cal year that the funding formula is in effect,
12 50 percent of the sums authorized to be appro-
13 priated for expenditure on the intelligent trans-
14 portation systems performance incentive pro-
15 gram for that fiscal year shall be apportioned
16 according to the funding formula developed
17 under this subsection and 50 percent of the
18 amount shall be apportioned in accordance with
19 the formula set forth in section 104(b)(1)(A)(i)
20 through (iv) of title 23, United States Code.

21 (B) SECOND FISCAL YEAR.—In the second
22 fiscal year the funding formula is in effect, 75
23 percent of the sums authorized to be appro-
24 priated for expenditure on the intelligent trans-
25 portation systems performance incentive pro-

1 gram for that fiscal year shall be apportioned
2 according to the funding formula developed
3 under this subsection and 25 percent of the
4 amount shall be apportioned in accordance with
5 the formula set forth in section 104(b)(1)(A)(i)
6 through (iv) of title 23, United States Code.

7 (C) ~~THIRD AND SUBSEQUENT FISCAL~~
8 YEARS.—In the third and subsequent fiscal
9 years, the sums authorized to be appropriated
10 for expenditure on the intelligent transportation
11 systems performance incentive program shall be
12 apportioned according to the funding formula
13 developed under this subsection.

14 (f) ~~FUNDING.~~—

15 (1) ~~APPLICABILITY OF TITLE 23, UNITED~~
16 STATES CODE.—Funds authorized to be appro-
17 priated under section 1101(a)(13) of this Act shall
18 be available for obligation in the same manner and
19 to the same extent as if such funds were apportioned
20 under chapter 1 of title 23, United States Code, ex-
21 cept that such funds shall remain available until ex-
22 pended.

23 (2) ~~FEDERAL SHARE.~~—The Federal share pay-
24 able under section 120(b) of title 23, United States

1 Code, shall apply to any project carried out under
2 this section.

3 (g) APPORTIONMENTS.—The Secretary shall appor-
4 tion the sums authorized to be appropriated for expendi-
5 ture on the intelligent transportation systems performance
6 incentive program among the States in accordance with
7 the formula set forth in section 104(b)(1)(A)(i) through
8 (iv) of title 23, United States Code, until the fiscal year
9 established by the regulation under subsection (c)(3).

10 (h) USE OF FUNDS.—Amounts apportioned under
11 this section shall be used for projects involving planning,
12 deployment, integration, and operation of intelligent trans-
13 portation systems, or any other project or activity de-
14 signed to further improve system operations. Funds ap-
15 portioned to each State under this section should be made
16 available for projects in metropolitan planning areas, cor-
17 ridors, and other regions as appropriate to improve oper-
18 ations.

19 **SEC. 1704. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
20 **AND NETWORKS DEPLOYMENT.**

21 (a) IN GENERAL.—The Secretary shall carry out a
22 Commercial Vehicle Information Systems and Networks
23 program to—

24 (1) improve the safety and productivity of com-
25 mercial vehicles and drivers; and

1 (2) reduce costs associated with commercial ve-
2 hicle operations and Federal and State commercial
3 vehicle regulatory requirements.

4 (b) PURPOSE.—The program shall advance the tech-
5 nological capability and promote the deployment of intel-
6 ligent transportation system applications for commercial
7 vehicle operations, including commercial vehicle, commer-
8 cial driver, and carrier-specific information systems and
9 networks.

10 (c) CORE DEPLOYMENT GRANTS.—

11 (1) IN GENERAL.—The Secretary shall make
12 grants to eligible States for the core deployment of
13 Commercial Vehicle Information Systems and Net-
14 works.

15 (2) ELIGIBILITY.—To be eligible for a core de-
16 ployment grant under this section, a State—

17 (A) shall have a Commercial Vehicle Infor-
18 mation Systems and Networks program plan
19 and a top level system design approved by the
20 Secretary;

21 (B) shall certify to the Secretary that its
22 Commercial Vehicle Information Systems and
23 Networks deployment activities, including hard-
24 ware procurement, software and system devel-
25 opment, and infrastructure modifications, are

1 consistent with the national intelligent transpor-
2 tation systems and Commercial Vehicle Infor-
3 mation Systems and Networks architectures
4 and available standards; and promote interoper-
5 ability and efficiency to the extent practicable;
6 and

7 (C) shall agree to execute interoperability
8 tests developed by the Federal Motor Carrier
9 Safety Administration to verify that its systems
10 conform with the national intelligent transpor-
11 tation systems architecture, applicable stand-
12 ards, and protocols for Commercial Vehicle In-
13 formation Systems and Networks.

14 (3) AMOUNT OF GRANTS.—The maximum ag-
15 gregate amount a State may receive under this sec-
16 tion for the core deployment of Commercial Vehicle
17 Information Systems and Networks may not exceed
18 \$2,500,000 million; including funds received under
19 sections 4001(e) and 5001(a)(5) and (6) of the
20 Transportation Equity Act for the 21st Century for
21 the core deployment of Commercial Vehicle Informa-
22 tion Systems and Networks.

23 (4) USE OF FUNDS.—Funds from a grant
24 under this subsection may only be used for the core
25 deployment of Commercial Vehicle Information Sys-

1 tems and Networks. Eligible States that have either
2 completed the core deployment of Commercial Vehi-
3 cle Information Systems and Networks or complete
4 such deployment before core deployment grant funds
5 are expended, may use the remaining core deploy-
6 ment grant funds for the expanded deployment of
7 Commercial Vehicle Information Systems and Net-
8 works in their State.

9 (d) EXPANDED DEPLOYMENT GRANTS.—

10 (1) IN GENERAL.—For each fiscal year, from
11 the funds remaining after the Secretary has made
12 core deployment grants under subsection (c) of this
13 section, the Secretary may make grants to each eli-
14 gible State, upon request, for the expanded deploy-
15 ment of Commercial Vehicle Information Systems
16 and Networks.

17 (2) ELIGIBILITY.—Each State that has com-
18 pleted the core deployment of Commercial Vehicle
19 Information Systems and Networks is eligible for an
20 expanded deployment grant.

21 (3) AMOUNT OF GRANTS.—Each fiscal year, the
22 Secretary may distribute funds available for ex-
23 panded deployment grants equally among the eligible
24 States, but not to exceed \$1 million per State.

1 (4) USE OF FUNDS.—A State may use funds
2 from a grant under this subsection only for the ex-
3 panded deployment of Commercial Vehicle Informa-
4 tion Systems and Networks.

5 (e) FEDERAL SHARE.—The Federal share of the cost
6 of a project payable from funds made available to carry
7 out this section shall not exceed 50 percent. The total Fed-
8 eral share of the cost of a project payable from all eligible
9 sources shall not exceed 80 percent.

10 (f) APPLICABILITY OF TITLE 23, UNITED STATES
11 CODE.—Funds authorized to be appropriated under sec-
12 tion 1101(a)(15) of this Act shall be available for obliga-
13 tion in the same manner and to the same extent as if such
14 funds were apportioned under chapter 1 of title 23, United
15 States Code, except that such funds shall remain available
16 until expended.

17 (g) DEFINITIONS.—In this section, the following defi-
18 nitions apply:

19 (1) COMMERCIAL VEHICLE INFORMATION SYS-
20 TEMS AND NETWORKS.—The term “Commercial Ve-
21 hicle Information Systems and Networks” means the
22 information systems and communications networks
23 that provide the capability to—

24 (A) improve the safety of commercial vehi-
25 cle operations;

1 (B) increase the efficiency of regulatory in-
2 spection processes to reduce administrative bur-
3 dens by advancing technology to facilitate in-
4 spections and increase the effectiveness of en-
5 forcement efforts;

6 (C) advance electronic processing of reg-
7 istration information, driver licensing informa-
8 tion, fuel tax information, inspection and crash
9 data, and other safety information;

10 (D) enhance the safe passage of commer-
11 cial vehicles across the United States and
12 across international borders; and

13 (E) promote the communication of infor-
14 mation among the States and encourage
15 multistate cooperation and corridor develop-
16 ment.

17 (2) COMMERCIAL VEHICLE OPERATIONS.—The
18 term “commercial vehicle operations”—

19 (A) means motor carrier operations and
20 motor vehicle regulatory activities associated
21 with the commercial movement of goods, includ-
22 ing hazardous materials, and passengers; and

23 (B) with respect to the public sector, in-
24 cludes the issuance of operating credentials, the
25 administration of motor vehicle and fuel taxes;

1 and roadside safety and border crossing inspec-
2 tion and regulatory compliance operations.

3 (3) CORE DEPLOYMENT.—The term “core de-
4 ployment” means the deployment of systems in a
5 State necessary to provide the State with the fol-
6 lowing capabilities:

7 (A) Safety information exchange to—

8 (i) electronically collect and transmit
9 commercial vehicle and driver inspection
10 data at a majority of inspection sites;

11 (ii) connect to the Safety and Fitness
12 Electronic Records (SAFER) system for
13 access to interstate carrier and commercial
14 vehicle data, summaries of past safety per-
15 formance, and commercial vehicle creden-
16 tials information; and

17 (iii) exchange carrier data and com-
18 mercial vehicle safety and credentials infor-
19 mation within the State and connect to
20 Safety and Fitness Electronic Records
21 (SAFER) for access to interstate carrier
22 and commercial vehicle data.

23 (B) Interstate credentials administration
24 to—

1 (i) perform end-to-end processing, in-
2 cluding carrier application, jurisdiction ap-
3 plication processing, and credential
4 issuance, of at least the International Reg-
5 istration Plan (IRP) and International
6 Fuel Tax Agreement (IFTA) credentials
7 and extend this processing to other creden-
8 tials, including intrastate, titling, oversize/
9 overweight, carrier registration, and haz-
10 ardous materials;

11 (ii) connect to the International Reg-
12 istration Plan (IRP) and International
13 Fuel Tax Agreement (IFTA) clearing-
14 houses; and

15 (iii) have at least 10 percent of the
16 transaction volume handled electronically
17 and have the capability to add more ear-
18 riers and to extend to branch offices where
19 applicable.

20 (C) Roadside electronic screening to elec-
21 tronically screen transponder-equipped commer-
22 cial vehicles at a minimum of one fixed or mo-
23 bile inspection sites and to replicate this screen-
24 ing at other sites.

1 (4) ~~EXPANDED DEPLOYMENT.~~—The term “ex-
 2 panded deployment” means the deployment of sys-
 3 tems in a State that exceed the requirements of an
 4 core deployment of Commercial Vehicle Information
 5 Systems and Networks, improve safety and the pro-
 6 ductivity of commercial vehicle operations, and en-
 7 hance transportation security. —

8 **Subtitle H—Program Efficiencies**
 9 **and Improvements—Federal Aid**
 10 **Stewardship**

11 **SEC. 1801. SURFACE TRANSPORTATION SYSTEM PERFORM-**
 12 **ANCE PILOT PROGRAM.**

13 (a) ~~ESTABLISHMENT.~~—

14 (1) ~~IN GENERAL.~~—The Secretary shall establish
 15 and implement a Surface Transportation System
 16 Performance Pilot Program. Subject to this section,
 17 a State may assume some or all, as the Secretary
 18 and State may agree, of the Secretary’s responsibil-
 19 ities under title 23, United States Code, or assume
 20 all or some, as they may agree, of the Secretary’s re-
 21 sponsibilities under any Federal law, for projects
 22 constructed with Federal funds under this pilot pro-
 23 gram.

24 (2) ~~OBLIGATION OF FUNDS.~~—States partici-
 25 pating in this pilot program may obligate funds

1 under sections 104(b)(1), 104(b)(3), 104(b)(4),
2 104(b)(5), 105, and 144(e) of title 23, United States
3 Code, for any purpose for which Federal funds may
4 be obligated by a State under title 23. However, the
5 State shall reserve 10 percent of the funds appor-
6 tioned under section 104(b)(3) in each fiscal year for
7 transportation enhancement activities as specified in
8 section 133(d)(1), as amended by this Act.

9 (3) PURPOSE.—The purpose of this perform-
10 ance pilot program is to demonstrate the benefits of
11 performance-based management and to determine
12 how such an approach can be best incorporated into
13 an effective Federally-assisted, State administered
14 Federal-aid highway program. The Secretary shall
15 work closely with potential pilot States to determine
16 ways to build into program-level oversight perform-
17 ance measures that reflect both State and national
18 interests and to apply them with specific measure-
19 ment of program effectiveness.

20 (b) STATE PARTICIPATION.—

21 (1) NUMBER OF PARTICIPATING STATES.—The
22 Secretary may permit up to five States to participate
23 in the performance pilot program established under
24 subsection (a).

1 (2) APPLICATION.—To participate in the per-
2 formance pilot program, a State shall submit an ap-
3 plication to the Secretary that contains, at a min-
4 imum, the following:

5 (A) A description of the State's long-term
6 and short-term transportation goals.

7 (B) A description of how the State will ad-
8 dress any areas of national strategic impor-
9 tance, as may be determined by the Secretary,
10 in reaching its goals. The areas of national
11 strategic importance must include the following:
12 national security, interstate commerce, mobility,
13 safety, and environmental stewardship.

14 (C) A description of the performance
15 measures under which the State's progress and
16 success toward reaching its goals would be
17 measured.

18 (D) A description of how funding will be
19 distributed equitably across the State, including
20 to urbanized areas with populations in excess of
21 200,000. This would include addressing how
22 local units of government would be consulted in
23 the process of program development and imple-
24 mentation.

1 ~~(E)~~ Evidence of the State's notice and so-
2 licitation of public comment and copies of com-
3 ments received from such solicitation.

4 ~~(F)~~ Such other information as the Sec-
5 retary may require.

6 ~~(3)~~ PUBLIC NOTICE.—Each State that submits
7 an application under this subsection, shall give pub-
8 lic notice of its intent to participate in the pilot pro-
9 gram at least 20 days prior to submitting its appli-
10 cation to the Secretary. The State shall provide no-
11 tice and solicit public comment by publishing the en-
12 tire application in accordance with the State's public
13 notice law.

14 ~~(4)~~ SELECTION CRITERIA.—The Secretary may
15 approve the application of a State under this section
16 only if the application demonstrates how the State
17 plans to address the areas of national strategic im-
18 portance as identified in subsection ~~(b)(2)(B)~~. The
19 Secretary will prioritize the selection of applications
20 based on the degree to which the applicant's pro-
21 posed goals address the areas of national strategic
22 importance, the State's ability to manage and mon-
23 itor its programs on a performance basis, the State's
24 commitment to conduct the required evaluations,

1 and the degree to which the application otherwise
2 proposes to achieve the purposes of this section.

3 ~~(c) PROGRAM ELEMENTS.—~~

4 ~~(1) STATE AGREEMENT TO ASSUME SEC-~~
5 ~~RETARY'S RESPONSIBILITIES.—~~

6 ~~(A) ASSIGNMENT AND ASSUMPTION OF RE-~~
7 ~~SPONSIBILITIES.—~~The Secretary and a State
8 may agree, as provided in this section, that the
9 Secretary will assign and the State will assume
10 some or all of the responsibilities of the Sec-
11 retary under any Federal law or requirement,
12 except for the responsibilities relating to Feder-
13 ally recognized tribes, with respect to any
14 project constructed with federal funds under
15 this pilot program. The State shall assume
16 these responsibilities subject to the same proce-
17 dural and substantive requirements as would be
18 required if such responsibilities were carried out
19 by the Secretary. When a State assumes such
20 responsibilities under a Federal law, the State
21 shall be solely responsible and solely liable for
22 complying with and carrying out that law in
23 lieu of the Secretary and shall submit a certifi-
24 cation as provided in subsection ~~(f)~~(1).

1 (B) FEDERAL ROLE OF STATE.—For pur-
2 poses of assuming the Secretary's responsibil-
3 ities under a Surface Transportation System
4 Performance Pilot Program, to the extent the
5 State is carrying out the Secretary's respon-
6 sibilities under the National Environmental Pol-
7 icy Act, title 23, United States Code, or any
8 other Federal law, the State shall be deemed to
9 be a Federal agency under such laws, and shall
10 agree that its transportation department, or
11 any other State agency carrying out a responsi-
12 bility of the Secretary under this section, shall
13 be subject to such Federal laws to the same ex-
14 tent that a Federal agency would be subject to
15 such laws.

16 (C) STATE CERTIFICATION OF ASSUMP-
17 TION OF RESPONSIBILITIES.—Whenever a State
18 assumes any of the Secretary's responsibilities
19 under a Federal law, the State shall certify that
20 it has laws and regulations that—

21 (i) authorize the State to take the ac-
22 tions necessary to carry out the respon-
23 sibilities being assumed; and

24 (ii) are comparable to the Federal
25 Freedom of Information Act and that any

1 decision regarding the public availability of
2 a document under those laws is reviewable
3 by a court of competent authority.

4 (2) OTHER FEDERAL AGENCY VIEWS.—If a
5 State assumes a responsibility of the Secretary
6 under paragraph (1) of this subsection that would
7 have required the Secretary to consult with another
8 Federal agency, the Secretary shall solicit the views
9 of such Federal agency prior to entering into or re-
10 newing any program agreement.

11 (3) MAINTENANCE OF EFFORT.—The Secretary
12 shall not make any apportionment to a State partici-
13 pating in this performance pilot program in any fis-
14 cal year under sections 104(b)(1), 104(b)(3),
15 104(b)(4), 104(b)(5), 105, and 144(e) of title 23,
16 United States Code, unless the State enters into
17 such agreements with the Secretary as the Secretary
18 may require to ensure that the State will maintain
19 its non-Federal transportation capital expenditures
20 in any fiscal year at or above the average level of
21 such expenditures for the preceding three fiscal
22 years.

23 (4) FEDERAL SHARE PAYABLE.—The Federal
24 share payable under this performance pilot program
25 for a project funded with apportionments under sec-

1 tions 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5),
2 105, and 144(e) of title 23, United States Code,
3 may be up to 100 percent; except that, the Federal
4 share payable for transportation enhancements
5 under section 133(d)(1), shall be determined in ac-
6 cordance with title 23, United States Code.

7 (d) PROGRAM AGREEMENT.—

8 (1) IN GENERAL.—Each year prior to making
9 any apportionments to a participating State, the
10 Secretary shall enter into an agreement with the
11 State establishing its performance goals and per-
12 formance measures.

13 (2) AGREEMENT CONCERNING PARTICIPATING
14 STATE'S RESPONSIBILITIES.—The Secretary shall
15 enter into one or more agreements with a State se-
16 lected for participation in this pilot program con-
17 cerning which, if any, Federal laws or requirements
18 the State will carry out under subsection (e). The
19 program agreement between the Secretary and the
20 State shall specify management responsibilities, in-
21 cluding the role of the State in relation to other
22 Federal agencies.

23 (3) GOALS.—The Secretary and participating
24 State shall agree, based on the State's priorities and
25 the areas of national strategic importance as deter-

1 mined by the Secretary, on the long-term and short-
2 term goals to be achieved using the State's appor-
3 tionments under the program.

4 (4) PERFORMANCE MEASURES.—The Secretary
5 and the State shall mutually establish the perform-
6 ance measures that the State must meet relating to
7 the goals identified in paragraph (3) of this sub-
8 section. Continued participation in the pilot program
9 is contingent on the State meeting these perform-
10 ance measures. If a State fails to meet the agreed
11 upon performance measures in two consecutive
12 years, the Secretary shall terminate a State's par-
13 ticipation in the pilot program.

14 (5) COMPLIANCE.—If a participating State fails
15 to comply with any provision of this section, the Sec-
16 retary shall take such actions as necessary to ensure
17 compliance. Corrective actions may include termi-
18 nation of the State's participation in the pilot pro-
19 gram.

20 (e) LIMITATIONS ON AGREEMENTS.—

21 (1) CIVIL RIGHTS.—Nothing in this section
22 shall be construed as relieving the Secretary from
23 any of the Secretary's responsibilities under title VI
24 of the Civil Rights Act of 1964 (42 U.S.C. 2000d,
25 et seq.).

1 (2) MAJOR PROJECTS.—Nothing in this section
2 shall be construed as relieving the Secretary from
3 any of the Secretary’s responsibilities with respect to
4 major projects under section 106(h) of title 23,
5 United States Code.

6 (3) STATEWIDE AND METROPOLITAN PLAN-
7 NING.—Nothing in this section shall be construed as
8 relieving the Secretary from any of the Secretary’s
9 responsibilities under the Statewide and metropoli-
10 tan planning requirements of sections 134 and 135
11 of title 23, United States Code.

12 (4) REGULATORY RESPONSIBILITIES.—Nothing
13 in this section shall be construed to allow a State to
14 assume any of the Secretary’s rulemaking authority
15 under any Federal law.

16 (f) STATE REPORTING AND ACCOUNTABILITY.—A
17 State participating in this pilot program shall make the
18 following reports to the Secretary. A State may combine
19 reports as appropriate.

20 (1) STATE CERTIFICATION PRIOR TO OBLIGA-
21 TION OF FUNDS.—As a prerequisite to the Sec-
22 retary’s agreement that a State will fulfill or assume
23 any of the Secretary’s responsibilities, and prior to
24 the obligation of any money under this pilot program

1 in any fiscal year, the participating State shall pro-
 2 vide, and annually renew, a certification that—

3 (A) is in a form acceptable to the Sec-
 4 retary;

5 (B) is executed by the Governor or the
 6 State's top-ranking transportation official
 7 charged with the responsibility for highway con-
 8 struction;

9 (C) specifies that the State will fully carry
 10 out any of the responsibilities it may assume;

11 (D) specifies that the State consents to as-
 12 sume the status of the Secretary under any re-
 13 sponsibility it may assume; and

14 (E) expressly consents on behalf of the
 15 State and himself or herself to accept the juris-
 16 diction of the Federal courts for the compli-
 17 ance, discharge, and enforcement of any respon-
 18 sibility of the Secretary it may assume.

19 (2) END OF FISCAL YEAR STATE CERTIFI-
 20 CATION.—At the end of each fiscal year in which a
 21 State obligates funds under this pilot program, the
 22 State shall certify that it obligated such funds only
 23 for projects that would otherwise be eligible for as-
 24 sistance under title 23. Such certification shall also
 25 specify that the State reserved for obligation the

1 amounts specified in section 133(d)(1) of such title
2 as amended by this Act.

3 ~~(3) FISCAL ACCOUNTABILITY.—~~Each State
4 shall provide an annual accounting for the obliga-
5 tions in a manner determined by the Secretary in
6 such a way as to provide a basis for evaluating the
7 effect of the pilot program expenditures.

8 ~~(4) ANNUAL STATE ASSESSMENT.—~~Each State
9 will provide to the Secretary a narrative report at
10 the end of each year describing the benefits of the
11 pilot program to the State and any suggestions for
12 improving the pilot program.

13 ~~(g) TERMINATION.—~~This pilot program shall termi-
14 nate six years following enactment of this Act. Funding
15 obligated under the pilot program shall continue to be ad-
16 ministered under the terms of the pilot program until
17 those funds have been expended.

18 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

19 (a) Section 106 of title 23, United States Code, is
20 amended—

21 ~~(1)~~ by striking subsection (e) and inserting the
22 following:

23 “(e) VALUE ENGINEERING ANALYSIS.—

24 “(1) ANALYSIS.—For all projects on the Na-
25 tional Highway System with an estimated total cost

1 of \$25,000,000 or more, and any project the Sec-
 2 retary deems appropriate, the State shall provide a
 3 value engineering analysis or other cost reduction
 4 analysis. For major projects as identified in sub-
 5 section (h) of this section, more than one such anal-
 6 ysis may be required.

7 “(2) DEFINITION.—In this subsection, the term
 8 “value engineering analysis” means a systematic
 9 process of review and analysis of a project during its
 10 design phase by a multidisciplined team of persons
 11 not involved in the project in order to provide sug-
 12 gestions for reducing the total cost of the project
 13 and providing a project of equal or better quality.
 14 Such suggestions may include combining or elimi-
 15 nating otherwise inefficient use of expensive parts of
 16 the original proposal design for the project and total
 17 redesign of the proposed project using different tech-
 18 nologies, materials, or methods so as to accomplish
 19 the original purpose of the project.”; and

20 (2) by striking subsections (g) and (h) and in-
 21 serting the following:

22 “(g) OVERSIGHT PROGRAM.—

23 “(1) IN GENERAL.—The Secretary shall estab-
 24 lish an oversight program to monitor the effective
 25 and efficient use of funds authorized by this title. At

1 a minimum, the program shall be responsive to all
2 areas related to financial integrity and project deliv-
3 ery.

4 “(2) FINANCIAL INTEGRITY.—

5 “(A) FINANCIAL MANAGEMENT SYS-
6 TEMS.—The Secretary shall perform annual re-
7 views that address elements of the State trans-
8 portation departments’ financial management
9 systems that affect projects approved under
10 subsection (a). Risk assessment procedures
11 shall be used to identify review areas.

12 “(B) PROJECT COSTS.—The Secretary
13 shall develop minimum standards for estimating
14 project costs, and shall periodically evaluate the
15 States’ practices for estimating project costs,
16 awarding contracts, and reducing project costs.

17 “(C) RESPONSIBILITY OF THE STATES.—
18 The States are responsible for determining that
19 subrecipients of Federal funds have sufficient
20 accounting controls to properly manage Federal
21 funds. The Secretary shall periodically review
22 the States’ monitoring of subrecipients.

23 “(3) PROJECT DELIVERY.—The Secretary shall
24 perform annual reviews that address elements of the
25 States’ project delivery system, which includes one

1 or more activities that are involved in the life cycle
2 of a project from its conception to its completion.
3 Risk assessment procedures will be used to identify
4 review areas.

5 “(4) RESPONSIBILITY OF THE STATES.—The
6 States are responsible for determining that sub-
7 recipients of Federal funds have adequate project
8 delivery systems for projects approved under this
9 section. The Secretary shall periodically review the
10 States’ monitoring of subrecipients.

11 “(5) SPECIFIC OVERSIGHT RESPONSIBIL-
12 ITIES.—Nothing in this section shall affect or dis-
13 charge any oversight responsibility of the Secretary
14 specifically provided for under this title or other
15 Federal law. In addition, the Secretary shall retain
16 full oversight responsibilities for the design and con-
17 struction of all Appalachian development highways
18 under section 201 of the Appalachian Regional De-
19 velopment Act of 1965 (40 U.S.C. App.).

20 “(h) MAJOR PROJECTS.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision in this section, a recipient of Federal fi-
23 nancial assistance for a project under this title with
24 an estimated total cost of \$1,000,000,000 or more,
25 or any other project in the discretion of the Sec-

1 retary, shall submit to the Secretary a project man-
2 agement plan and an annual financial plan.

3 “(2) PROJECT MANAGEMENT PLAN.—The
4 project management plan shall document the proce-
5 dures and processes in place to provide timely infor-
6 mation to the project decision makers to effectively
7 manage the scope, costs, schedules, and quality, and
8 the Federal requirements of the project, and the role
9 of the agency leadership and management team in
10 the delivery of the project.

11 “(3) FINANCIAL PLAN.—The financial plan
12 shall be based on detailed estimates of the cost to
13 complete the project. Annual updates shall be sub-
14 mitted based on reasonable assumptions, as deter-
15 mined by the Secretary, of future increases in the
16 cost to complete the project.

17 “(i) OTHER PROJECTS.—A recipient of Federal fi-
18 nancial assistance for a project under this title that re-
19 ceives \$100,000,000 or more in Federal assistance for
20 such project, and that is not covered by subsection (h)
21 of this section, shall prepare an annual financial plan. An-
22 nual financial plans prepared under this subsection shall
23 be made available to the Secretary for review upon the
24 Secretary’s request.”.

25 (b) Section 114(a) of such title is amended—

1 “(B) suspend any contractor or subcon-
2 tractor upon their indictment for criminal or
3 civil offenses involving fraud, subject to the ap-
4 proval of the Attorney General. The Secretary
5 shall have authority to exclude non-affiliated
6 subsidiaries of the debarred business entity,
7 subject to the approval of the Attorney General.

8 “(2) Upon a finding that mandatory debarment
9 or suspension of a contractor or subcontractor under
10 subsection (1), above, would be contrary to the na-
11 tional security interests of the U.S., the Secretary
12 may waive the debarment or suspension.

13 “(b) SHARING OF MONETARY RECOVERIES.—

14 “(1) Notwithstanding any other provision of
15 law, monetary judgments accruing to the Federal
16 government from judgments in Federal criminal
17 prosecutions and civil judgments pertaining to fraud
18 in highway and transit programs shall be shared
19 with the State or local transit agency involved. The
20 State or local transit agency shall use these funds
21 for transportation infrastructure and oversight ac-
22 tivities related to programs authorized under titles
23 23 and 49.

24 “(2) The amount of recovered funds to be
25 shared with the affected State or local transit agen-

1 ey shall be determined by the Attorney General in
 2 consultation with the Secretary. These funds shall be
 3 considered Federal funds, to be used in compliance
 4 with other relevant Federal transportation laws and
 5 regulations. —

6 “(3) The requirement for sharing of funds de-
 7 scribed in subparagraph (1), above, shall not be in
 8 effect in circumstances wherein the State or local
 9 transit agency is found by the Department of Jus-
 10 tice, in consultation with the Secretary, to have been
 11 involved or negligent with respect to the fraudulent
 12 activities.”.

13 (e) The analysis for chapter 3 of title 49 is amended
 14 by revising the entry for item 307 to read as follows:

“307. Contractor suspension and debarment policy; sharing fraud monetary re-
 coveries.”.

15 **SEC. 1803. EMERGENCY RELIEF.**

16 Section 125(c)(1) of title 23, United States Code, is
 17 amended by striking “\$100,000,000” and inserting
 18 “\$200,000,000”.

19 **SEC. 1804. FEDERAL LANDS HIGHWAYS PROGRAM.**

20 (a) DEFINITIONS.—Section 101(a) of title 23, United
 21 States Code, is amended—

22 (1) in paragraph (7), by striking “public lands
 23 highway” and inserting “recreation roads, public
 24 Forest Service roads”;

1 (2) by striking paragraph (8) and inserting the
2 following:

3 “(8) NATIONAL FOREST SYSTEM ROADS AND
4 TRAILS.—The term ‘National Forest System roads
5 and trails’ means forest roads or trails under the ju-
6 risdiction of the Forest Service.”;

7 (3) by striking paragraph (10) and inserting
8 the following:

9 “(10) FOREST ROAD OR TRAIL.—The term ‘for-
10 est road or trail’ means a road or trail wholly or
11 partly within, or adjacent to, and serving National
12 Forest System lands that is necessary for the protec-
13 tion, administration, use, and development of its re-
14 sources. There are four types of forest roads:

15 “(A) CLASSIFIED FOREST ROAD.—The
16 term ‘classified forest road’ means a forest road
17 that the Forest Service determines to be needed
18 for long-term motor vehicle access, including
19 State roads, county roads, privately owned
20 roads, National Forest System roads, and other
21 roads authorized by the Forest Service.

22 “(B) UNCLASSIFIED FOREST ROAD.—The
23 term ‘unclassified forest road’ means a forest
24 road not managed by the Forest Service as part
25 of the forest transportation system.

1 “(C) TEMPORARY FOREST ROAD.—The
2 term ‘temporary forest road’ means a forest
3 road that is authorized by the Forest Service
4 through contract, permit, lease, other written
5 authorization, or emergency operation not in-
6 tended to be a part of the forest transportation
7 system and not necessary for long-term re-
8 source management.

9 “(D) PUBLIC FOREST SERVICE ROAD.—
10 The term ‘Public Forest Service Road’ means a
11 classified forest road that is open to public trav-
12 el for which title and maintenance responsibility
13 is vested in the United States government and
14 which has been designated a public road by the
15 Forest Service.”;

16 (4) in paragraph (26), as redesignated by this
17 Act, by striking “unappropriated or unreserved”;
18 and

19 (5) by striking paragraph (27), as redesignated
20 by this Act, by redesignating paragraph (28) as
21 (27), and by inserting the following new paragraph:

22 “(28) RECREATION ROADS.—The term ‘recre-
23 ation roads’ means those public roads that provide
24 access to museums, lakes, reservoirs, visitors cen-
25 ters, gateways to major wilderness areas, public uses

1 areas, recreation and historic sites and for which
2 title is vested in the United States Government.”.

3 (b) FEDERAL SHARE PAYABLE.—

4 (1) Section 120(k) of such title is amended by
5 striking “Federal-aid highway”.

6 (2) Sections 120(k) and 120(l) of such title are
7 amended by striking “section 104” each time it ap-
8 pears, and inserting in its place “this title and chap-
9 ter 53 of title 49”.

10 (c) PAYMENTS TO FEDERAL AGENCIES FOR FED-

11 ERAL-AID PROJECTS.—Section 132 of such title is amend-

12 ed by striking the first two sentences and inserting the
13 following: “Where a proposed Federal-aid project is to be

14 undertaken by a Federal agency pursuant to an agreement

15 between a State and such Federal agency, the State may

16 (1) direct the Secretary to transfer the funds for the Fed-

17 eral share of the project directly to the Federal agency,

18 or (2) make a deposit with or payment to such Federal

19 agency as may be required in fulfillment of the State’s

20 obligation under such agreement for the work undertaken

21 or to be undertaken by such Federal agency; the Sec-

22 retary, upon execution of a project agreement with such

23 State for the proposed Federal-aid project, may reimburse

24 the State out of the appropriate appropriations for the es-

25 timated Federal share, under the provisions of this title;

1 of the State's obligation so deposited or paid by such
2 State.”.

3 (d) ALLOCATIONS.—Section 202 of such title is
4 amended—

5 (1) in subsection (a), by inserting “and grass-
6 lands” after “national forests” in the first sentence;

7 (2) by striking subsection (b) and inserting the
8 following:

9 “(b) On October 1 of each fiscal year, the Secretary
10 shall allocate the sums authorized to be appropriated for
11 such fiscal year for forest highways, after making the
12 transfer of funds provided for in subsection 204(g) of this
13 title, for each fiscal year as is provided in section 134 of
14 the Federal-Aid Highway Act of 1987, and with respect
15 to these allocations the Secretary shall give equal consider-
16 ation to projects that provide access to and within the Na-
17 tional Forest System, as identified by the Secretary of Ag-
18 riculture through renewable resource and land use plan-
19 ning and the impact of such planning on existing transpor-
20 tation facilities.”; and

21 (3) in subsection (d)—

22 (A) in paragraph (1), by striking “1999”
23 in the heading and within paragraph (1) and
24 inserting “2005”;

1 (B) in paragraph (2), by striking “2000”
2 in the heading and within paragraphs (2)(A),
3 (2)(B), and (2)(D) and inserting “2005”, and
4 by striking “1999” in paragraph (2)(B) and in-
5 serting “2004” at each place it appears;

6 (C) in paragraph (3)(A), by inserting “this
7 chapter and section 125(e) of” after “under”,
8 and by adding “and the approved Indian res-
9 ervation road transportation improvement pro-
10 gram” after “Act”; and

11 (D) in paragraph (4)(D), by striking the
12 sentence after “Approval Requirement.” and in-
13 serting: “Funds for preliminary engineering for
14 Indian reservation road bridge projects under
15 this subsection may be made available by the
16 Secretary upon request by a tribe or by the Sec-
17 retary of the Interior. Funds for construction
18 and construction engineering shall be made
19 available only after approval of the plans, speci-
20 fications, and estimates by the Secretary.”.

21 (e) PLANNING AND AGENCY COORDINATION.—Sec-
22 tion 204 of such title is amended—

23 (1) in subsection (a), by inserting “refuge
24 roads,” after “parkways,”;

1 (2) in subsection (b), by striking “appropriate
2 contracts” in the second sentence and inserting “ap-
3 propriate agreements”;

4 (3) in subsection (k)—

5 (A) by striking “(2), (5),” and inserting
6 “(2), (3), (5),”;

7 (B) by striking “and” after the semicolon
8 at the end of paragraph (1)(B);

9 (C) by striking the period after “improve-
10 ments” at the end of paragraph (1)(C) and in-
11 serting a semicolon;

12 (D) by adding after paragraph (1)(C) the
13 following new subparagraphs:

14 “(D) maintenance of public roads in Na-
15 tional Fish hatcheries under Fish and Wildlife
16 Service jurisdiction;

17 “(E) the non-Federal share of the cost of
18 any project funded under this title or chapter
19 53 of title 49 that provides access to or within
20 a wildlife refuge; and

21 “(F) maintenance and improvement of rec-
22 reational trails; but such expenditures on trails
23 are limited to 5 percent of available funding per
24 fiscal year.”.

25 (f) SAFETY.—

1 (1) ALLOCATIONS.—Section 202 of such title is
2 amended by adding at the end the following:

3 “(f) SAFETY.—On October 1 of each fiscal year, the
4 Secretary shall allocate the sums authorized to be appro-
5 priated for such fiscal year for safety as follows: 10 per-
6 cent to the Bureau of Reclamation, 15 percent to the Bu-
7 reau of Indian Affairs, 15 percent to the Bureau of Land
8 Management, 15 percent to the Forest Service, 5 percent
9 to the Fish and Wildlife Service, 15 percent to Military
10 Traffic Management Command, 15 percent to the Na-
11 tional Park Service, and 10 percent to the U.S. Army
12 Corps of Engineers. The Secretary, from time to time,
13 may adjust the percentage of safety funds allocated to the
14 Federal agencies listed above based on the outputs of
15 agency safety management systems, other safety need
16 analyses or/studies, and the use of previously allocated
17 safety funds.”.

18 (2) AVAILABILITY OF FUNDS.—Section 203 of
19 such title is amended in the first sentence by insert-
20 ing “safety,” after “refuge roads,” at each place it
21 appears.

22 (3) USE OF FUNDING.—Section 204 is amended
23 by adding at the end the following:

24 “(1) SAFETY ACTIVITIES.—

1 “(1) IN GENERAL.—Not withstanding any other
2 provision of this title, funds made available for safe-
3 ty shall be used by the Secretary and the Secretary
4 of the appropriate Federal land management agency
5 only to pay the cost of transportation safety im-
6 provement projects, elimination of high accident lo-
7 cations, protection or elimination of at-grade rail-
8 way-highway crossings, collection of safety informa-
9 tion, transportation planning, bridge inspections, de-
10 velopment and operation of safety management sys-
11 tems, highway safety education programs, and other
12 eligible safety activities authorized in Chapter 4 of
13 this title.

14 “(2) CONTRACTS.—In carrying out paragraph
15 (1), the Secretary and the Secretary of the appro-
16 priate Federal land management agency, as appro-
17 priate, may enter into contracts or agreements with
18 a State, subdivision of a State, or Indian tribe.

19 “(3) EXCEPTION.—Funds allocated to the Bu-
20 reau of Reclamation for the purposes described in
21 this subsection are exempted from the cost-share re-
22 quirements of Public Law 89-72, The Federal
23 Water Recreation Act.”.

24 (g) RECREATION ROADS.—

1 (1) AUTHORIZATIONS.—Section 201 of such
2 title is amended by striking “public lands highways”
3 and inserting “recreation roads”.

4 (2) ALLOCATIONS.—Section 202 of such title,
5 as amended by this section, is further amended by
6 adding at the end the following:

7 “(g) RECREATION ROADS.—On October 1 of each fis-
8 cal year, the Secretary, after making the transfer provided
9 for in subsection 204(i) of this title, shall allocate the
10 sums authorized to be appropriated for such fiscal year
11 for recreation roads as follows: 6 percent to the Bureau
12 of Reclamation, 6 percent to the U.S. Army Corps of En-
13 gineers, 10 percent to the Bureau of Land Management,
14 10 percent to the Military Traffic Management Command,
15 and 68 percent to the Forest Service. Recreation road
16 funds shall be allocated to projects and activities according
17 to the relative needs of each area served by these roads
18 as indicated in the approved transportation improvement
19 programs for each agency. The Secretary, from time to
20 time, may adjust the percentage of recreation road funds
21 allocated to the Federal agencies listed above based on the
22 outputs of agency management systems, other need anal-
23 yses/or studies, and the use of previously allocated recre-
24 ation road funds.”.

1 (3) AVAILABILITY OF FUNDS.—Section 203 of
2 such title is amended by striking “public lands high-
3 ways” and inserting “recreation roads” at each
4 place it appears.

5 (4) USE OF FUNDING.—Section 204 of such
6 title, as amended by this section, is further amended
7 by adding at the end the following:

8 “(m) RECREATION ROADS.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of this title, funds made available for
11 recreation roads shall be used by the Secretary and
12 the Secretary of the appropriate Federal land man-
13 agement agency only to pay the cost of—

14 “(A) maintenance or improvements of ex-
15 isting recreation roads;

16 “(B) maintenance and improvements of eli-
17 gible projects described in paragraphs (1), (2),
18 (3), (5), and (6) of subsection (h) that are lo-
19 cated in or adjacent to Federal land areas
20 under the jurisdiction of the Departments of
21 Agriculture, Defense, or the Interior;

22 “(C) transportation planning and adminis-
23 trative costs associated with such maintenance
24 and improvements; and

1 “(D) the non-Federal share of the cost of
2 any project funded under this title or chapter
3 53 of title 49 that provides access to or within
4 Federal land areas under the jurisdiction of the
5 Departments of Agriculture, Defense, or the In-
6 terior.

7 “(2) CONTRACTS.—In carrying out paragraph
8 (1), the Secretary and the Secretary of the appro-
9 priate Federal land management agency, as appro-
10 priate, may enter into contracts or agreements with
11 a State or civil subdivision of a State or Indian tribe
12 as is determined advisable.

13 “(3) NEW ROADS.—No funds available under
14 this section shall be used to pay the cost of the de-
15 sign or construction of new recreation roads.

16 “(4) COMPLIANCE WITH OTHER ENVIRON-
17 MENTAL LAWS.—Maintenance and improvement
18 projects which are funded under this subsection and
19 are consistent with or have been identified in a land
20 use plan for the Federal area do not require any ad-
21 ditional environmental reviews or assessments under
22 the National Environmental Policy Act if the Fed-
23 eral agency that promulgated the land use plan ana-
24 lyzed the specific proposal under the National Envi-
25 ronmental Policy Act and there are no significant

1 changes to the proposal bearing on environmental
2 concerns and no significant new information.

3 ~~“(5) EXCEPTION.—Funds allocated to the Bu-~~
4 ~~reau of Reclamation for the purposes described in~~
5 ~~this subsection are exempted from the cost-share re-~~
6 ~~quirements of Public Law 89-72, The Federal~~
7 ~~Water Recreation Act.”.~~

8 (h) CONFORMING AMENDMENTS.—

9 (1) Sections 120(e) and 125(e) of title 23,
10 United States Code, are amended by inserting
11 “recreation roads,” after “public lands highways,”
12 each place the words appear.

13 (2) Sections 120(e), 125(e), 201, 202(a), 203,
14 section 205 in the heading and in subsections (a)
15 and (d), and the analysis for chapter 2 of such title
16 are amended by striking “forest development roads”
17 and inserting “National Forest System roads” each
18 place the words appear.

19 (3) Section 204(a)(1) is amended by striking
20 “public lands highways” and inserting “recreation
21 roads, forest highways”, section 204(b) is amended
22 by striking “public lands highways” and inserting
23 “recreation roads”, and section 204(i) is amended
24 by striking “public lands highways” and inserting

1 “recreation roads and forest highways” each place
2 the words appear.

3 (4) Section 217(e) is amended by striking “pub-
4 lic lands highways” and inserting “refuge roads”.

5 **SEC. 1805. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
6 **TEM.**

7 (a) APPORTIONMENT.—The Secretary shall appor-
8 tion funds made available by section 1101(a)(7) of this
9 Act for fiscal years 2004 through 2009 among the States
10 based on the latest available cost to complete estimate for
11 the Appalachian development highway system under sec-
12 tion 201 of the Appalachian Regional Development Act
13 of 1965 prepared by the Appalachian Regional Commis-
14 sion. Such funds shall be available to construct highways
15 and access roads under section 201 of the Appalachian
16 Regional Development Act of 1965.

17 (b) APPLICABILITY OF TITLE 23.—Funds authorized
18 by section 1101(a)(7) of this Act for the Appalachian de-
19 velopment highway system shall be available for obligation
20 in the same manner as if such funds were apportioned
21 under chapter 1 of title 23, United States Code, except
22 that the Federal share of the cost of any project under
23 this section shall be determined in accordance with such
24 section 201 and such funds shall remain available until
25 expended.

1 (e) USE OF TOLL CREDITS.—Section 120(j)(1) of
2 title 23, United States Code is amended by adding “and
3 the Appalachian development highway system program
4 under section 201 of the Appalachian Regional Develop-
5 ment Act of 1965” following “(other than the emergency
6 relief program authorized by section 125”.

7 **SEC. 1806. MULTI-STATE CORRIDOR PLANNING PROGRAM.**

8 (a) ESTABLISHMENT AND PURPOSE.—The Secretary
9 shall establish and implement a program to support and
10 encourage multi-state transportation planning; provide for
11 streamlined transportation project development; and facili-
12 tate transportation decision-making.

13 (b) ELIGIBLE RECIPIENTS.—State transportation de-
14 partments and metropolitan planning organizations are el-
15 igible to receive and administer funds provided under this
16 program.

17 (c) ELIGIBLE ACTIVITIES.—The Secretary shall
18 make allocations under this program for multi-state high-
19 way and multi-state multi-modal planning studies.

20 (d) OTHER PROVISIONS REGARDING ELIGIBILITY.—
21 All studies funded under this program shall be consistent
22 with the continuing, cooperative, and comprehensive plan-
23 ning processes required by sections 134 and 135 of title
24 23, United States Code.

1 (e) ~~SELECTION CRITERIA.~~—The Secretary shall se-
2 lect projects based on—

3 (1) ~~the existence and significance of signed and~~
4 ~~binding multi-jurisdictional agreements;~~

5 (2) ~~endorsement of the study by elected State~~
6 ~~and local representatives;~~

7 (3) ~~prospects for early completion of the study;~~
8 ~~and~~

9 (4) ~~whether the projects to be studied are lo-~~
10 ~~cated on corridors identified by section 1105(e) of~~
11 ~~the Intermodal Surface Transportation Efficiency~~
12 ~~Act of 1991, as amended (Public Law 102-240; 105~~
13 ~~Stat. 2032).~~

14 (f) ~~PROGRAM PRIORITIES.~~—In administering the pro-
15 gram, the Secretary shall—

16 (1) ~~encourage and enable States and other ju-~~
17 ~~risdictions to work together to develop plans for~~
18 ~~multi-modal and multi-jurisdictional transportation~~
19 ~~decision-making; and~~

20 (2) ~~give priority to studies that emphasize~~
21 ~~multi-modal planning, including planning for oper-~~
22 ~~ational improvements that increase mobility, freight~~
23 ~~productivity, access to marine ports, safety, and se-~~
24 ~~curity while enhancing the environment.~~

1 (g) FEDERAL SHARE.—The Federal share payable,
2 using funds from all Federal sources, for any study carried
3 out under this section shall not exceed 80 percent of the
4 total cost of such study, except that the share of funds
5 from the Highway Trust Fund (other than the Mass Tran-
6 sit Account) shall not exceed 50 percent of the total cost
7 of such study.

8 (h) APPLICABILITY OF TITLE 23 U.S.C.—Funds au-
9 thorized to be appropriated under section 1101(a)(10) of
10 this Act to carry out this section shall be available for obli-
11 gation in the same manner as if such funds were appor-
12 tioned under chapter 1 of title 23, United States Code.

13 **SEC. 1807. BORDER PLANNING, OPERATIONS, AND TECH-**
14 **NOLOGY PROGRAM.**

15 (a) ESTABLISHMENT AND PURPOSE.—The Secretary
16 shall establish and implement a program to support co-
17 ordination and improvement in bi-national transportation
18 planning, operations, efficiency, information exchange,
19 safety, and security for the United States borders with
20 Canada and Mexico.

21 (b) ELIGIBLE RECIPIENTS.—State transportation de-
22 partments and metropolitan planning organizations at or
23 near an international land border in the States of Alaska,
24 Arizona, California, Idaho, Maine, Michigan, Minnesota,
25 Montana, New Hampshire, New Mexico, New York, North

1 Dakota, Texas, Vermont and Washington, are eligible to
2 receive and administer funds allocated under this pro-
3 gram.

4 (c) ELIGIBLE ACTIVITIES.—

5 (1) IN GENERAL.—The Secretary shall make al-
6 locations under the program established in this sec-
7 tion for activities at or near international land bor-
8 ders in the States listed in subsection (b).

9 (2) SPECIFIC ACTIVITIES.—The activities eligi-
10 ble for funding under this program are—

11 (A) highway and multi-modal planning or
12 environmental studies;

13 (B) cross-border Port of Entry and safety
14 inspection improvements, including operational
15 enhancements and technology applications;

16 (C) technology and information exchange
17 activities; and

18 (D) right-of-way acquisition, design, and
19 construction, where needed to add the enhance-
20 ments or applications described in subpara-
21 graphs (B) and (C), or to decrease air pollution
22 emissions from vehicles or inspection facilities
23 at border crossings.

24 (d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

25 All studies and projects funded under this program shall

1 be consistent with the continuing, cooperative, and com-
2 prehensive planning processes required by sections 134
3 and 135 of title 23, United States Code. All regionally
4 significant projects that are part of such applications must
5 be on the transportation plans and program required by
6 sections 134 and 135 of title 23, United States Code.

7 (e) SELECTION CRITERIA.—The Secretary shall se-
8 lect projects based on—

9 (1) expected benefits, including air quality ben-
10 efits, of the project in relation to its costs;

11 (2) prospects for early completion of the study
12 or project;

13 (3) endorsement of the project by formally con-
14 stituted bi-national organizations with both Federal
15 and State or provincial representation;

16 (4) the existence and significance of signed and
17 binding multi-jurisdictional agreements;

18 (5) contributions of other title 23 funds and
19 non-title 23 funds above the minimum required; and

20 (6) the extent to which the project benefits are
21 multi-modal.

22 (f) PROGRAM PRIORITIES.—In administering the pro-
23 gram, the Secretary shall emphasize multi-modal plan-
24 ning; infrastructure improvements; and operational im-
25 provements that increase safety, security, freight move-

1 ment, or highway access to rail, marine, and air services
2 while enhancing the environment.

3 (g) FEDERAL SHARE.—The Federal share payable on
4 account of any project carried out under this section shall
5 not exceed 80 percent of the total cost of such project.

6 (h) APPLICABILITY OF TITLE 23 U.S.C.—Funds au-
7 thorized to be appropriated under section 1101(1)(11) of
8 this Act to carry out this section shall be available for obli-
9 gation in the same manner as if such funds were appor-
10 tioned under chapter 1 of title 23, United States Code.

11 (i) ALLOCATION OF FUNDS.—No individual project
12 whose scope of work is limited to information exchange
13 shall receive an allocation greater than \$500,000 in a sin-
14 gle year.

15 (j) PROJECTS IN CANADA OR MEXICO.—Projects in
16 Canada or Mexico proposed by one or more border States
17 that directly and predominantly facilitate cross border ve-
18 hicle and commercial cargo movements at the inter-
19 national gateways or ports of entry into the border re-
20 gion(s) of such State(s), may be constructed using funds
21 allocated under this program provided that, prior to the
22 obligation of such funds, Canada or Mexico, or the polit-
23 ical subdivision thereof responsible for the operation of the
24 facility to be constructed, has provided assurances satis-
25 factory to the Secretary that any facility constructed

1 under this subsection will be constructed to standards
2 equivalent to those in the United States and properly
3 maintained and used over the useful life of the facility for
4 the purpose for which the Secretary allocated funds to
5 such project.

6 (k) ~~SET-ASIDE.~~—The Secretary shall set-aside
7 \$47,000,000 of the funds authorized for fiscal year 2004
8 under section 1101(a)(11) of this Act for construction of
9 State border safety inspection facilities in the States of
10 Arizona, California, New Mexico, and Texas.

11 (l) ~~TRANSFER OF FUNDS TO THE GENERAL SERV-~~
12 ~~ICES ADMINISTRATION.~~—

13 (1) ~~STATE FUNDS.~~—At the request of a State,
14 funds allocated under this section may be trans-
15 ferred to the General Services Administration for the
16 purpose of funding a specific project or projects if
17 the Secretary determines, after consultation with the
18 State transportation department as appropriate, that
19 the General Services Administration should carry
20 out the project or projects and the General Services
21 Administration agrees to accept the transfer of
22 funds and to administer those funds. The State shall
23 provide the 20 percent non-Federal share of the
24 project cost, as required under subsection (g) of this
25 section, directly to the General Services Administra-

1 tion. Funds so transferred or provided shall not be
2 deemed to be an augmentation of the General Serv-
3 ices Administration's appropriations and shall be ad-
4 ministered under that agency's procedures, except
5 the transferred funds shall be available for obligation
6 in the same manner as if such funds were appor-
7 tioned under chapter 1 of title 23, United States
8 Code. Obligation authority shall be transferred to
9 the General Services Administration in the same
10 manner and amount as the allocated funds trans-
11 ferred for the projects.

12 (2) DIRECT TRANSFER OF AUTHORIZED
13 FUNDS.—In addition to allocations to States and
14 metropolitan planning organizations as provided in
15 subsection (b), the Secretary may transfer funds
16 made available to carry out this section to the Gen-
17 eral Services Administration for construction of
18 transportation infrastructure projects at or near the
19 border in the States identified in subsection (b), if
20 the Secretary determines that such transfer is nec-
21 essary to effectively carry out the purposes of this
22 program and the General Services Administration
23 agrees to accept the transfer of funds and to admin-
24 ister those funds. Funds so transferred shall not be
25 deemed to be an augmentation of the General Serv-

1 Northern Mariana Islands that have been designated
2 by the Governor and approved by the Secretary as
3 provided in section 215 of this title.”.

4 (b) FUNDING.—Section 104(b)(1)(A) of title 23,
5 United States Code, is amended by striking “to the Virgin
6 Islands, Guam, American Samoa, and the Commonwealth
7 of Northern Mariana Islands” and inserting “for the terri-
8 torial highway program authorized under section 215 of
9 this title”.

10 (c) ELIGIBLE PROJECTS.—Section 103(b)(6)(P) of
11 title 23, United States Code, is amended to read as fol-
12 lows:

13 “(P) Projects eligible for assistance under the
14 territorial highway program as provided in section
15 215 of this title.”.

16 (d) TERRITORIAL HIGHWAY PROGRAM.—Chapter 2
17 of title 23, United States Code, is amended by striking
18 section 215 and inserting the following:

19 **“§ 215. Territorial highway program**

20 “(a) IN GENERAL.—Recognizing the mutual benefits
21 that will accrue to the Virgin Islands, Guam, American
22 Samoa, and the Commonwealth of the Northern Mariana
23 Islands, and to the United States from the improvement
24 of highways in such territories of the United States, the
25 Secretary is authorized to assist each such territorial gov-

1 ernment in a program for the construction and improve-
2 ment of a system of arterial and collector highways, and
3 necessary inter-island connectors designated by the Gov-
4 ernor of such territory and approved by the Secretary.
5 Federal financial assistance shall be granted under this
6 section in accordance with section 120(h) of this title.

7 “(b) TECHNICAL ASSISTANCE.—In order to continue
8 a long-range highway development program, the Secretary
9 is authorized to provide technical assistance to the terri-
10 torial governments to enable them to, on a continuing
11 basis, engage in highway planning, conduct environmental
12 evaluations, administer right-of-way acquisition and relo-
13 cation assistance programs, and design, construct, oper-
14 ate, and maintain a system of arterial and collector high-
15 ways, including necessary inter-island connectors. The
16 technical assistance to be provided and the terms for shar-
17 ing information among the territories shall be set forth
18 in the agreement required by subsection (d) of this section.

19 “(c) APPLICABILITY OF CHAPTER 1.—The provisions
20 of chapter 1 of this title (other than provisions related to
21 the apportionment and allocation of funds) shall apply to
22 funds authorized to be appropriated for the territorial
23 highway program, except as determined by the Secretary
24 to be inconsistent with the needs of the territories and the
25 intent of the territorial highway program. The specific sec-

1 tions of chapter 1 that are applicable to each territory and
 2 the extent of their applicability shall be identified in the
 3 agreement provided for in subsection (d) of this section.

4 “(d) AGREEMENT.—

5 “(1) Except as provided in paragraph (3) of
 6 this subsection, no part of the appropriations au-
 7 thorized for the territorial highway program shall be
 8 available for obligation or expenditure with respect
 9 to any territory until the Governor enters into a new
 10 agreement with the Secretary, within 12 months
 11 after the effective date of this Act, providing that
 12 the government of such territory shall—

13 “(A) implement the territorial highway
 14 program in accordance with the appropriate
 15 provisions of chapter 1 of this title, as provided
 16 for in subsection (c) of this section;

17 “(B) design and construct a system of ar-
 18 terial and collector highways, including nec-
 19 essary interisland connectors, built in accord-
 20 ance with standards appropriate for each terri-
 21 tory and approved by the Secretary;

22 “(C) provide for the maintenance of facili-
 23 ties constructed or operated under provisions of
 24 this section in a condition to adequately serve
 25 the needs of present and future traffic; and

1 “(D) implement standards for traffic oper-
2 ations and uniform traffic control devices that
3 are approved by the Secretary.

4 “(2) The new agreement required by paragraph
5 (1) of this subsection also shall specify the kind of
6 technical assistance to be provided, include appro-
7 priate provisions regarding information sharing
8 among the territories, and delineate the oversight
9 role and responsibilities of the territories and the
10 Secretary. The agreement shall be re-evaluated every
11 two years and modified as appropriate.

12 “(3) Agreements in effect on the effective date
13 of this Act shall continue in force until replaced, as
14 required by paragraph (1) of this subsection, and
15 appropriations authorized for the program shall be
16 available for obligation or expenditure while the
17 agreements are in place.

18 “(e) PERMISSIBLE USES OF FUNDS.—

19 “(1) Funds made available for the territorial
20 highway program may be used only for—

21 “(A) eligible surface transportation pro-
22 gram projects described in section 133(b) of
23 this title;

1 “(B) cost effective preventive maintenance
2 consistent with the requirements of section 116
3 of this title;

4 “(C) ferry boats, terminal facilities, and
5 approaches, as provided for in section 129(b)
6 and (c) of this title;

7 “(D) engineering and economic surveys
8 and investigations for the planning of future
9 highway programs and the financing thereof;

10 “(E) studies of the economy, safety, and
11 convenience of highway usage and the desirable
12 regulation and equitable taxation thereof; and

13 “(F) research and development, necessary
14 in connection with the planning, design, and
15 maintenance of the highway system, and the
16 regulation and taxation of their use.

17 “(2) None of the appropriations authorized for
18 the territorial highway program shall be obligated or
19 expended for routine maintenance.

20 “(f) LOCATION OF PROJECTS.—Except as provided
21 in subsection (b)(1) of section 133 of this title, territorial
22 highway projects (other than those described in subsection
23 (b)(3) and (4) of section 133 of this title) may not be
24 undertaken on roads functionally classified as local.”.

1 (h) CONFORMING AMENDMENTS.—The analysis of
 2 chapter 2 of title 23 is amended by revising the item relat-
 3 ing to section 215 to read as follows:

“215. Territorial highway program.”

4 **SEC. 1809. FUTURE INTERSTATE SYSTEM ROUTES.**

5 (a) WRITTEN AGREEMENT OF STATES.—Section
 6 103(e)(4)(B)(ii) of title 23, United States Code, is amend-
 7 ed by striking “12” and inserting “25”.

8 (b) REMOVAL OF DESIGNATION.—Section
 9 103(e)(4)(B)(iii)(I) of such title is amended—

10 (1) by striking “in the agreement between the
 11 Secretary and the State or States”; and

12 (2) by adding at the end the following: “An
 13 agreement entered into under clause (ii) prior to the
 14 enactment of the Safe, Accountable, Flexible, and
 15 Efficient Transportation Equity Act of 2003 shall be
 16 deemed to include the 25 year time limitation, not-
 17 withstanding an earlier construction completion date
 18 in that agreement.”.

19 **SEC. 1810. DONATIONS AND CREDITS.**

20 Section 323 of title 23, United States Code, is
 21 amended by—

22 (1) inserting “or a local government from offer-
 23 ing to donate funds, materials or services performed
 24 by local government employees,” after “services” in
 25 the first sentence of subsection (c); and

1 ~~(2) striking subsection (c).~~

2 **SEC. 1811. DISADVANTAGED BUSINESS ENTERPRISES.**

3 ~~(a) GENERAL RULE.—~~Except to the extent that the
4 Secretary determines otherwise, not less than 10 percent
5 of the amounts made available for any program under ti-
6 tles I, III, and V of this Act shall be expended with small
7 business concerns owned and controlled by socially and
8 economically disadvantaged individuals.

9 ~~(b) DEFINITIONS.—~~In this section, the following defi-
10 nitions apply:

11 ~~(1) SMALL BUSINESS CONCERN.—~~The term
12 “small business concern” has the meaning such
13 term has under section 3 of the Small Business Act
14 (15 U.S.C. 632); except that such term shall not in-
15 clude any concern or group of concerns controlled by
16 the same socially and economically disadvantaged in-
17 dividual or individuals which has average annual
18 gross receipts over the preceding 3 fiscal years in ex-
19 cess of \$17,420,000, as adjusted by the Secretary
20 for inflation.

21 ~~(2) SOCIALLY AND ECONOMICALLY DISADVAN-~~
22 ~~TAGED INDIVIDUALS.—~~The term “socially and eco-
23 nomically disadvantaged individuals” has the mean-
24 ing such term has under section 8(d) of the Small
25 Business Act (15 U.S.C. 637(d)) and relevant sub-

1 contracting regulations promulgated pursuant there-
2 to; except that women shall be presumed to be so-
3 cially and economically disadvantaged individuals for
4 purposes of this section.

5 (c) ANNUAL LISTING OF DISADVANTAGED BUSINESS
6 ENTERPRISES.—Each State shall annually survey and
7 compile a list of the small business concerns referred to
8 in subsection (a) and the location of such concerns in the
9 State and notify the Secretary, in writing, of the percent-
10 age of such concerns which are controlled by women, by
11 socially and economically disadvantaged individuals (other
12 than women), and by individuals who are women and are
13 otherwise socially and economically disadvantaged individ-
14 uals.

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

24 (e) COMPLIANCE WITH COURT ORDERS.—Nothing in
25 this section limits the eligibility of an entity or person to

1 receive funds made available under titles I, III, and V of
2 this Act, if the entity or person is prevented, in whole or
3 in part, from complying with subsection (a) because a
4 Federal court issues a final order in which the court finds
5 that the requirement of subsection (a), or the program es-
6 tablished under subsection (a), is unconstitutional.

7 **SEC. 1812. HIGHWAY BRIDGE PROGRAM.**

8 (a) PROGRAM NAME.—Section 144 of title 23, United
9 States Code, is amended in the section heading by striking
10 “replacement and rehabilitation”.

11 (b) IN GENERAL.—Section 144(a) of such title is
12 amended to read as follows:

13 “(a) Congress hereby finds and declares it to be in
14 the vital interest of the Nation that a highway bridge pro-
15 gram be established to enable the several States to im-
16 prove the condition of their bridges through replacement,
17 rehabilitation, and systematic preventative maintenance
18 on highway bridges over waterways, other topographical
19 barriers, other highways, or railroads when the States and
20 the Secretary find that a bridge is unsafe because of struc-
21 tural deficiencies, physical deterioration, or functional ob-
22 solescence.”.

23 (c) SCOUR COUNTERMEASURES.—Section 144(d) of
24 such title is amended to read as follows:

1 “(d) Whenever any State or States make application
2 to the Secretary for assistance in replacing or rehabili-
3 tating a highway bridge which the priority system estab-
4 lished under subsections (b) and (c) of this section shows
5 to be eligible, the Secretary may approve Federal partici-
6 pation in replacing such bridge with a comparable facility
7 or in rehabilitating such bridge. Whenever any State
8 makes application to the Secretary for assistance in paint-
9 ing, seismic retrofit, or preventative maintenance of, or in-
10 stalling scour countermeasures or applying calcium mag-
11 nesium acetate, sodium acetate/formate, or other environ-
12 mentally acceptable, minimally corrosive anti-icing and de-
13 icing compositions to, the structure of a highway bridge,
14 the Secretary may approve Federal participation in the
15 painting, seismic retrofit, or preventative maintenance of,
16 or installation of scour countermeasures or application of
17 acetate or sodium acetate/formate or such anti-icing or de-
18 icing composition to, such structure. The Secretary shall
19 determine the eligibility of highway bridges for replace-
20 ment or rehabilitation for each State based upon the un-
21 safe highway bridges in such State, except that a State
22 may carry out a project for preventative maintenance on
23 a bridge, seismic retrofit of a bridge, or installing scour
24 countermeasures to a bridge under this section without re-

1 gard to whether the bridge is eligible for replacement or
2 rehabilitation under this section.”.

3 (d) APPORTIONMENT FORMULA.—Section 144(e) of
4 such title is amended—

5 (1) in the third sentence by striking “square
6 footage” and inserting “area”;

7 (2) in the fourth sentence by striking “by the
8 total cost of any highway bridges constructed under
9 subsection (m) in such State, relating to replacement
10 of destroyed bridges and ferryboat services, and,”
11 and by striking “1997” and inserting “2003”; and

12 (3) by striking “the Federal-aid primary sys-
13 tem” and inserting “Federal-aid highways”.

14 (e) DISCRETIONARY BRIDGE PROGRAM.—Section
15 144(g) of such title is amended—

16 (1) by striking “SET ASIDES.” in the heading
17 of (g) and all that follows through paragraph (2)(B);

18 (2) by striking “(3)” and redesignating para-
19 graph (3) as subsection (g); and

20 (3) in subsection (g), as redesignated, by—

21 (A) striking “not more than 35 percent”;

22 (B) striking “1987” and inserting “2004”;

23 (D) striking “2003” and inserting “2009”;

24 and

1 (E) striking “paint” and inserting “per-
2 form systematic preventative maintenance”.

3 (f) INVENTORIES AND REPORTS.—Section 144(i) of
4 such title is amended—

5 (1) in paragraph (3), by striking “and”;

6 (2) in paragraph (4), by striking “section.” and
7 inserting “section; and”; and

8 (3) after paragraph (4), by striking “Such re-
9 ports shall be submitted to such committees bienni-
10 ally at the same time as the report required by sec-
11 tion 307(f)(1) of this title is submitted to Con-
12 gress.” and inserting the following:

13 “(5) submit reports required by this subsection
14 to such committees biennially at the same time as
15 the report required by section 502(g) of this title.”.

16 (g) OFF-SYSTEM BRIDGE PROGRAM.—Section
17 144(n) of such title is amended by inserting “general engi-
18 neering” between “all” and “standards”.

19 (h) HISTORIC BRIDGE PROGRAM.—Section 144(o) of
20 such title is amended—

21 (1) in paragraph (3), by striking “title (includ-
22 ing this section)” and inserting “section” and by in-
23 serting “200 percent of” after “shall not exceed”;
24 and

1 (2) in paragraph (4), by inserting “200 percent
2 of” after “not to exceed”, and by striking “title” at
3 the end of the paragraph and inserting “section”.

4 (i) WATER RESOURCES PROJECTS.—Section 144 of
5 such title is further amended by adding at the end the
6 following:

7 “(r) Notwithstanding any other provision of law, any
8 bridge funded under this title shall not be considered a
9 ‘water resources project’ as that term is used in the Wild
10 and Scenic Rivers Act (16 U.S.C. 1271–1287).”

11 (j) CONFORMING AMENDMENT.—The analysis for
12 chapter 1 of title 23 is amended in the item relating to
13 section 144 by striking “replacement and rehabilitation”.

14 **SEC. 1813. DESIGN-BUILD.**

15 Section 112(b)(3) of title 23, United States Code, is
16 amended by striking subparagraph (C) and inserting the
17 following in its place:

18 “(C) QUALIFIED PROJECTS.—A qualified
19 project is a project under this chapter for which
20 the Secretary has approved the use of design-
21 build contracting under criteria specified in reg-
22 ulations issued by the Secretary.”

23 **SEC. 1814. INTERNATIONAL FERRIES.**

24 Section 129(e)(5) of title 23, United States Code, is
25 amended—

1 (1) by striking “and” the first place it appears
2 in the first sentence, and inserting a comma;

3 (2) by adding “, and the islands that comprise
4 a territory of the United States” after “Puerto
5 Rico” in the first sentence; and

6 (3) by adding “operations between the islands
7 which comprise a territory of the United States,”
8 after “Puerto Rico,” in the second sentence.

9 **SEC. 1815. ASSUMPTION OF RESPONSIBILITY FOR TRANS-**
10 **PORTATION ENHANCEMENTS, REC-**
11 **REATIONAL TRAILS, AND TRANSPORTATION**
12 **AND COMMUNITY AND SYSTEM PRESERVA-**
13 **TION PROGRAM PROJECTS.**

14 (a) IN GENERAL.—Chapter 1 of title 23, United
15 States Code, as amended by this Act, is further amended
16 by inserting the following new section after section 165:

17 **“§ 166. Assumption of responsibility for transpor-**
18 **tation enhancements, recreational trails,**
19 **and transportation, community, and sys-**
20 **tem preservation program projects**

21 **“(a) ASSUMPTION OF SECRETARY’S RESPONSIBIL-**
22 **ITIES UNDER APPLICABLE FEDERAL LAWS.—**

23 **“(1) IN GENERAL.—**Upon mutual agreement
24 the Secretary may assign, and the State may as-
25 sume, any of the Secretary’s responsibilities (except

1 responsibilities relating to Federally recognized
2 tribes) for environmental reviews, consultation, deci-
3 sion-making or other actions under any Federal law
4 applicable to projects that—

5 “(A) are funded under section 104(h) or
6 section 167 of this title; or

7 “(B) meet the definition of a transpor-
8 tation enhancement activity as set forth in sec-
9 tion 101(a)(38) of this title.

10 “(2) LIMITATIONS.—The State shall assume
11 these responsibilities subject to the same procedural
12 and substantive requirements as would be required
13 if such responsibilities were carried out by the Sec-
14 retary. When a State assumes any responsibility
15 under a Federal law pursuant to this section, it as-
16 sents to Federal jurisdiction and shall be solely re-
17 sponsible and solely liable for complying with and
18 carrying out that law in lieu of the Secretary.

19 “(b) AGREEMENTS.—The Secretary and the State
20 shall enter into a memorandum of understanding setting
21 forth the responsibilities to be assigned under this section
22 and the terms and conditions under which such assign-
23 ments are to be made. In the memorandum of under-
24 standing the State shall consent to accept the jurisdiction
25 of the Federal courts for the compliance, discharge, and

1 enforcement of any responsibility of the Secretary it may
2 assume. Such memoranda of understanding shall be estab-
3 lished for periods of no more than three years. The Sec-
4 retary shall review and determine compliance with the
5 memorandum of understanding and the laws assigned by
6 it to the State on an annual basis for the first three years
7 of the agreement and, subsequently, on a periodic basis
8 to be determined by mutual agreement but no longer than
9 every three years.

10 “(e) TERMINATION.—The Secretary may terminate
11 any assignment of responsibility under this section upon
12 a determination that a State is not adequately meeting
13 the terms and conditions of the memorandum of under-
14 standing.

15 “(d) STATE DEFINED.—For the recreational trails
16 program, “State” means the State agency designated by
17 the Governor of the State in accordance with section
18 206(e)(1) of this title.

19 “(e) PRESERVATION OF PUBLIC INTEREST CONSID-
20 ERATION.—Nothing contained in this section shall be con-
21 strued to limit the requirements under any applicable law
22 providing for the consideration and preservation of the
23 public interest, including public participation and commu-
24 nity values in transportation decision-making.

1 “(f) STATE SUBJECT TO FEDERAL LAWS.—For pur-
 2 poses of assuming the Secretary’s responsibilities under
 3 this section, the State agency signing the agreement in
 4 subsection (e) is deemed to be a Federal agency to the
 5 extent the State is carrying out the Secretary’s respon-
 6 sibilities under the National Environmental Policy Act,
 7 under this title, and under any other Federal law.”.

8 (b) CONFORMING AMENDMENT.—The analysis for
 9 chapter 1 of title 23, United States Code, as amended by
 10 this Act, is further amended by inserting after the item
 11 relating to section 165 the following:

“166. Assumption of responsibility for transportation enhancements, rec-
 recreational trails, and transportation and community and system
 preservation program projects.”.

12 **SEC. 1816. TRANSPORTATION, COMMUNITY, AND SYSTEM**
 13 **PRESERVATION PROGRAM.**

14 (a) TRANSPORTATION, COMMUNITY, AND SYSTEM
 15 PRESERVATION PROGRAM.—Chapter 1 of title 23, United
 16 States Code, as amended by this Act, is further amended
 17 by inserting the following new section after section 166:
 18 **“§ 167. Transportation, community, and system pres-**
 19 **ervation program**

20 “(a) ESTABLISHMENT AND PURPOSE.—The Sec-
 21 retary shall establish a comprehensive program to inves-
 22 tigate and address the relationships between transpor-
 23 tation and community and system preservation and iden-
 24 tify private sector-based initiatives. Through this program,

1 the Secretary shall facilitate the planning, development,
2 and implementation of strategies by States, metropolitan
3 planning organizations, federally-recognized tribes, and
4 local governments to integrate transportation, community,
5 and system preservation plans and practices that address
6 one or more of the following:

7 “(1) Improve the efficiency of the transpor-
8 tation system.

9 “(2) Reduce the impacts of transportation on
10 the environment.

11 “(3) Reduce the need for costly future invest-
12 ments in public infrastructure.

13 “(4) Provide efficient access to jobs, services,
14 and centers of trade.

15 “(5) Examine development patterns and iden-
16 tify strategies to encourage private sector develop-
17 ment patterns which achieve the goals identified in
18 paragraphs (1) through (4).

19 “(b) FUNDING.—Funds authorized to be apportioned
20 under section 104(q) of this title shall be available to carry
21 out the provisions of this section.”.

22 (b) Section 104 of such title is amended by adding
23 after subsection (p), as added by this Act, the following:

24 “(q) TRANSPORTATION, COMMUNITY, AND SYSTEM
25 PRESERVATION PROGRAM.—

1 “(1) SET-ASIDE.—On October 1 of each fiscal
 2 year for fiscal years 2004 through 2009, the Sec-
 3 retary, after making the deductions authorized by
 4 subsections (a) and (f), shall set aside \$26,000,000
 5 of the remaining funds authorized to be apportioned
 6 under subsection (b)(3) for carrying out the Trans-
 7 portation, Community, and System Preservation
 8 Program under section 167 of this chapter.

9 “(2) APPORTIONMENT.—

10 “(A) From amounts set aside under para-
 11 graph (1), the Secretary shall apportion
 12 \$500,000 each fiscal year to each State, includ-
 13 ing the District of Columbia and Puerto Rico,
 14 to carryout the provisions of section 167.

15 “(B) A State shall also make funds appor-
 16 tioned under this subsection available to metro-
 17 politan planning organizations, federally recog-
 18 nized tribes, and local governments in a manner
 19 and amounts to be determined by the State to
 20 carryout the provisions of section 167.”.

21 (c) CONFORMING AMENDMENT.—The analysis for
 22 chapter 1 of title 23, United States Code, as amended by
 23 this Act, is further amended by inserting after the item
 24 relating to section 166 the following:

“167. Transportation, community, and system preservation program.”.

1 **SEC. 1817. PROGRAM EFFICIENCIES—FINANCE.**

2 Section 115 of title 23, United States Code, is
3 amended—

4 (1) by striking “(a)” and all that follows
5 through subsection (a)(1)(B);

6 (2) by striking subsection (b);

7 (3) by redesignating subsection (e) as sub-
8 section (d);

9 (4) by redesignating subsections (a)(2),
10 (a)(2)(A), and (a)(2)(B) as subsections (e), (e)(1),
11 and (e)(2) respectively; and

12 (5) by inserting after the section heading the
13 following:

14 “(a) The Secretary may authorize a State to proceed
15 with a project authorized under this title without the aid
16 of Federal funds in accordance with all procedures and
17 all requirements applicable to such a project, except inso-
18 far as such procedures and requirements limit the State
19 to implementation of projects with the aid of Federal
20 funds previously apportioned or allocated to it or limit a
21 State to implementation of a project with obligation au-
22 thority previously allocated to it.

23 “(b) The Secretary, upon the request of the State and
24 execution of a project agreement, may obligate the Federal
25 share, or a portion of the Federal share, of the cost of

1 a project authorized under this section from any category
2 of funds for which the project is eligible.”.

3 **Subtitle I—Technical Corrections**
4 **to Title 23, United States Code**

5 **SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

6 (a) **LETTING OF CONTRACTS.**—Section 112 of title
7 23, United States Code, is amended—

8 (1) by striking subsection (f); and

9 (2) by redesignating subsection (g) as sub-
10 section (f).

11 (b) **FRINGE AND CORRIDOR PARKING FACILITIES.**—
12 Section 137(a) of title 23, United States Code, is amended
13 in the first sentence by striking “on the Federal-aid urban
14 system” and inserting “on a Federal-aid highway”.

15 (c) **REPEAL OF OBSOLETE SECTIONS OF TITLE**
16 **23.**—

17 (1) **PRIORITY PRIMARY ROUTES.**—Section 147
18 of title 23, United States Code, is repealed.

19 (2) **DEVELOPMENT OF A NATIONAL SCENIC**
20 **AND RECREATIONAL HIGHWAY.**—Section 148 of title
21 23, United States Code, is repealed.

22 (3) **ACCESS HIGHWAYS TO PUBLIC RECREATION**
23 **AREAS ON CERTAIN LAKES.**—Section 155 of title 23,
24 United States Code, is repealed.

1 **SEC. 1904. INCLUSION OF “BUY AMERICA” REQUIREMENTS**
 2 **IN TITLE 23.**

3 (a) **IN GENERAL.**—Section 165 of the Highway Im-
 4 provement Act of 1982 (~~23 U.S.C. 101~~ note; 96 Stat.
 5 ~~2136~~) is—

6 (1) transferred to title 23, United States Code;

7 (2) redesignated as section 313;

8 (3) moved to appear after section 312 of that
 9 title; and

10 (4) amended by striking the section heading
 11 and inserting the following:

12 **“§ 313. Buy America”.**

13 (b) **CONFORMING AMENDMENTS.**—

14 (1) The analysis for chapter 3 of title 23, United
 15 States Code, is amended by inserting after the item
 16 relating to section 320 the following:

“313. Buy America.”.

17 (2) Section 313 of title 23, United States Code
 18 (as added by subsection (a)), is amended—

19 (A) in subsection (a), by striking “any
 20 funds authorized to be appropriated by this Act
 21 or by any Act amended by this Act or, after the
 22 date of enactment of this Act, any funds au-
 23 thorized to be appropriated to carry out this
 24 Act, title 23, United States Code, or the Sur-
 25 face Transportation Assistance Act of 1978”

1 and inserting “any funds authorized to be ap-
 2 propriated to carry out the Surface Transpor-
 3 tation Assistance Act of 1982 (96 Stat. 2097)
 4 or this title”;

5 (B) in subsection (b), by redesignating
 6 paragraph (4) as paragraph (3);

7 (C) in subsection (d), by striking “this Act,
 8 the Surface Transportation Assistance Act of
 9 1978, or title 23, United States Code,” and in-
 10 sserting “the Surface Transportation Assistance
 11 Act of 1982 (96 Stat. 2097) or this title”;

12 (D) by striking subsection (e); and

13 (E) by redesignating subsections (f) and
 14 (g) as subsections (e) and (f), respectively.

15 **SEC. 1905. TECHNICAL AMENDMENTS TO 23 UNITED STATES**

16 **CODE 140 (NONDISCRIMINATION).**

17 (a) Section 140(a) of title 23, United States Code,
 18 is amended as follows:

19 (1) At the beginning of the second sentence,
 20 strike the word “He” and insert in its place the
 21 words “The Secretary”.

22 (2) In the first sentence, strike “subsection (a)
 23 of section 105” and insert in its place “section
 24 135”.

1 (3) In the third sentence, strike the phrase
2 “where he considers it necessary” and insert in its
3 place the phrase “where necessary”.

4 (4) The last sentence is amended to read as fol-
5 lows: “The Secretary shall periodically obtain from
6 the Secretary of Labor and the respective State
7 transportation departments information which will
8 enable the Secretary to judge compliance with the
9 requirements of this section and the Secretary of
10 Labor shall render to the Secretary such assistance
11 and information as the Secretary shall deem nec-
12 essary to carry out the equal employment oppor-
13 tunity program required hereunder.”.

14 (b) Section 140(b) of title 23, United States Code,
15 is amended as follows:

16 (1) In the first sentence, strike the words
17 “highway construction” and insert “surface trans-
18 portation”;

19 (2) In the second sentence, strike the phrase
20 “as he may deem necessary” and insert in its place
21 the phrase “as necessary”, and strike the phrase
22 “not to exceed \$2,500,000 for the transition quarter
23 ending September 30, 1976, and”.

24 (3) In the fourth sentence, strike the phrase
25 “shall not be not be applicable to contracts” and in-

1 sert in its place the phrase “shall not be applicable
2 to contracts”.

3 (c) ~~The second sentence of section 140(e) of title 23,~~
4 United States Code, is amended by striking the phrase
5 “the Secretary shall deduct such sums as he may deem
6 necessary,” and inserting in its place the phrase “the Sec-
7 retary shall deduct such sums as necessary.”

8 (d) Section 140(d) of title 23, United States Code,
9 is amended by striking from its catchline the words “and
10 contracting”.

11 **SEC. 1906. FEDERAL SHARE PAYABLE FOR PROJECTS FOR**
12 **ELIMINATION OF HAZARDS OF RAILWAY-**
13 **HIGHWAY CROSSINGS.**

14 Section 120(e) of title 23, United States Code, is
15 amended by amending the first sentence of subsection (e)
16 to read as follows: “The Federal share payable on account
17 of any project for traffic control signalization; safety rest
18 areas; pavement marking; commuter carpooling and van-
19 pooling; rail-highway crossing closure; projects for elimi-
20 nation of hazards of railway-highway crossings, as identi-
21 fied in section 2604 of Public Law 106-246 (114 Stat.
22 511, 559); or installation of traffic signs, traffic lights,
23 guardrails, impact attenuators, concrete barrier
24 end treatments, breakaway utility poles, or priority control
25 systems for emergency vehicles or transit vehicles at sig-

1 nalized intersections may amount to 100 percent of the
 2 cost of construction of such projects; except that not more
 3 than 10 percent of all sums apportioned for all the Fed-
 4 eral-aid systems for any fiscal year in accordance with sec-
 5 tion 104 of this title shall be used under this subsection.”.

6 **TITLE II—HIGHWAY SAFETY**

7 **SEC. 2001. HIGHWAY SAFETY PROGRAMS.**

8 (a) PERFORMANCE GRANTS.—Section 402 (k) of title
 9 23, United States Code, is amended to read as follows:

10 “(k) PERFORMANCE GRANTS.—In addition to other
 11 grants authorized by this section, the Secretary shall make
 12 grants in accordance with this subsection. Funds author-
 13 ized to carry out this subsection in a fiscal year shall be
 14 subject to a deduction not to exceed 5 percent for the nec-
 15 essary costs of administering this subsection.

16 “(1) GENERAL PERFORMANCE GRANTS.—On or
 17 before December 31, 2003, and on or before each
 18 December 31 thereafter through December 31,
 19 2008, the Secretary shall make grants to States
 20 based upon the performance of their highway safety
 21 programs in the following categories: (i) motor vehi-
 22 cle crash fatalities; (ii) alcohol-related crash fatali-
 23 ties; and (iii) motorcycle, bicycle, and pedestrian
 24 crash fatalities.

1 “(A) DETERMINATIONS BY THE SEC-
2 RETARY.—The Secretary, through a rulemaking
3 proceeding, shall determine—

4 “(i) measures for calculating and
5 scoring performance in each category
6 under this paragraph, using the data for
7 the most recent calendar year for which
8 the data are available from—

9 “(I) fatality data provided by the
10 National Highway Traffic Safety Ad-
11 ministration; and

12 “(II) vehicle miles traveled deter-
13 mined by the Federal Highway Ad-
14 ministration.

15 “(ii) goals for achievement and annual
16 progress in each category under this para-
17 graph that reflect the potential of each
18 goal to save lives; and

19 “(iii) a weighting system for all of the
20 goals that reflects the relative potential of
21 each goal to save lives.

22 “(B) AMOUNT OF GRANTS.—The Secretary
23 shall determine the amount of funds available
24 to a State in a fiscal year for grants under this
25 paragraph, based on the State’s achievement or

1 annual progress in each of the categories under
2 this paragraph, using the measures, goals and
3 weighting system established under this para-
4 graph, the amount appropriated to carry out
5 the grants for such fiscal year, and the ratio
6 that the funds apportioned to the State under
7 section 402(e) for such fiscal year bears to the
8 funds apportioned under section 402(e) for such
9 fiscal year to all the States that qualify for a
10 grant for such fiscal year.

11 ~~“(2) SAFETY BELT PERFORMANCE GRANTS:~~

12 ~~“(A) PRIMARY SAFETY BELT USE LAW.—~~

13 ~~“(i) For fiscal years 2004 and 2005,~~
14 ~~the Secretary shall make a grant to each~~
15 ~~State that enacted, and is enforcing, a pri-~~
16 ~~mary safety belt use law for all passenger~~
17 ~~motor vehicles that became effective by De-~~
18 ~~cember 31, 2002.~~

19 ~~“(ii) For each of fiscal years 2004~~
20 ~~through 2009, the Secretary shall, after~~
21 ~~making grants under paragraph (2)(A)(i)~~
22 ~~of this subsection, make a one-time grant~~
23 ~~to each State that either enacts for the~~
24 ~~first time after December 31, 2002, and~~
25 ~~has in effect a primary safety belt use law~~

1 for all passenger motor vehicles, or, in the
2 ease of a State that does not have such a
3 primary safety belt use law, has a State
4 safety belt use rate in the preceding fiscal
5 year of at least 90 percent, as measured
6 under criteria determined by the Secretary.

7 “(iii) Of the funds authorized for
8 grants under this subsection,
9 \$100,000,000 in each of fiscal years 2004
10 through 2009 shall be available for grants
11 under this paragraph. The amount of a
12 grant available to a State in each of fiscal
13 years 2004 and 2005 under paragraph
14 (2)(A)(i) of this subsection shall be equal
15 to one-half of the amount of funds appor-
16 tioned to the State under subsection (e) of
17 this section for fiscal year 2003. The
18 amount of a grant available to a State in
19 fiscal year 2004 or in a subsequent fiscal
20 year under paragraph (2)(A)(ii) of this
21 subsection shall be equal to five times the
22 amount apportioned to the State for fiscal
23 year 2003 under subsection (e). Notwith-
24 standing subsection (d) of this section, the
25 Federal share payable for grants under

1 this paragraph shall be 100 percent. If the
2 total amount of grants under paragraph
3 ~~(2)(A)(ii)~~ for a fiscal year exceeds the
4 amount of funds available in the fiscal
5 year, grants shall be made to each eligible
6 State, in the order in which its primary
7 safety belt use law became effective or its
8 safety belt use rate reached 90 percent,
9 until the funds for the fiscal year are ex-
10 hausted. A State that does not receive a
11 grant for which it is eligible in a fiscal year
12 shall receive the grant in the succeeding
13 fiscal year so long as its law remains in ef-
14 fect or its safety belt use rate remains at
15 or above 90 percent. If the total amount of
16 grants under this paragraph for a fiscal
17 year is less than the amount available in
18 the fiscal year, the Secretary shall use any
19 funds that exceed the total amount for
20 grants under paragraph ~~(2)(B)~~ of this sub-
21 section.

22 ~~“(B) SAFETY BELT USE RATE.—~~

23 ~~“(i) On or before December 31, 2003,~~
24 ~~and on or before each December 31 there-~~
25 ~~after through December 31, 2008, the Sec-~~

1 retary shall make grants to States based
2 upon their safety belt use rate in the pre-
3 ceding fiscal year.

4 “(ii) The Secretary, through a rule-
5 making, shall determine measures for cal-
6 culating and scoring the performance for
7 safety belt use rates, using data for the
8 most recent calendar year for which State
9 safety belt use rate data are available from
10 observational safety belt surveys conducted
11 in accordance with criteria established by
12 the Secretary.

13 “(iii) Of the funds authorized for
14 grants under this subsection, \$25,000,000
15 for fiscal year 2004, \$27,000,000 for fiscal
16 year 2005, \$29,000,000 for fiscal year
17 2006, \$31,000,000 for fiscal year 2007,
18 \$34,000,000 for fiscal year 2008, and
19 \$36,000,000 for fiscal year 2009 shall be
20 available for safety belt use rate grants
21 under this paragraph. The Secretary shall
22 determine the amount of funds available to
23 a State in a fiscal year based on the
24 State’s achievement or annual progress in
25 its safety belt use rate, the amount appro-

1 priated to carry out the grants for such
2 fiscal year, and the ratio that the funds
3 apportioned to the State under section
4 402(e) for such fiscal year bears to the
5 funds apportioned under section 402(e) for
6 such fiscal year to all the States that qual-
7 ify for a grant for such fiscal year. Not-
8 withstanding subsection (d) of this section,
9 the Federal share payable for grants under
10 this paragraph shall be 100 percent.

11 “(C) DEFINITION.—In this paragraph,
12 passenger motor vehicle means a passenger car,
13 pickup truck, van, minivan, or sport utility ve-
14 hicle, with a gross vehicle weight rating of less
15 than 10,000 pounds.

16 “(3) USE OF GRANTS.—A State allocated an
17 amount for a grant under paragraph (1)(A) of this
18 subsection shall use the amount for activities eligible
19 for assistance under this section, except that it may
20 use up to 50 percent of the amount for activities eli-
21 gible under section 150 of this title and consistent
22 with the State’s strategic highway safety plan under
23 section 151 of this title that are not otherwise eligi-
24 ble for assistance under this section. A State allo-
25 cated an amount for a grant under paragraph (2)(A)

1 of this subsection may use the amount for activities
2 eligible for assistance under this section or for activi-
3 ties eligible under section 150 of this title and con-
4 sistent with the State's strategic highway safety plan
5 under section 151 of this title that are not otherwise
6 eligible for assistance under this section. A State al-
7 located an amount for a grant under paragraph
8 (2)(B) of this subsection, including any amount
9 transferred under paragraph (2)(A) of this sub-
10 section, shall use the amount for safety belt use pro-
11 grams eligible for assistance under this section, ex-
12 cept that it may use up to 50 percent of the amount
13 for activities eligible under section 150 of this title
14 and consistent with the State's strategic highway
15 safety plan under section 151 of this title that are
16 not otherwise eligible for assistance under this sec-
17 tion.”.

18 (b) IMPAIRED DRIVING GRANTS.—Section 402 of
19 title 23, United States Code, is amended by adding at the
20 end the following subsection:

21 “(1)(1) IMPAIRED DRIVING GRANTS.—In addition to
22 other grants authorized by this section and subject to the
23 provisions of this subsection, the Secretary shall design
24 and implement a discretionary grant program to develop,
25 demonstrate, and evaluate comprehensive State programs

1 to reduce impaired driving in States with a high number
2 of alcohol-related fatalities and a high rate of alcohol-re-
3 lated fatalities relative to vehicle miles traveled and popu-
4 lation.

5 “(2) PROCEDURE.—The Secretary shall establish a
6 procedure for submitting grant applications under this
7 subsection, and shall select from among the applicants the
8 States to participate in the program.

9 “(3) USE OF GRANTS.—A grant to a State under this
10 subsection shall be used only to carry out the State’s pro-
11 gram under paragraph (1).

12 “(4) ADMINISTRATIVE EXPENSES.—Funds author-
13 ized to be appropriated to carry out this subsection in a
14 fiscal year shall be subject to a deduction not to exceed
15 10 percent for the costs of evaluating the programs and
16 administering the provisions of this subsection.

17 “(5) FEDERAL SHARE.—Notwithstanding subsection
18 (d) of this section, the Federal share payable for a grant
19 under this subsection shall be—

20 “(A) 100 percent in the first and second fiscal
21 years in which the State receives a grant;

22 “(B) 75 percent in the third and fourth fiscal
23 years in which the State receives a grant; and

24 “(C) 50 percent in the fifth and sixth fiscal
25 years in which the State receives a grant.”

1 **SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOP-**
2 **MENT.**

3 Section 403(a) (Authority of the Secretary) of title
4 23, United States Code, is amended by adding the fol-
5 lowing paragraphs at the end:

6 “(4) **EMERGENCY MEDICAL SERVICES.**—In ad-
7 dition to the authority provided under this sub-
8 section, the Secretary is authorized to use funds ap-
9 propriated to carry out this section to enhance co-
10 ordination among Federal agencies involved with
11 State, local, tribal, and community-based emergency
12 medical services. In exercising this authority, the
13 Secretary may coordinate with State and local gov-
14 ernments, the Bureau of Indian Affairs on behalf of
15 Indian tribes, private industry, and other interested
16 parties; collect and exchange emergency medical
17 services data and information; examine emergency
18 medical services needs, best practices, and related
19 technology; and develop emergency medical services
20 standards and guidelines; and plans for the assess-
21 ment of emergency medical services systems.

22 “(5) **INTERNATIONAL COOPERATION.**—In addi-
23 tion to the authority provided under this subsection,
24 the Secretary is authorized to use funds appro-
25 priated to carry out this section to participate and
26 cooperate in international activities to enhance high-

1 way safety by such means as exchanging safety in-
 2 formation; conducting safety research; and exam-
 3 ining safety needs, best practices, and new tech-
 4 nology.

5 “(6) NATIONAL MOTOR VEHICLE CRASH CAUSA-
 6 TION SURVEY.—In addition to the authority pro-
 7 vided under this subsection, the Secretary is author-
 8 ized to use funds appropriated to carry out this sec-
 9 tion to develop and conduct a nationally representa-
 10 tive survey to collect on-scene motor vehicle crash
 11 causation data.”.

12 **SEC. 2003. EMERGENCY MEDICAL SERVICES.**

13 (a) FEDERAL COORDINATION AND ENHANCED SUP-
 14 PORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 of
 15 title 23, United States Code, is amended by revising sec-
 16 tion 407 to read as follows:

17 **“§ 407. Federal coordination and enhanced support of**
 18 **emergency medical services**

19 “(a) FEDERAL INTERAGENCY COMMITTEE ON EMER-
 20 GENCY MEDICAL SERVICES.—

21 “(1) IN GENERAL.—The Secretary of Transpor-
 22 tation and the Secretary of Homeland Security
 23 through the Under Secretary for Emergency Pre-
 24 paredness and Response, in consultation with the
 25 Secretary of Health and Human Services, shall es-

1 establish a Federal Interagency Committee on Emer-
2 gency Medical Services (referred to as the ‘Inter-
3 agency Committee on EMS’) that shall—

4 “(A) assure coordination among the Fed-
5 eral agencies involved with State, local, tribal or
6 regional emergency medical services and 9-1-1
7 systems;

8 “(B) identify State, local, tribal or regional
9 emergency medical services and 9-1-1 needs;

10 “(C) recommend new or expanded pro-
11 grams, including grant programs, for improving
12 State, local, tribal or regional emergency med-
13 ical services and implementing improved EMS
14 communications technologies, including wireless
15 E9-1-1;

16 “(D) identify ways to streamline the proc-
17 ess through which Federal agencies support
18 State, local, tribal or regional emergency med-
19 ical services;

20 “(E) assist State, local, tribal or regional
21 emergency medical services in setting priorities
22 based on identified needs; and

23 “(F) advise, consult with and make rec-
24 ommendations on matters relating to the imple-
25 mentation of the coordinated State emergency

1 medical services program established under sub-
2 section (b) of this section.

3 “(2) MEMBERSHIP.—The membership of the
4 Interagency Committee on EMS shall consist of the
5 following officials, or their designees:

6 “(A) Administrator, National Highway
7 Traffic Safety Administration.

8 “(B) Director, Preparedness Division,
9 Emergency Preparedness and Response Direc-
10 torate, Department of Homeland Security.

11 “(C) Administrator, Health Resources and
12 Services Administration.

13 “(D) Director, Centers for Disease Control
14 and Prevention.

15 “(E) Administrator, United States Fire
16 Administration, Emergency Preparedness and
17 Response Directorate, Department of Homeland
18 Security.

19 “(F) Director, Center for Medicare and
20 Medicaid Services.

21 “(G) Undersecretary of Defense for Per-
22 sonnel and Readiness, Department of Defense.

23 “(H) Assistant Secretary for Public Health
24 Emergency Preparedness, Department of
25 Health and Human Services.

1 “(I) Director, Indian Health Service, De-
2 partment of Health and Human Services:

3 “(J) Chief, Wireless Telecom Bureau, Fed-
4 eral Communications Commission:

5 “(K) A representative of any other Federal
6 agency identified by the Secretary of Transpor-
7 tation or the Secretary of Homeland Security
8 through the Under Secretary for Emergency
9 Preparedness and Response, in consultation
10 with the Secretary of Health and Human Serv-
11 ices, as having a significant role in the purposes
12 of the Interagency Committee on EMS.

13 “(3) ADMINISTRATION.—The National Highway
14 Traffic Safety Administration, in cooperation with
15 the Director, Preparedness Division, Emergency
16 Preparedness and Response Directorate, Depart-
17 ment of Homeland Security, shall provide adminis-
18 trative support to the Interagency Committee on
19 EMS, including scheduling meetings, setting agen-
20 das, keeping minutes and records, and producing re-
21 ports.

22 “(4) LEADERSHIP.—The members of the Inter-
23 agency Committee on EMS shall select a chairperson
24 of the Committee annually.

1 “(5) MEETINGS.—The Interagency Committee
2 on EMS shall meet as frequently as determined nec-
3 essary by the chairperson of the Committee.

4 “(6) ANNUAL REPORTS.—The Interagency
5 Committee on EMS shall prepare an annual report
6 to Congress on the Committee’s activities, actions,
7 and recommendations.

8 “(b) COORDINATED NATIONWIDE EMERGENCY MED-
9 ICAL SERVICES PROGRAM.—

10 “(1) GENERAL AUTHORITY.—The Secretary of
11 Transportation, through the Administrator of the
12 National Highway Traffic Safety Administration, is
13 authorized and directed to cooperate with other Fed-
14 eral departments and agencies, and may assist State
15 and local governments and EMS organizations, both
16 fire-based and otherwise, private industry, and other
17 interested parties, to ensure the development and
18 implementation of a coordinated nationwide emer-
19 gency medical services program designed to
20 strengthen transportation safety and public health
21 and to implement improved EMS communication
22 systems including 9–1–1. For the purposes of this
23 section, the term ‘State’ means any one of the fifty
24 States, the District of Columbia, Puerto Rico, the
25 Virgin Islands, Guam, American Samoa, the Com-

1 monwealth of the Northern Mariana Islands, and
2 the Secretary of the Interior on behalf of Indian
3 Tribes.

4 “(2) COORDINATED STATE EMERGENCY MED-
5 ICAL SERVICES PROGRAM.—Each State shall estab-
6 lish a program, approved by the Secretary, to coordi-
7 nate the emergency medical services and resources
8 deployed throughout the State, so as to ensure im-
9 proved EMS communication systems including 9-1-
10 1, utilization of established best practices in system
11 design and operations, implementation of quality as-
12 surance programs, and incorporation of data collec-
13 tion and analysis programs that facilitate system de-
14 velopment and data linkages with other systems and
15 programs useful to emergency medical services.

16 “(3) ADMINISTRATION OF STATE PROGRAMS.—
17 The Secretary may not approve a coordinated State
18 emergency medical services program under this sub-
19 section unless the program—

20 “(A) provides that the Governor of the
21 State is responsible for its administration
22 through a State office of emergency medical
23 services that has adequate powers and is suit-
24 ably equipped and organized to carry out such

1 program and coordinates such program with the
2 highway safety office of the State; and

3 “(B) authorizes political subdivisions of the
4 State to participate in and receive funds under
5 such program, consistent with goal of achieving
6 statewide coordination of emergency medical
7 services and 9-1-1 activities.

8 “(4) USE OF FUNDS; ADMINISTRATIVE EX-
9 PENSES; APPORTIONMENTS.—Funds authorized to
10 be appropriated to carry out this subsection shall be
11 used to aid the States in conducting coordinated
12 emergency medical services and 9-1-1 programs
13 that are in accordance with the provisions of para-
14 graph (2). Such funds shall be subject to a deduc-
15 tion not to exceed 10 percent for the necessary costs
16 of administering the provisions of this subsection,
17 and the remainder shall be apportioned among the
18 States. Such funds shall be apportioned as follows:
19 75 percent in the ratio that the population of each
20 State bears to the total population of all the States,
21 as shown by the latest available Federal census, and
22 25 percent in the ratio that the public road mileage
23 in each State bears to the total public road mileage
24 in all States. For the purpose of this subsection, a
25 ‘public road’ means any road under the jurisdiction

1 of and maintained by a public authority and open
2 to public travel. Public road mileage as used in this
3 subsection shall be determined as of the end of the
4 calendar year prior to the year in which the funds
5 are apportioned and shall be certified to by the Gov-
6 ernor of the State and subject to approval by the
7 Secretary. The annual apportionment to each State
8 shall not be less than one-half of 1 percent of the
9 total apportionment, except that the apportionment
10 to the Secretary of the Interior on behalf of Indian
11 tribes shall not be less than three-fourths of 1 per-
12 cent of the total apportionment, and the apportion-
13 ments to the Virgin Islands, Guam, American
14 Samoa, and the Commonwealth of the Northern
15 Mariana Islands shall not be less than one-quarter
16 of 1 percent of the total apportionment.

17 “(5) CONTRACT AUTHORITY.—The provisions
18 contained in section 402(d) of this chapter shall
19 apply to this subsection.

20 “(6) FEDERAL SHARE.—The Federal share of
21 the cost of a project or program funded under this
22 subsection shall be 80 percent.

23 “(7) APPLICATION IN INDIAN COUNTRY.—

24 “(A) USE OF TERMS.—For the purpose of
25 application of this subsection in Indian country,

1 the terms 'State' and 'Governor of the State'
2 include the Secretary of the Interior and the
3 term 'political subdivisions of the State' in-
4 cludes an Indian tribe.

5 “(B) INDIAN COUNTRY DEFINED.—In this
6 subsection, the term 'Indian country' means—

7 “(i) all land within the limits of any
8 Indian reservation under the jurisdiction of
9 the United States, notwithstanding the
10 issuance of any patent and including
11 rights-of-way running through the reserva-
12 tion;

13 “(ii) all dependent Indian commu-
14 nities within the borders of the United
15 States, whether within the original or sub-
16 sequently acquired territory thereof and
17 whether within or without the limits of a
18 State; and

19 “(iii) all Indian allotments, the Indian
20 titles to which have not been extinguished,
21 including rights-of-way running through
22 such allotments.”

23 (b) The item relating to section 407 in the analysis
24 of chapter 4 of title 23, United States Code, is amended
25 to read as follows:

“407. Federal coordination and enhanced support of emergency medical services.”

1 **SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
 2 **IMPROVEMENTS.**

3 (a) Chapter 4 of title 23, United States Code, is
 4 amended by adding the following section:

5 **“§ 412. State traffic safety information system im-**
 6 **provements**

7 **“(a) GENERAL AUTHORITY.—**

8 **“(1) AUTHORITY TO MAKE GRANTS.—**Subject
 9 to the requirements of this section, the Secretary
 10 shall make grants to States that adopt and imple-
 11 ment effective programs to—

12 **“(A)** improve the timeliness, accuracy,
 13 completeness, uniformity, integration and acces-
 14 sibility of the safety data of the State that is
 15 needed to identify priorities for national, State,
 16 and local highway and traffic safety programs;

17 **“(B)** evaluate the effectiveness of efforts to
 18 make such improvements;

19 **“(C)** link these State data systems, includ-
 20 ing traffic records, with other data systems
 21 within the State, such as systems that contain
 22 medical, roadway and economic data; and

23 **“(D)** improve the compatibility and inter-
 24 operability of the data systems of the State

1 with national data systems and data systems of
2 other States and enhance the ability of the Sec-
3 retary to observe and analyze national trends in
4 crash occurrences, rates, outcomes, and cir-
5 cumstances. Recipient States may use such
6 grants only to implement such programs.

7 “(2) MODEL DATA ELEMENTS.—The Secretary,
8 in consultation with States and other appropriate
9 parties, shall determine the model data elements
10 necessary to observe and analyze State and national
11 trends in crash occurrences, rates, outcomes, and
12 circumstances. In order to become eligible for a
13 grant under this section, a State shall certify to the
14 Secretary the State’s adoption and use of such
15 model data elements.

16 “(3) MAINTENANCE OF EFFORT.—No grant
17 may be made to a State under this section in any
18 fiscal year unless the State enters into such agree-
19 ments with the Secretary as the Secretary may re-
20 quire ensuring that the State will maintain its ag-
21 gregate expenditures from all other sources for high-
22 way safety data programs at or above the average
23 level of such expenditures in the 2 fiscal years pre-
24 ceeding the date of enactment of this Act.

1 “(4) FEDERAL SHARE.—The Federal share of
2 the cost of adopting and implementing in a fiscal
3 year a program of a State pursuant to paragraph
4 (1) shall not exceed 80 percent.

5 “(b) FIRST-YEAR GRANTS.—

6 “(1) ELIGIBILITY.—To be eligible for a first-
7 year grant under this section in a fiscal year, a
8 State must demonstrate to the satisfaction of the
9 Secretary that the State has—

10 “(A) established a highway safety data and
11 traffic records coordinating committee with a
12 multidisciplinary membership that includes,
13 among others, managers, collectors, and users
14 of traffic records and public health and injury
15 control data systems; and

16 “(B) developed a multiyear highway safety
17 data and traffic records system strategic plan
18 that addresses existing deficiencies in the
19 State’s highway safety data and traffic records
20 system and is approved by the highway safety
21 data and traffic records coordinating committee
22 and—

23 “(i) specifies how existing deficiencies
24 in the State’s highway safety data and
25 traffic records system were identified;

1 “(ii) prioritizes, based on the identi-
2 fied highway safety data and traffic
3 records system deficiencies, the highway
4 safety data and traffic records system
5 needs and goals of the State, including the
6 activities under subsection (a)(1);

7 “(iii) identifies performance-based
8 measures by which progress toward those
9 goals will be determined;

10 “(iv) specifies how the grant funds
11 and any other funds of the State will be
12 used to address needs and goals identified
13 in the multiyear plan; and

14 “(v) includes a current report on the
15 progress in implementing the multiyear
16 plan that documents progress toward the
17 specified goals.

18 “(2) GRANT AMOUNTS.—The amount of a first-
19 year grant to a State for a fiscal year shall equal an
20 amount determined by multiplying—

21 “(A) the amount appropriated to carry out
22 this section for such fiscal year; by—

23 “(B) the ratio that the funds apportioned
24 to the State under section 402 of this chapter
25 for fiscal year 2003 bears to the funds appor-

1 tioned to all States under section 402 for fiscal
2 year 2003;
3 except that no State eligible for a grant under this
4 section shall receive less than \$300,000.

5 “(e) SUCCEEDING-YEAR GRANTS.—

6 “(1) ELIGIBILITY.—A State shall be eligible for
7 a grant under this subsection in a fiscal year suc-
8 ceeding the first fiscal year in which the State re-
9 ceives a grant under subsection (b) if the State, to
10 the satisfaction of the Secretary—

11 “(A) submits an updated multiyear plan
12 that meets the requirements of subsection
13 (b)(1)(B);

14 “(B) certifies that its highway safety data
15 and traffic records coordinating committee con-
16 tinues to operate and supports the multiyear
17 plan;

18 “(C) specifies how the grant funds and any
19 other funds of the State will be used to address
20 needs and goals identified in the multiyear plan;

21 “(D) demonstrates measurable progress to-
22 ward achieving the goals and objectives identi-
23 fied in the multiyear plan; and

24 “(E) includes a current report on the
25 progress in implementing the multiyear plan.

1 “(2) GRANT AMOUNTS.—The amount of a suc-
 2 ceeding year grant made to a State for a fiscal year
 3 under this paragraph shall equal an amount deter-
 4 mined 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 except that no State eligible for a grant under
 12 this paragraph shall receive less than \$500,000.

13 “(d) ADMINISTRATIVE EXPENSES.—Funds author-
 14 ized to be appropriated to carry out this section in a fiscal
 15 year shall be subject to a deduction not to exceed 5 percent
 16 for the necessary costs of administering the provisions of
 17 this section.

18 “(e) APPLICABILITY OF CHAPTER 1.—The provisions
 19 contained in section 402(d) shall apply to this section.”.

20 (b) The analysis of chapter 4 of title 23, United
 21 States Code, is amended by inserting the following at the
 22 end:

“412. State traffic safety information system improvements.”.

23 **SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) IN GENERAL.—The following sums are author-
 25 ized to be appropriated out of the Highway Trust Fund

1 (other than the Mass Transit Account) for the National
2 Highway Traffic Safety Administration:

3 (1) CONSOLIDATED STATE HIGHWAY SAFETY
4 PROGRAMS.—

5 (A) To carry out the State and Community
6 Highway Safety Grant Program under section
7 402 of title 23, United States Code, except for
8 subsections (k) and (l), \$162,000,000 for fiscal
9 year 2004, \$167,000,000 for fiscal year 2005,
10 \$172,000,000 for fiscal year 2006,
11 \$177,000,000 for fiscal year 2007,
12 \$183,000,000 for fiscal year 2008, and
13 \$189,000,000 for fiscal year 2009.

14 (B) To carry out the performance grant
15 programs under subsection (k) of section 402 of
16 title 23, United States Code, \$175,000,000 for
17 fiscal year 2004, \$179,000,000 for fiscal year
18 2005, \$183,000,000 for fiscal year 2006,
19 \$189,000,000 for fiscal year 2007,
20 \$195,000,000 for fiscal year 2008, and
21 \$201,000,000 for fiscal year 2009.

22 (C) To carry out the impaired driving
23 grants under subsection (l) of section 402 of
24 title 23, United States Code, \$50,000,000 for
25 each of fiscal years 2004 through 2009.

1 (2) HIGHWAY SAFETY RESEARCH AND DEVEL-
2 OPMENT.—To carry out the highway safety research
3 and development program under section 403 of title
4 23, United States Code, \$88,452,000 for fiscal year
5 2004, \$90,000,000 for fiscal year 2005,
6 \$92,000,000 for fiscal year 2006, \$94,000,000 for
7 fiscal year 2007, \$96,000,000 for fiscal year 2008,
8 and \$99,000,000 for fiscal year 2009.

9 (3) EMERGENCY MEDICAL SERVICES GRANTS.—
10 To carry out section 407 of title 23, United States
11 Code, \$10,000,000 for each of fiscal years 2004
12 through 2009.

13 (4) STATE TRAFFIC SAFETY INFORMATION SYS-
14 TEM IMPROVEMENTS GRANTS.—To carry out section
15 412 of title 23, United States Code, \$50,000,000 for
16 each of fiscal years 2004 through 2009.

17 (5) NATIONAL DRIVER REGISTER.—To carry
18 out chapter 303 (National Driver Register) of title
19 49, United States Code, \$3,600,000 for fiscal year
20 2004, and \$4,000,000 for each of fiscal years 2005
21 through 2009.

22 (b) ALLOCATIONS.—

23 (1) EMERGENCY MEDICAL SERVICES ACTIVI-
24 TIES.—Out of amounts appropriated pursuant to
25 subsection (a)(2), the Secretary may use \$2,226,000

1 in each fiscal year to carry out paragraph (4) of sec-
2 tion 403(a) of title 23, United States Code.

3 (2) INTERNATIONAL COOPERATION ACTIVI-
4 TIES.—Out of amounts appropriated pursuant to
5 subsection (a)(2), the Secretary may use \$200,000
6 in each fiscal year to carry out paragraph (5) of sec-
7 tion 403(a) of title 23, United States Code.

8 (3) NATIONAL MOTOR VEHICLE CRASH CAUSA-
9 TION SURVEY.—Out of the amounts appropriated
10 pursuant to subsection (a)(2), the Secretary may use
11 \$10,000,000 in each fiscal year to carry out para-
12 graph (6) of section 403(a) of title 23, United
13 States Code.

14 (e) APPLICABILITY OF TITLE 23.—(1) Amounts
15 made available under subsection (a)(2) shall be available
16 for obligation in the same manner as if such funds were
17 apportioned under chapter 1 of title 23, United States
18 Code.

19 (2) Notwithstanding section 402(d) of title 23,
20 United States Code, the funds authorized by subsection
21 (a)(1) that are apportioned or allocated in a State shall
22 remain available for obligation in that State for a period
23 of two years after the last day of the fiscal year for which
24 the funds are authorized. Any amounts so apportioned or

1 allocated that remain unobligated at the end of that period
2 shall lapse.

3 **SEC. 2006. REPEAL OF OBSOLETE PROVISIONS OF TITLE 23.**

4 (a) **REPEAL OF OBSOLETE PROVISIONS.**—Sections
5 406 and 408 of title 23, United States Code, are repealed.

6 (b) **CONFORMING AMENDMENT.**—The items relating
7 to sections 406 and 408 in the analysis of chapter 4 of
8 title 23, United States Code, are deleted.

9 **TITLE III—FEDERAL TRANSIT**
10 **ADMINISTRATION PROGRAMS**

11 **SEC. 3001. SHORT TITLE.**

12 This title may be cited as the “Federal Public Trans-
13 portation Act of 2003”.

14 **SEC. 3002. UPDATED TERMINOLOGY; AMENDMENTS TO**
15 **TITLE 49, UNITED STATES CODE.**

16 (a) **UPDATED TERMINOLOGY.**—Chapter 53 of title
17 49, United States Code, including the chapter analysis,
18 is amended by striking “mass” each place it appears be-
19 fore “transportation” and inserting “public”, except in
20 sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and
21 5323(a)(1)(B).

22 (b) **AMENDMENTS TO TITLE 49.**—Except as other-
23 wise specifically provided, whenever in this title an amend-
24 ment or repeal is expressed in terms of an amendment
25 to, or repeal of, a section or other provision of law, the

1 reference shall be considered to be made to a section or
 2 other provision of title 49, United States Code.

3 **SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.**

4 (a) **IN GENERAL.**—Section 5301(a) is amended to
 5 read as follows:

6 “(a) **DEVELOPMENT AND REVITALIZATION OF PUB-**
 7 **LIC TRANSPORTATION SYSTEMS.**—It is in the economic
 8 interest of the United States to foster the development and
 9 revitalization of public transportation systems that maxi-
 10 mize the efficient, secure, and safe mobility of individuals,
 11 and minimize environmental impacts and reliance on for-
 12 eign oil.”.

13 (b) **PRESERVING THE ENVIRONMENT.**—Section
 14 5301(e) is amended by—

15 (1) striking “an urban” and inserting “a”; and

16 (2) striking “under sections 5309 and 5310 of
 17 this title”.

18 (c) **GENERAL PURPOSES.**—Section 5301(f) is amend-
 19 ed—

20 (1) in paragraph (1) by—

21 (A) striking “mass” after “improved” and
 22 inserting “public”; and

23 (B) striking “public and private mass
 24 transportation companies and inserting “both

1 public transportation companies and private
2 companies engaged in public transportation”;

3 ~~(2)~~ in paragraphs ~~(2)~~ and ~~(3)~~ by—

4 (A) striking “urban mass” after
5 “areawide” and inserting “public”; and

6 (B) striking “public and private mass
7 transportation companies” and inserting “both
8 public transportation companies and private
9 companies engaged in public transportation”;
10 and

11 ~~(3)~~ in paragraph ~~(5)~~, by striking “urban mass”
12 and inserting “public”.

13 **SEC. 3004. DEFINITIONS.**

14 (a) IN GENERAL.—Section 5302 is amended to read
15 as follows:

16 **“§ 5302. Definitions**

17 “(a) IN GENERAL.—In this chapter, the following
18 definitions apply:

19 “(1) ‘access to jobs project’ means a project re-
20 lating to the development and maintenance of trans-
21 portation services designed to transport welfare re-
22 cipients and low-income individuals to and from jobs
23 and activities related to their employment, includ-
24 ing—

1 “(A) transportation projects to finance
2 planning, capital and operating costs of pro-
3 viding access to jobs under this chapter;

4 “(B) promoting public transportation by
5 low-income workers;

6 “(C) promoting the use of transit vouchers
7 for welfare recipients and low-income individ-
8 uals; and

9 “(D) promoting the use of employer-pro-
10 vided transportation, including the transit pass
11 benefit program under section 132 of the Inter-
12 nal Revenue Code of 1986.

13 “(1a) ‘capital project’ means a project for—

14 “(A) acquiring, constructing, supervising,
15 or inspecting equipment or a facility for use in
16 public transportation, expenses incidental to the
17 acquisition or construction (including designing,
18 engineering, location surveying, mapping, and
19 acquiring rights-of-way), payments for the cap-
20 ital portions of rail trackage rights agreements,
21 transit-related intelligent transportation sys-
22 tems, relocation assistance, acquiring replace-
23 ment housing sites, and acquiring, constructing,
24 relocating, and rehabilitating replacement hous-
25 ing;

1 “(B) rehabilitating a bus;

2 “(C) remanufacturing a bus;

3 “(D) overhauling rail rolling stock;

4 “(E) preventive maintenance;

5 “(F) leasing equipment or a facility for use
6 in public transportation, subject to regulations
7 that the Secretary prescribes limiting the leas-
8 ing arrangements to those that are more cost-
9 effective than purchase or construction;

10 “(G) a public transportation improvement
11 that enhances economic development or incor-
12 porates private investment, including commer-
13 cial and residential development, pedestrian and
14 bicycle access to a public transportation facility,
15 and the renovation and improvement of historic
16 transportation facilities, because the improve-
17 ment enhances the effectiveness of a public
18 transportation project and is related physically
19 or functionally to that public transportation
20 project, or establishes new or enhanced coordi-
21 nation between public transportation and other
22 transportation, and provides a fair share of rev-
23 enue for public transportation that will be used
24 for public transportation—

1 “(i) including property acquisition,
2 demolition of existing structures, site prep-
3 aration, utilities, building foundations,
4 walkways, open space, safety and security
5 equipment and facilities (including light-
6 ing, surveillance and related intelligent
7 transportation system applications); facili-
8 ties that incorporate community services
9 such as daycare or health care, and a cap-
10 ital project for, and improving, equipment
11 or a facility for an intermodal transfer fa-
12 cility or transportation mall, except that a
13 person making an agreement to occupy
14 space in a facility under this subparagraph
15 shall pay a reasonable share of the costs of
16 the facility through rental payments and
17 other means; and

18 “(ii) excluding construction of a com-
19 mercial revenue-producing facility or a part
20 of a public facility not related to public
21 transportation; and

22 “(H) the introduction of new technology,
23 through innovative or improved products, into
24 public transportation;

1 “(I) the provision of nonfixed route para-
2 transit transportation services in accordance
3 with section 223 of the Americans with Disabil-
4 ities Act of 1990, but only for grant recipients
5 that are in compliance with applicable require-
6 ments of that Act, including both fixed route
7 and demand responsive service, and only for
8 amounts not to exceed 10 percent of such re-
9 cipient’s annual formula apportionment under
10 sections 5307 and 5311;

11 “(J) crime prevention and security—

12 “(i) including—

13 “(I) projects to refine and de-
14 velop security and emergency response
15 plans;

16 “(II) projects aimed at detecting
17 chemical and biological agents in pub-
18 lic transportation;

19 “(III) the conduct of emergency
20 response drills with public transpor-
21 tation agencies and local first re-
22 sponse agencies; or

23 “(IV) security training for public
24 transportation employees; but,

1 “(ii) excluding all expenses related to
2 operations, except for such expenses in-
3 curred in the provisions of activities under
4 clauses (III) and (IV) of this subpara-
5 graph; or

6 “(K) establishment of a debt service re-
7 serve made up of deposits with a bondholders’
8 trustee in a non-interest bearing account for
9 the purpose of assuring timely payment of prin-
10 cipal and interest on bonds issued by a grant
11 recipient for purposes of financing an eligible
12 project under this chapter; and

13 “(L) remediation associated with construc-
14 tion of a capital project as described this para-
15 graph on a brownfield site as defined in 42
16 U.S.C. 9601.

17 “(2) ‘chief executive officer of a State’ includes
18 the designee of the chief executive officer.

19 “(3) ‘emergency regulation’ means a regula-
20 tion—

21 “(A) that is effective temporarily before
22 the expiration of the otherwise specified periods
23 of time for public notice and comment under
24 section 5324(e); and

1 “(B) prescribed by the Secretary as the re-
2 sult of a finding that a delay in the effective
3 date of the regulation—

4 “(i) would injure seriously an impor-
5 tant public interest;

6 “(ii) would frustrate substantially leg-
7 islative policy and intent; or

8 “(iii) would damage seriously a person
9 or class without serving an important pub-
10 lic interest.

11 “(4) ‘fixed guideway’ means a public transpor-
12 tation facility—

13 “(A) using and occupying a separate right-
14 of-way or rail for the exclusive use of public
15 transportation and other high occupancy vehi-
16 cles; or —

17 “(B) using a fixed catenary system and a
18 right-of-way usable by other forms of transpor-
19 tation.

20 “(5) ‘individual with a disability’ means an in-
21 dividual who, because of illness, injury, age, con-
22 genital malfunction, or other incapacity or tem-
23 porary or permanent disability (including an indi-
24 vidual who is a wheelchair user or has semiambu-
25 latory capability), cannot use effectively, without

1 special facilities, planning, or design, public trans-
 2 portation service or a public transportation facility.

3 “(6) ‘local governmental authority’ includes—

4 “(A) a political subdivision of a State;

5 “(B) an authority of at least 1 State or po-
 6 litical subdivision of a State;

7 “(C) an Indian tribe; and

8 “(D) a public corporation, board, or com-
 9 mission established under the laws of a State.

10 “(7) ‘mass transportation’ means public trans-
 11 portation.

12 “(7a) ‘mobility management’ means an activity
 13 or project that involves one or more of the following
 14 goals:

15 “(A) Addressing public transportation cus-
 16 tomer needs.

17 “(B) Tailoring public transportation serv-
 18 ices to specific market niches.

19 “(C) Managing public transportation de-
 20 mand.

21 “(D) Land use compatibility with public
 22 transportation services.

23 “(E) Improving coordination among public
 24 transportation providers and other transpor-
 25 tation service providers.

1 “(8) ‘net project cost’ means the part of a
2 project that reasonably cannot be financed from rev-
3 enues.

4 “(9) ‘new bus model’ means a bus model (in-
5 cluding a model using alternative fuel)—

6 “(A) that has not been used in public
7 transportation in the United States before the
8 date of production of the model; or

9 “(B) used in public transportation in the
10 United States, but being produced with a major
11 change in configuration or components.

12 “(10) ‘public transportation’ means transpor-
13 tation by a conveyance that provides regular and
14 continuing general or special transportation to the
15 public, but does not include school bus, charter, or
16 sightseeing transportation.

17 “(10a) ‘recipient’ means an entity that receives
18 Federal transit program assistance directly from the
19 Federal government.

20 “(11) ‘regulation’ means any part of a state-
21 ment of general or particular applicability of the
22 Secretary designed to carry out, interpret, or pre-
23 scribe law or policy in carrying out this chapter.

24 “(11a) ‘reverse commute project’ means a pub-
25 lic transportation project designed to transport resi-

1 dents of urban areas, urbanized areas, and areas
2 other than urbanized areas to suburban employment
3 opportunities, including any projects to—

4 “(A) subsidize the costs associated with
5 adding reverse commute bus, train, carpool, van
6 routes, or service from urban areas, urbanized
7 areas, and areas other than urbanized areas, to
8 suburban workplaces;

9 “(B) subsidize the purchase or lease by a
10 nonprofit organization or public agency of a van
11 or bus dedicated to shuttling employees from
12 their residences to a suburban workplace; or

13 “(C) otherwise facilitate the provision of
14 public transportation services to suburban em-
15 ployment opportunities.

16 “(12) ‘Secretary’ means the Secretary of Trans-
17 portation.

18 “(13) ‘State’ means a State of the United
19 States, the District of Columbia, Puerto Rico, the
20 Northern Mariana Islands, Guam, American Samoa,
21 and the Virgin Islands, except as defined in section
22 5305 of this title.

23 “(13a) ‘subrecipient’ means an entity that re-
24 ceives Federal transit program assistance indirectly

1 through a recipient, rather than directly from the
2 Federal government.

3 “(14) ‘transit’ means public transportation.

4 “(15) ‘transit enhancement’ means, with re-
5 spect to any project or an area to be served by a
6 project, projects that are designed to enhance public
7 transportation service or use and that are physically
8 or functionally related to transit facilities. Eligible
9 projects are—

10 “(A) historic preservation, rehabilitation,
11 or operation of historic public transportation
12 buildings, structures, or facilities (including his-
13 toric bus or railroad facilities);

14 “(B) bus shelters;

15 “(C) landscaping and other scenic beautifi-
16 cation, including tables, benches, trash recep-
17 tacles, and street lights;

18 “(D) public art;

19 “(E) pedestrian access or walkways;

20 “(F) bicycle access, including bicycle stor-
21 age facilities and installing equipment for trans-
22 porting bicycles on public transportation vehi-
23 cles;

24 “(G) transit connections to parks within
25 the recipient’s transit service area;

1 “(H) signage; and

2 “(I) enhanced access for individuals with
3 disabilities to public transportation.

4 “(16) [reserved]

5 “(17) ‘urbanized area’ means an area encom-
6 passing a population of at least 50,000 people that
7 has been defined and designated in the latest decen-
8 nial census as an ‘urbanized area’ by the Secretary
9 of Commerce.

10 “(18) ‘welfare recipient’ means an individual
11 who receives or received aid or assistance under a
12 State or tribal program funded under part A of title
13 IV of the Social Security Act (whether in effect be-
14 fore or after the effective date of the amendments
15 made by title I of the Personal Responsibility and
16 Work Opportunity Reconciliation Act of 1996 (Pub-
17 lic Law 104–193; 110 Stat. 2110)) at any time dur-
18 ing the 3-year period before the date on which the
19 applicant applies for a grant under this section.

20 “(b) AUTHORITY TO MODIFY ‘INDIVIDUAL WITH A
21 DISABILITY’.—The Secretary may by regulation modify
22 the definition of the term ‘individual with a disability’ in
23 subsection (a)(5) as it applies to section 5307(d)(1)(D).”.

24 (b) CONFORMING AMENDMENT.—Section 5321 is re-
25 pealed.

1 **SEC. 3005. METROPOLITAN PLANNING.**

2 The text of section ~~5303~~ is amended to read as fol-
 3 lows: “Grants made under sections ~~5307~~, ~~5308~~, ~~5309~~,
 4 ~~5310~~, ~~5311~~, ~~5316~~, and ~~5317~~ shall be carried out in ac-
 5 cordance with the metropolitan planning provisions of
 6 chapter ~~52~~ of this title.”.

7 **SEC. 3006. STATEWIDE PLANNING.**

8 (a) SECTION HEADING.—Section ~~5304~~ is amended by
 9 striking the section heading and inserting the following:
 10 **“§ ~~5304~~. Statewide planning”.**

11 (b) The text of section ~~5304~~ is amended to read as
 12 follows: “Grants made under sections ~~5307~~, ~~5308~~, ~~5309~~,
 13 ~~5310~~, ~~5311~~, ~~5316~~, and ~~5317~~ shall be carried out in ac-
 14 cordance with the statewide planning provisions of chapter
 15 ~~52~~ of this title.”.

16 (c) CONFORMING AMENDMENT.—The item relating
 17 to section ~~5304~~ in the table of sections for chapter ~~53~~ is
 18 amended to read as follows:

“~~5304~~. Statewide planning.”.

19 **SEC. 3007. PLANNING PROGRAMS.**

20 (a) IN GENERAL.—Section ~~5305~~ is amended to read
 21 as follows:

22 **“§ ~~5305~~. Planning programs**

23 **“(a) DEFINITIONS.—**In this section the following
 24 definitions apply:

1 “(1) ‘State’ means a State of the United
2 States, the District of Columbia, and Puerto Rico,
3 and

4 “(2) ‘planning emphasis area’ means priority
5 themes identified by the Secretary for consideration
6 in sections 5303 and 5304 of this title.

7 “(b) GENERAL AUTHORITY.—Under criteria the Sec-
8 retary establishes, the Secretary may make grants to
9 States, authorities of the States, metropolitan planning or-
10 ganizations, and local governmental authorities, or may
11 make agreements with other departments, agencies, and
12 instrumentalities of the Government, or may enter into
13 contracts with private non-profit or for-profit entities for
14 development of, transportation plans and programs and
15 to plan, engineer, design, and evaluate a public transpor-
16 tation project and for other technical studies, including—

17 “(1) studies related to management, planning,
18 operations, capital requirements, and economic feasi-
19 bility;

20 “(2) evaluating previously financed projects;

21 “(3) peer reviews and exchanges of technical
22 data, information, assistance, and related activities
23 in support of planning and environmental analyses
24 among metropolitan planning organizations and
25 other transportation planners; and,

1 “(4) other similar and related activities prelimi-
2 nary to and in preparation for constructing, acquir-
3 ing, or improving the operation of facilities and
4 equipment.

5 “(e) PURPOSE.—To the extent practicable, the Sec-
6 retary shall ensure that amounts appropriated or made
7 available under section 5338 of this title to carry out this
8 section and sections 5303 and 5304 of this title are used
9 to support balanced and comprehensive transportation
10 planning that considers the relationships among land use
11 and all transportation modes, without regard to the pro-
12 grammatic source of the planning amounts.

13 “(d) METROPOLITAN PLANNING PROGRAM.—

14 “(1) The Secretary shall apportion 80 percent
15 of the amount made available under subsection
16 (h)(2)(A) of this section to States to carry out sec-
17 tions 5303 and 5306 of this title in a ratio equal to
18 the population in urbanized areas in each State di-
19 vided by the total population in urbanized areas in
20 all States, as shown by the latest available decennial
21 census of population. A State may not receive less
22 than .5 percent of the amount apportioned under
23 this paragraph.

24 “(2) Amounts apportioned to a State under
25 paragraph (1) of this subsection shall be made avail-

1 able promptly after allocation to metropolitan plan-
2 ning organizations in the State designated under
3 this section under a formula—

4 “(A) the State develops in cooperation with
5 the metropolitan planning organizations;

6 “(B) the Secretary of Transportation ap-
7 proves; and

8 “(C) that considers population in urban-
9 ized areas and provides an appropriate distribu-
10 tion for urbanized areas to carry out the coop-
11 erative processes described in this section.

12 “(3) The Secretary shall apportion 20 percent
13 of the amount made available under subsection
14 (h)(2)(A) of this section to States to supplement al-
15 locations made under paragraph (1) of this sub-
16 section for metropolitan planning organizations.
17 Amounts under this paragraph shall be allocated
18 under a formula that reflects the additional cost of
19 carrying out planning, programming, and project se-
20 lection responsibilities under sections 5303 and 5306
21 of this title in complex metropolitan planning areas.

22 “(e) STATE PLANNING AND RESEARCH PROGRAM.—

23 “(1) The amounts made available pursuant to
24 subsection (h)(2)(B) of this section shall be appor-
25 tioned to States for grants and contracts to carry

1 out sections ~~5303–5306~~, ~~5315~~, and ~~5322~~ of this
2 title. The amounts shall be apportioned so that each
3 State receives an amount equal to the population in
4 urbanized areas in the State, divided by the popu-
5 lation in urbanized areas in all States, as shown by
6 the latest available decennial census. However, a
7 State must receive at least .5 percent of the amount
8 apportioned under this subsection.

9 “(2) A State, as the State considers appro-
10 priate, may authorize part of the amount made
11 available under this subsection to be used to supple-
12 ment amounts available under subsection (d) of this
13 section.

14 “(f) PLANNING CAPACITY BUILDING PROGRAM.—

15 “(1) The Secretary shall establish a Planning
16 Capacity Building Program to support and fund in-
17 novative practices and enhancements in transpor-
18 tation planning. The purpose of this program shall
19 be to promote activities that support and strengthen
20 the planning processes required under this section
21 and sections ~~5303~~ and ~~5304~~ of this chapter.

22 “(2) Funding available under subsection (h)(1)
23 of this section to carry out this subsection will sup-
24 port—

1 “(A) incentive grants to state, metropoli-
2 tan planning organizations, and public trans-
3 portation operators; and

4 “(B) research, information dissemination,
5 and technical assistance.

6 “(3) The Secretary may use the funds for the
7 purpose described in paragraph (2)(B) independ-
8 ently or make grants to, or enter into contracts, co-
9 operative agreements, and other transactions, with a
10 Federal agency, State agency, local governmental
11 authority, association, nonprofit or for-profit entity,
12 or institution of higher education, to carry out the
13 purposes of this subsection.

14 “(4) The program shall be administered by the
15 Federal Transit Administration in cooperation with
16 the Federal Highway Administration.

17 “(g) GOVERNMENT’S SHARE OF COSTS.—

18 “(1) Amounts made available to carry out sub-
19 sections (d), (e) and (f) of this section may not ex-
20 ceed 80 percent of the costs of the activity unless
21 the Secretary of Transportation decides it is in the
22 interests of the Government not to require a State
23 or local match.

24 “(2) When there are planning emphasis areas
25 funded under a grant or contract financed under

1 this section, the Secretary may establish a Govern-
 2 ment share consistent with the planning emphasis
 3 area benefit.

4 “(h) ALLOCATION OF FUNDS.—Of the funds made
 5 available by or appropriated to carry out this section
 6 under section 5338(a)(2)(A) and (B) and 5338(b)(3)(A)
 7 and (B) of this title for fiscal years 2004 through 2009,

8 “(1) \$5,000,000 shall be available for the plan-
 9 ning capacity building program under subsection (f)
 10 of this section; and

11 “(2) of the remaining amount,

12 “(A) 82.72 percent shall be available for
 13 metropolitan planning program under sub-
 14 section (d) of this section; and

15 “(B) 17.28 percent shall be available to
 16 carry out subsections (b) and (e) of this section.

17 “(i) AVAILABILITY OF AMOUNTS.—An amount ap-
 18 portioned under this section that remains available for 3
 19 years after the fiscal year in which the amount is appor-
 20 tioned shall be reapportioned among the States.”.

21 (b) CONFORMING AMENDMENT.—The item relating
 22 to section 5305 in the table of sections for chapter 53 is
 23 amended to read as follows:

“5305. Planning programs.”.

1 **SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.**

2 (a) SECTION HEADING.—Section 5306 is amended by
3 striking the section heading and inserting the following:

4 “§ 5306. **Private enterprise participation in metro-**
5 **politan planning and statewide plan-**
6 **ning”.**

7 (b) CONFORMING AMENDMENT.—The item relating
8 to section 5306 in the table of sections for chapter 53 is
9 amended to read as follows:

“5306. Private enterprise participation in metropolitan planning and statewide
planning.”.

10 **SEC. 3009. URBANIZED AREA PUBLIC TRANSPORTATION**
11 **FORMULA GRANTS PROGRAM.**

12 (a) SECTION HEADING.—Section 5307 is amended by
13 striking the section heading and inserting the following:

14 “§ 5307. **Urbanized area public transportation for-**
15 **mula grants program”.**

16 (b) TECHNICAL AMENDMENTS.—Section 5307 is
17 amended by—

18 (1) striking subsections (h), (j) and (k); and

19 (2) redesignating subsections (i), (l), (m), and
20 (n) as subsections (h), (i), (j), and (k), respectively.

21 (c) DEFINITIONS.—Section 5307(a) is amended to
22 read as follows:

23 “(a) DEFINITIONS.—In this section:

24 “(1) ‘designated recipient’ means—

1 “(A) an entity designated, consistent with
 2 the planning process under sections 5303–5306
 3 of this title, by the chief executive officer of a
 4 State, responsible local officials, and publicly
 5 owned operators of public transportation to re-
 6 ceive and apportion amounts under sections
 7 5336 and 5337 of this title that are attrib-
 8 utable to transportation management areas es-
 9 tablished under section 5303 of this title; or

10 “(B) a State or regional authority if the
 11 authority is responsible under the laws of a
 12 State for a capital project and for financing
 13 and directly providing public transportation.

14 “(2) ‘subrecipient’ means a State or local gov-
 15 ernmental authority, a nonprofit organization, or a
 16 private operator of public transportation service that
 17 may receive a Federal transit program grant indi-
 18 rectly through a recipient, rather than directly from
 19 the Federal government.”.

20 (d) GENERAL AUTHORITY.—Section 5307(b) is
 21 amended—

22 (1) by striking paragraph (1) and inserting a
 23 new paragraph (1) as follows:

24 “(1) The Secretary of Transportation may
 25 make grants under this section for—

- 1 “(A) capital projects;
- 2 “(B) planning and mobility management;
- 3 “(C) transit enhancements; and
- 4 “(D) operating costs of equipment and fa-
- 5 cilities for use in public transportation in an ur-
- 6 banized area with a population of less than
- 7 200,000.”;
- 8 (2) by striking paragraphs (2) and (4);
- 9 (3) by redesignating paragraph (3) as para-
- 10 graph (2); and
- 11 (4) in redesignated paragraph (2), by striking
- 12 “5305(a)” and inserting “5303”.
- 13 (e) GRANT RECIPIENT REQUIREMENTS.—Section
- 14 5307(d) is amended—
- 15 (1) in paragraph (1)(A), by inserting “, includ-
- 16 ing safety and security aspects of the program”
- 17 after “capacity”;
- 18 (2) in paragraph (1)(E), by striking everything
- 19 that appears after “section” and inserting “the re-
- 20 cipient will comply with section 5323 and 5325 of
- 21 this title”;
- 22 (3) in paragraph (1)(H), by striking “5310(a)-
- 23 (d)”;
- 24 (4) by striking paragraph (1)(I);

1 (5) by redesignating paragraph (1)(J) as para-
2 graph (1)(I); and

3 (6) by adding at the end of subsection (f)(1),
4 as redesignated, the following:

5 “(J) with a population of at least 200,000
6 in its urbanized area will expend one percent of
7 the amount the recipient receives each fiscal
8 year under this section for transit enhancement
9 activities described in section 5302(a)(15) of
10 this title.”.

11 (f) GOVERNMENT’S SHARE OF COSTS.—Section
12 5307(e), is amended—

13 (1) in the first sentence, by striking “(including
14 associated capital maintenance items)”;

15 (2) in the fourth sentence, by striking “that are
16 more than the amount of those revenues in the fiscal
17 year that ended September 30, 1985” and inserting
18 “and amounts received under a service agreement
19 with a State or local social service agency or a pri-
20 vate social service organization”.

21 (g) UNDERTAKING PROJECTS IN ADVANCE.—Section
22 5307(g) is amended by striking paragraph (4).

23 (h) REVIEWS, AUDITS, AND EVALUATIONS.—Section
24 5307(h), as redesignated, is amended in paragraph (1) (A)
25 by striking “shall” and inserting “may”.

1 (i) RELATIONSHIP TO OTHER LAWS.—Section
2 5307(k), as redesignated, is amended to read as follows:

3 “(k)(1) Sections 5301, 5302, 5303, 5304, 5306,
4 5315(e), 5318, 5319, 5323, 5325, 5327, 5329, 5330,
5 5331, 5332, 5333 and 5335” of this title apply to this
6 section and to a grant made under this section. Except
7 as provided in this section, no other provision of this chap-
8 ter applies to this section or to a grant made under this
9 section.

10 “(2) The provision of assistance under this chapter
11 shall not be construed as bringing within the application
12 of chapter 15, title 5, U.S.C., any nonsupervisory em-
13 ployee of a public transportation system (or any other
14 agency or entity performing related functions) to which
15 such chapter is otherwise inapplicable.”

16 (j) CONFORMING AMENDMENTS.—

17 (1) The item relating to section 5307 in the
18 table of sections for chapter 53 is amended to read
19 as follows:

“5307. Urbanized area public transportation formula grants program.”

20 (2) Section 3037 of the Transportation Equity
21 Act for the 21st Century, Public Law 105–178, as
22 amended, is repealed.

1 **SEC. 3010. FORMULA GRANTS FOR OTHER THAN URBAN-**
 2 **IZED AREAS.**

3 (a) **DEFINITIONS.**—Section 5311(a) is amended to
 4 read as follows:—

5 “(a) **DEFINITIONS.**—In this section—

6 “(1) ‘recipient’ means a State that receives a
 7 Federal transit program grant directly from the
 8 Federal government.

9 “(2) ‘subrecipient’ means a State or local gov-
 10 ernmental authority, a nonprofit organization, or a
 11 private operator of public transportation service that
 12 may receive a Federal transit program grant indi-
 13 rectly through a recipient, rather than directly from
 14 the Federal government.”.

15 (b) **GENERAL AUTHORITY.**—Section 5311(b) is
 16 amended—

17 (1) by revising paragraph (1) to read as follows:

18 “(1) Except as provided in paragraph (2) of
 19 this subsection, the Secretary may make grants to
 20 areas other than urbanized areas under this section
 21 for the following:

22 “(A) public transportation capital projects;

23 “(B) operating costs of equipment and fa-
 24 cilities for use in public transportation; and

25 “(C) the acquisition of public transpor-
 26 tation services.”;

1 (2) by redesignating paragraph (2) as para-
2 graph (3) and inserting a new paragraph (2), as fol-
3 lows:

4 “(2) A project eligible for a grant under this
5 section shall be included in a State program for pub-
6 lic transportation service projects, including agree-
7 ments with private providers of public transportation
8 service. The program shall be submitted annually to
9 the Secretary. The Secretary may approve the pro-
10 gram only if the Secretary finds that the program
11 provides a fair distribution of amounts in the State,
12 including Indian reservations, and the maximum fea-
13 sible coordination of public transportation service as-
14 sisted under this section with transportation service
15 assisted by other federal sources.”;

16 (3) In paragraph (3), as redesignated, by in-
17 serting “use not more than 2 percent of the amount
18 made available to carry out this section to” before
19 “make”; and

20 (4) by adding after paragraph (3) the following:

21 “(4) Of the amount available to carry out para-
22 graph (3), not more than 15 percent may be used
23 to carry out projects of a national scope, with the re-
24 maining balance provided to the States.”.

1 (e) APPORTIONING AMOUNTS.—Subsection (e) is
2 amended to read as follows:

3 “(e) APPORTIONMENTS.—

4 “(1) The amounts made available under section
5 5338(a)(2)(K) shall be apportioned as follows:

6 “(A) For each eligible State in accordance
7 with paragraph (2) of this subsection:

8 “(i) \$2,500,000 in fiscal year 2004.

9 “(ii) Three percent in fiscal year
10 2005.

11 “(iii) Five percent in fiscal year 2006.

12 “(iv) Seven percent in fiscal year
13 2007.

14 “(v) Nine percent in fiscal year 2008.

15 “(vi) Ten percent in every fiscal year
16 thereafter.

17 “(B) Remaining amounts shall be appor-
18 tioned to each State in accordance with para-
19 graph (3) of this subsection.

20 “(2)(A) Of the amounts to be apportioned
21 under paragraph (1)(A) of this subsection, the Sec-
22 retary may use the following amounts to make
23 grants to establish data collection systems capable of
24 collecting the data in subparagraph (C) of this para-
25 graph:

1 “(i) 100 percent in fiscal year 2004.

2 “(ii) \$1,500,000 in fiscal year 2005.

3 “(iii) \$500,000 in fiscal year 2006.

4 “(B) Amounts under subparagraph (A) of this
5 paragraph not obligated within three years following
6 the end of the fiscal year in which those amounts be-
7 came available shall be available for apportionment
8 under subparagraph (C) of this paragraph.

9 “(C) The remaining amounts to be apportioned
10 under paragraph (1)(A) of this subsection shall be
11 apportioned by a formula determined by the Sec-
12 retary that distributes funds based on increases in
13 public transportation patronage in other-than-urban-
14 ized areas.

15 “(D) In apportioning funds under subpara-
16 graph (C) of this paragraph, the Secretary may con-
17 sider the efficiency of service provision in the non-
18 urbanized areas in the State.

19 “(3) Each State shall receive an amount equal
20 to the remaining amount apportioned multiplied by
21 a ratio equal to the population of areas other than
22 urbanized areas in a State divided by the population
23 of all areas other than urbanized areas in the United
24 States, as shown by the most recent Federal govern-
25 ment decennial census of population.”.

1 (d) ~~USE FOR ADMINISTRATIVE, PLANNING, AND~~
2 ~~TECHNICAL ASSISTANCE.~~—Section 5311(e) is amended by
3 striking—

4 (1) ~~“Use for administration and technical as-~~
5 ~~sistance. (1)”~~ and inserting ~~“Use for administration,~~
6 ~~planning, and technical assistance.”~~; and

7 (2) ~~“to a recipient”~~ after ~~“technical assist-~~
8 ~~ance”~~; and

9 (3) ~~paragraph (2).~~

10 (e) ~~INTERCITY BUS TRANSPORTATION.~~—Section
11 5311(f) is amended—

12 (1) in paragraph (1), by striking ~~“after Sep-~~
13 ~~tember 30, 1993,”~~; and

14 (2) by inserting at the beginning of paragraph
15 (2) ~~“After consultation with affected intercity bus~~
16 ~~service providers,”~~.

17 (f) ~~GOVERNMENT’S SHARE OF COSTS.~~—Section
18 5311(g) is amended to read as follows:

19 ~~“(g) GOVERNMENT’S SHARE OF COSTS.—~~

20 ~~“(1) A grant for a capital project under this~~
21 ~~section may not exceed 80 percent of the net capital~~
22 ~~costs of the project, as determined by the Secretary.~~
23 ~~A grant made under this section for operating as-~~
24 ~~sistance may not exceed 50 percent of the net oper-~~

1 ating costs of the project, as determined by the Sec-
2 retary. The remainder—

3 “(A) may be provided from an undistrib-
4 uted cash surplus; a replacement or deprecia-
5 tion 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 Federal government (other than
12 the Department of Transportation; except for
13 Federal Land Highway funds) that are eligible
14 to be expended for transportation.

15 “(2) A state carrying out a program of oper-
16 ating assistance under this section may not limit the
17 level or extent of use of the Government grant for
18 the payment of operating expenses.

19 “(3) For purposes of paragraph (2)(B) of this
20 section, the prohibitions on the use of funds for
21 matching requirements under section
22 403(a)(5)(c)(vii) of the Social Security Act shall not
23 apply to federal or state funds to be used for trans-
24 portation purposes.”.

1 (g) INDIAN RESERVATION RURAL TRANSIT PRO-
2 GRAM.—Section 5311(h) is amended to read as follows:

3 “(h) INDIAN RESERVATION RURAL TRANSIT PRO-
4 GRAM.—

5 “(1) In this subsection, the term ‘Indian tribe’
6 has the meaning given the term in section 4 of the
7 Indian Self-Determination and Education Assistance
8 Act (25 U.S.C. 450b).

9 “(2)(A) The Secretary shall establish and carry
10 out through the States a program to provide grants
11 to Indian tribes to operate, maintain, and establish
12 rural transit programs on reservations or other land
13 under the jurisdiction of the Indian tribes.

14 “(B) The state may waive or reduce the
15 amount of local share required for these grants.

16 “(3) Notwithstanding any other provision of
17 law, for each fiscal year, of the amount made avail-
18 able to carry out this section under section
19 5338(a)(2)(K) for the fiscal year, the Secretary shall
20 make available \$10,000,000 to carry out this sub-
21 section.

22 “(4) Of the funds made available pursuant to
23 paragraph (3) of this subsection,

24 “(A) \$9,500,000 shall be apportioned to
25 the states based on a ratio equal to the tribal

1 population in each state divided by the total
2 tribal population in all states, as shown by the
3 latest decennial census of population for alloca-
4 tion to existing Indian tribal rural transit pro-
5 grams and to plan and establish new Indian
6 tribe rural transit programs;

7 “(B) prior to distribution by states of in-
8 state amounts to Indian tribes, each State may
9 use up to 5 percent for state administration;

10 “(C) amounts apportioned to a state under
11 paragraph (A) of this subsection shall be dis-
12 tributed to Indian tribes in the state based on
13 an allocation plan—

14 “(i) the state develops in cooperation
15 with Indian tribes;

16 “(ii) the Secretary approves; and

17 “(iii) that provides an appropriate dis-
18 tribution for funding the needs of existing
19 and new Indian Reservation Rural Transit
20 Systems; and

21 “(D) \$500,000 shall be available to the
22 Secretary to provide technical assistance, in-
23 cluding best practices and outreach, to the
24 states and tribes through grants, contracts, or
25 other arrangements and shall be in addition to

1 and not in lieu of other funds available for
2 these purposes.

3 ~~“(5) An amount apportioned to the states~~
4 ~~under this subsection—~~

5 ~~“(A) remains available for 3 years after~~
6 ~~the fiscal year in which the amount was appor-~~
7 ~~tioned; and~~

8 ~~“(B) shall be reapportioned among the~~
9 ~~states if unobligated at the end of the 3-year~~
10 ~~period.”.~~

11 (h) RELATIONSHIP TO OTHER LAWS.—Section
12 5311(j) is amended to read as follows:

13 ~~“(j) RELATIONSHIP TO OTHER LAWS.—~~

14 ~~“(1) Except as provided in subparagraphs (2)~~
15 ~~and (3) of this subsection, a grant under this section~~
16 ~~is subject to the requirements of 5307 to the extent~~
17 ~~the Secretary considers appropriate.~~

18 ~~“(2) Sections 5323(a)(1)(D) and 5333(b) of~~
19 ~~this title shall apply, provided that the Secretary of~~
20 ~~Labor shall utilize a Special Warranty that provides~~
21 ~~a fair and equitable arrangement to protect the in-~~
22 ~~terest of employees.~~

23 ~~“(3) The Secretary may waive the applicability~~
24 ~~of the Special Warranty under paragraph (2) for~~

1 private non-profit subrecipients on a case-by-case
2 basis as the Secretary deems appropriate.

3 “(4) This subsection does not affect or dis-
4 charge a responsibility of the Secretary under a law
5 of the United States.”.

6 **SEC. 3011. NEW FREEDOM PROGRAM.**

7 (a) Chapter 53 of title 49, United States Code, is
8 amended by inserting after section 5316 the following:

9 **“§ 5317. New Freedom program**

10 “(a) DEFINITIONS.—In this section—

11 “(1) ‘recipient’ means a State that receives a
12 grant under this section directly.

13 “(2) ‘subrecipient’ means a State or local gov-
14 ernmental authority, a nonprofit organization, or a
15 private operator of public transportation service that
16 may receive a grant under this section indirectly
17 through a recipient, rather than directly from the
18 Federal government.”.

19 “(b) GENERAL AUTHORITY.—

20 “(1) The Secretary of Transportation may pro-
21 vide grants to recipients for new transportation serv-
22 ices and transportation alternatives beyond those re-
23 quired by the Americans with Disabilities Act of
24 1990 (42 U.S.C. 12101 et seq.), including motor ve-
25 hicle programs that assist persons with disabilities

1 with transportation to and from jobs and employ-
2 ment support services.

3 ~~“(2) A recipient may use not more than 15 per-~~
4 ~~cent of the amounts apportioned under this section~~
5 ~~to administer, plan, and provide technical assistance~~
6 ~~for a project funded under this section.~~

7 ~~“(c) APPORTIONMENTS.—~~

8 ~~“(1) The Secretary shall apportion amounts~~
9 ~~made available under section 5338(a)(2)(H) of this~~
10 ~~title under a formula the Secretary administers.~~

11 ~~“(2) The recipient may transfer any funds ap-~~
12 ~~portioned to it under this subsection to sections~~
13 ~~5311(e) or 5336. Any funds transferred pursuant to~~
14 ~~this subsection shall be made available only for eligi-~~
15 ~~ble projects selected under this section.~~

16 ~~“(d) GRANT REQUIREMENTS.—~~

17 ~~“(1) Except as provided in paragraphs (2) and~~
18 ~~(3) of this subsection, a grant under this section is~~
19 ~~subject to the requirements of 5307 to the extent~~
20 ~~the Secretary considers appropriate.~~

21 ~~“(2) Section 5333(b) of this title shall apply,~~
22 ~~provided that the Secretary of Labor shall utilize a~~
23 ~~Special Warranty that provides a fair and equitable~~
24 ~~arrangement to protect the interest of employees.~~

1 ~~“(3) The Secretary may waive the applicability~~
2 ~~of the Special Warranty under paragraph (2) for~~
3 ~~private non-profit subrecipients on a case-by-case~~
4 ~~basis as the Secretary deems appropriate.~~

5 ~~“(4) A recipient of a grant under this section~~
6 ~~shall certify that allocations of the grant to sub-~~
7 ~~recipients are distributed on a fair and equitable~~
8 ~~basis.~~

9 ~~“(e) COMPETITIVE PROCESS.—~~

10 ~~“(1) The recipient shall conduct a statewide so-~~
11 ~~licitation for applications for grants under this sec-~~
12 ~~tion.~~

13 ~~“(2) Subrecipients seeking to receive a grant~~
14 ~~under this section shall submit to the recipient an~~
15 ~~application in the form and in accordance with such~~
16 ~~requirements as the recipient shall establish.~~

17 ~~“(3) Subrecipients submitting applications pur-~~
18 ~~suant to paragraph (2) shall be selected on a com-~~
19 ~~petitive basis.~~

20 ~~“(f) COORDINATION.—~~

21 ~~“(1) The Secretary shall coordinate activities~~
22 ~~under this section with related activities under pro-~~
23 ~~grams of other Federal departments and agencies.~~

24 ~~“(2) A recipient that transfers funds to section~~
25 ~~5336 pursuant to subsection (e)(2) shall certify that~~

1 the project for which the funds are requested has
 2 been coordinated with private non-profit providers of
 3 services under this section.

4 “(3) A recipient of funds under this section
 5 shall certify that—

6 “(A) the projects selected were derived
 7 from a locally developed, coordinated public
 8 transit-human services transportation plan; and

9 “(B) the plan was developed through a
 10 process that included representatives of public,
 11 private, and nonprofit transportation and
 12 human services providers and participation by
 13 the public;

14 “(g) GOVERNMENT’S SHARE OF COSTS.—

15 “(1) A grant for a capital project under this
 16 section may not exceed 80 percent of the net capital
 17 costs of the project, as determined by the Secretary.
 18 A grant made under this section for operating as-
 19 sistance may not exceed 50 percent of the net oper-
 20 ating costs of the project, as determined by the Sec-
 21 retary. The remainder may be—

22 “(A) provided from an undistributed cash
 23 surplus, a replacement or depreciation cash
 24 fund or reserve, a service agreement with a

1 State or local social service agency or a private
2 social service organization; or new capital; and

3 “(B) derived from amounts appropriated
4 to or made available to a department or agency
5 of the Federal government (other than the De-
6 partment of Transportation, except for Federal
7 Land Highway funds) that are eligible to be ex-
8 pended for transportation.

9 “(2) A recipient carrying out a program of op-
10 erating assistance under this section may not limit
11 the level or extent of use of the Government grant
12 for the payment of operating expenses.

13 “(3) For purposes of paragraph (1)(B) of this
14 section, the prohibitions on the use of funds for
15 matching requirements under section
16 403(a)(5)(c)(vii) of the Social Security Act shall not
17 apply to federal or state funds to be used for trans-
18 portation purposes.”.

19 (b) CONFORMING AMENDMENT.—The table of sec-
20 tions for chapter 53 is amended after the item relating
21 to section 5316 by adding the following:

“5317. New Freedom program.”.

22 **SEC. 3012. MAJOR CAPITAL INVESTMENT PROGRAM.**

23 (a) MAJOR CAPITAL INVESTMENT PROGRAM.—Sec-
24 tion 5309 is amended to read as follows:

1 **“§ 5309. Major capital investment grants**

2 “(a) GENERAL AUTHORITY.—

3 “(1) The Secretary of Transportation may
4 make grants under this section to State and local
5 governmental authorities to assist them and their
6 subrecipients in financing capital projects for—

7 “(A) new fixed guideway systems, exten-
8 sions to existing fixed guideway systems, and
9 related project activities;

10 “(B) the capital costs of coordinating pub-
11 lic transportation with other transportation;

12 “(C) the introduction of new technology,
13 through innovative or improved products, into
14 public transportation; or

15 “(D) the development of corridors to sup-
16 port public transportation, including protecting
17 rights of way through acquisition, construction
18 of dedicated bus and high occupancy vehicle
19 lanes or park and ride lots, or other capital im-
20 provements that the Secretary may decide
21 would result in increased public transportation
22 usage in the corridor.

23 “(2) The Secretary shall require that a grant
24 under this subsection be subject to the terms, condi-
25 tions, requirements, and provisions the Secretary de-
26 cides are necessary or appropriate for the purposes

1 of this section, including requirements for the dis-
2 position of net increases in value of real property re-
3 sulting from the project assisted under this section.

4 “(b) PROJECT AS PART OF APPROVED PROGRAM OF
5 PROJECTS.—

6 “(1) The Secretary may not approve a grant for
7 a project under this section unless the Secretary
8 finds that the project is part of an approved trans-
9 portation plan and program of projects required
10 under sections 5303–5306 of this title, and that the
11 applicant has or will have the legal, financial, and
12 technical capacity to carry out the project (including
13 safety and security aspects of the project), satisfac-
14 tory continuing control over the use of the equip-
15 ment or facilities, and the capability and willingness
16 to maintain the equipment or facilities.

17 “(2) An applicant that has submitted a certifi-
18 cation required by section 5307(d)(1) (A)–(C) and
19 (H) of this title shall provide sufficient information
20 upon which the Secretary can make the findings re-
21 quired by this subsection.

22 “(c) CRITERIA FOR MAJOR CAPITAL INVESTMENT
23 GRANTS OF \$75,000,000 OR MORE.—

24 “(1) A project financed under this subsection
25 shall be carried out through a full funding grant

1 agreement. The Secretary shall enter into a full
2 funding grant agreement based on the evaluations
3 and ratings required under this subsection. The Sec-
4 retary shall not enter into a full funding grant
5 agreement for a project unless that project is au-
6 thorized for final design and construction and has
7 been rated as ‘medium,’ ‘medium-high,’ or ‘high,’ as
8 defined in this subsection.

9 “(2) The Secretary may approve a grant under
10 this section for a major capital project only if the
11 Secretary makes the following determinations, based
12 upon evaluations and considerations as set forth
13 below:

14 “(A) The Secretary may approve a grant
15 under this section for a major capital project
16 only if the Secretary determines that the pro-
17 posed project is—

18 “(i) based on the results of an alter-
19 natives analysis and preliminary engineer-
20 ing;

21 “(ii) justified based on a comprehen-
22 sive review of its mobility improvements,
23 environmental benefits, cost effectiveness,
24 operating efficiencies, transit supportive
25 policies and existing land use; and

1 “(iii) supported by an acceptable de-
2 gree of local financial commitment, includ-
3 ing evidence of stable and dependable fi-
4 nancing sources to construct the project,
5 and maintain, and operate the entire pub-
6 lic transportation system.

7 “(B) Before making the determinations re-
8 quired by paragraph (2)(A), the Secretary shall
9 first analyze, evaluate, and consider the fol-
10 lowing factors:

11 “(i) In evaluating a project for pur-
12 poses of making the finding required by
13 paragraph (2)(A)(i), the Secretary shall
14 analyze and consider the results of the al-
15 ternatives analysis and preliminary engi-
16 neering for the project.

17 “(ii) In evaluating a project for pur-
18 poses of making the finding required by
19 paragraph (2)(A)(ii), the Secretary shall—

20 “(I) consider the direct and indi-
21 rect costs of relevant alternatives;

22 “(II) consider factors such as
23 congestion relief, improved mobility,
24 air pollution, noise pollution, energy
25 consumption, and all associated ancil-

1 lary and mitigation costs necessary to
2 carry out each alternative analyzed,
3 and recognize reductions in local in-
4 frastructure costs achieved through
5 compact land use development;

6 “(III) identify and consider pub-
7 lic transportation supportive existing
8 land use policies and future patterns,
9 and the cost of suburban sprawl;

10 “(IV) consider the degree to
11 which the project increases the mobil-
12 ity of the public transportation de-
13 pendent population or promotes eco-
14 nomic development;

15 “(V) consider population density
16 and current transit ridership in the
17 corridor;

18 “(VI) consider the technical ea-
19 pability of the grant recipient to con-
20 struct the project;

21 “(VII) adjust the project jus-
22 tification to reflect differences in local
23 land, construction, and operating
24 costs; and

1 ~~“(VIII) consider other factors~~
2 that the Secretary determines appro-
3 priate to carry out this chapter.

4 ~~“(iii) In evaluating a project under~~
5 paragraph (2)(A)(iii), the Secretary shall
6 require that—

7 ~~“(I) the proposed project plan~~
8 provides for the availability of contin-
9 gency amounts that the Secretary de-
10 termines to be reasonable to cover un-
11 anticipated cost increases;

12 ~~“(II) each proposed local source~~
13 of capital and operating financing is
14 stable, reliable, and available within
15 the proposed project timetable; and

16 ~~“(III) local resources are avail-~~
17 able to operate the overall proposed
18 public transportation system (includ-
19 ing essential feeder bus and other
20 services necessary to achieve the pro-
21 jected ridership levels) without requir-
22 ing a reduction in existing public
23 transportation services to operate the
24 proposed project.

1 “(iv) In assessing the stability, reli-
2 ability, and availability of proposed sources
3 of local financing under paragraph
4 (2)(A)(iii), the Secretary shall consider—

5 “(I) existing grant commitments;

6 “(II) the degree to which financ-
7 ing sources are dedicated to the pur-
8 poses propose;

9 “(III) any debt obligation that
10 exists or is proposed by the recipient
11 for the proposed project or other pub-
12 lic transportation purpose; and

13 “(IV) the extent to which the
14 project has a local financial commit-
15 ment that exceeds the required non-
16 Federal share of the cost of the
17 project.

18 “(3) A proposed project may advance from al-
19 ternatives analysis to preliminary engineering, and
20 may advance from preliminary engineering to final
21 design and construction, only if the Secretary finds
22 that the project meets the requirements of this sec-
23 tion and there is a reasonable likelihood that the
24 project will continue to meet such requirements. In
25 making the findings, the Secretary shall evaluate

1 and rate the project as ‘high,’ ‘medium-high,’ ‘me-
2 dium,’ ‘low-medium,’ or ‘low,’ based on the results of
3 alternatives analysis; the project justification cri-
4 teria; and the degree of local financial commitment,
5 as required under this subsection. In rating the
6 projects, the Secretary shall provide, in addition to
7 the overall project rating, individual ratings for each
8 of the criteria established by regulation.

9 “(d) CRITERIA FOR MAJOR CAPITAL INVESTMENT
10 GRANTS LESS THAN \$75,000,000.—If the assistance pro-
11 vided under this section is less than \$75,000,000, the
12 project shall be subject to the requirements set forth in
13 subsection (c) of this section only to the extent the Sec-
14 retary determines appropriate.

15 “(e) PREVIOUSLY ISSUED LETTER OF INTENT OR
16 FULL FUNDING GRANT AGREEMENT.—Subsections (c)
17 and (d) of this section do not apply to projects for which
18 the Secretary has issued a letter of intent or entered into
19 a full funding grant agreement before the date of enact-
20 ment of the Federal Public Transportation Act of 2003.

21 “(f) LETTERS OF INTENT, FULL FUNDING GRANT
22 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
23 MENTS.—

24 “(1)(A) The Secretary may issue a letter of in-
25 tent to an applicant announcing an intention to obli-

1 gate, for a major capital project under this section,
2 an amount from future available budget authority
3 specified in law that is not more than the amount
4 stipulated as the financial participation of the Sec-
5 retary in the project. When a letter is issued for
6 fixed guideway projects, the amount shall be suffi-
7 cient to complete at least an operable segment.

8 “(B) At least 30 days before issuing a letter
9 under subparagraph (A) of this paragraph or enter-
10 ing into a full funding grant agreement, the Sec-
11 retary shall notify in writing the Committee on
12 Transportation and Infrastructure of the House of
13 Representatives and the Committee on Banking,
14 Housing, and Urban Affairs of the Senate and the
15 House and Senate Committees on Appropriations of
16 the proposed letter or agreement. The Secretary
17 shall include with the notification a copy of the pro-
18 posed letter or agreement as well as the evaluations
19 and ratings for the project.

20 “(C) The issuance of a letter is deemed not to
21 be an obligation under sections 1108(e) and (d),
22 1501, and 1502(a) of title 31, U.S.C., or an admin-
23 istrative commitment.

1 “(D) An obligation or administrative commit-
2 ment may be made only when amounts are appro-
3 priated.

4 “(2)(A) The Secretary may make a full funding
5 grant agreement with an applicant. The agreement
6 shall—

7 “(i) establish the terms of participation by
8 the United States Government in a project
9 under this section;

10 “(ii) establish the maximum amount of
11 Government financial assistance for the project;

12 “(iii) cover the period of time for com-
13 pleting the project, including a period extending
14 beyond the period of an authorization; and

15 “(iv) make timely and efficient manage-
16 ment of the project easier according to the law
17 of the United States.

18 “(B) An agreement under this paragraph obli-
19 gates an amount of available budget authority speci-
20 fied in law and may include a commitment, contin-
21 gent on amounts to be specified in law in advance
22 for commitments under this paragraph, to obligate
23 an additional amount from future available budget
24 authority specified in law. The agreement shall state
25 that the contingent commitment is not an obligation

1 of the Government. Interest and other financing
2 costs of efficiently carrying out a part of the project
3 within a reasonable time are a cost of carrying out
4 the project under a full funding grant agreement,
5 except that eligible costs may not be more than the
6 cost of the most favorable financing terms reason-
7 ably available for the project at the time of bor-
8 rowing. The applicant shall certify, in a way satis-
9 factory to the Secretary, that the applicant has
10 shown reasonable diligence in seeking the most fa-
11 vorable financing terms. The amount stipulated in
12 an agreement under this paragraph for a fixed
13 guideway project shall be sufficient to complete at
14 least an operable segment.

15 “(3)(A) The Secretary may make an early sys-
16 tems work agreement with an applicant if a record
17 of decision under the National Environmental Policy
18 Act of 1969 (42 U.S.C. 4321 et seq.) has been
19 issued on the project and the Secretary finds there
20 is reason to believe—

21 “(i) a full funding grant agreement for the
22 project will be made; and

23 “(ii) the terms of the work agreement will
24 promote ultimate completion of the project
25 more rapidly and at less cost.

1 “(B) A work agreement under this paragraph
2 obligates an amount of available budget authority
3 specified in law and shall provide for reimbursement
4 of preliminary costs of carrying out the project, in-
5 cluding land acquisition, timely procurement of sys-
6 tem elements for which specifications are decided,
7 and other activities the Secretary decides are appro-
8 priate to make efficient, long-term project manage-
9 ment easier. A work agreement shall cover the pe-
10 riod of time the Secretary considers appropriate.
11 The period may extend beyond the period of current
12 authorization. Interest and other financing costs of
13 efficiently carrying out the work agreement within a
14 reasonable time are a cost of carrying out the agree-
15 ment, except that eligible costs may not be more
16 than the cost of the most favorable financing terms
17 reasonably available for the project at the time of
18 borrowing. The applicant shall certify, in a way sat-
19 isfactory to the Secretary, that the applicant has
20 shown reasonable diligence in seeking the most fa-
21 vorable financing terms. If an applicant does not
22 carry out the project for reasons within the control
23 of the applicant, the applicant shall repay all Gov-
24 ernment payments made under the work agreement

1 plus reasonable interest and penalty charges the
2 Secretary establishes in the agreement.

3 “(4)(A) The total estimated amount of future
4 obligations of the Government and contingent com-
5 mitments to incur obligations covered by all out-
6 standing letters of intent, full funding grant agree-
7 ments, and early systems work agreements may be
8 not more than the greater of the amount authorized
9 under section 5338(b) of this title for major capital
10 investment projects or an amount equivalent to the
11 last 3 fiscal years of funding authorized under sec-
12 tion 5338(b)(3)(C) for major capital investment
13 projects, less an amount the Secretary reasonably
14 estimates is necessary for grants under this section
15 not covered by a letter. The total amount covered by
16 new letters and contingent commitments included in
17 full funding grant agreements and early systems
18 work agreements may be not more than a limitation
19 specified in law.

20 “(B) Future obligations of the Government and
21 contingent commitments made against the contin-
22 gent commitment authority under section 3032(g)(2)
23 of the Intermodal Surface Transportation Efficiency
24 Act of 1991, Public Law 102–240, as amended, for
25 the San Francisco BART to the Airport project for

1 fiscal years 2002, 2003, 2004, 2005 and 2006 shall
2 be charged against section 3032(g)(2) of that Act.

3 ~~“(g) GOVERNMENT’S SHARE OF NET PROJECT~~
4 ~~COST.—~~

5 ~~“(1) Based on engineering studies, studies of~~
6 ~~economic feasibility, and information on the expected~~
7 ~~use of equipment or facilities, the Secretary shall es-~~
8 ~~timate the net project cost. A grant for the project~~
9 ~~shall be for 50 percent of the net capital project~~
10 ~~cost, unless the grant recipient requests a lower~~
11 ~~grant percentage.~~

12 ~~“(2) The remainder—~~

13 ~~“(A) shall be from an undistributed cash~~
14 ~~surplus, a replacement or depreciation cash~~
15 ~~fund or reserve, or new capital; and~~

16 ~~“(B) may include up to 30 percent from~~
17 ~~amounts appropriated to or made available to a~~
18 ~~department or agency of the Federal Govern-~~
19 ~~ment that are eligible to be expended for trans-~~
20 ~~portation.~~

21 ~~“(3) In addition to amounts allowed pursuant~~
22 ~~to paragraph (1) of this subsection, a planned exten-~~
23 ~~sion to a fixed guideway system may include the cost~~
24 ~~of rolling stock previously purchased if the applicant~~
25 ~~satisfies the Secretary that only amounts other than~~

1 amounts of the Government were used and that the
2 purchase was made for use on the extension. A re-
3 fund or reduction of the remainder may be made
4 only if a refund of a proportional amount of the
5 grant of the Government is made at the same time.

6 “(4) The prohibitions on the use of funds for
7 matching requirements under section
8 403(a)(5)(C)(vii) of the Social Security Act shall not
9 apply to amounts allowed pursuant to paragraph (2)
10 of this subsection.

11 “(5) This subsection does not apply to projects
12 for which the Secretary of Transportation has issued
13 a letter of intent or entered into a full funding grant
14 agreement before the date of enactment of the Fed-
15 eral Public Transportation Act of 2003.

16 “(h) FISCAL CAPACITY CONSIDERATIONS.—If the
17 Secretary gives priority consideration to financing projects
18 that include more than the non-Government share re-
19 quired under subsection (g) of this section, the Secretary
20 may also give consideration to ‘high,’ ‘medium-high,’ or
21 ‘medium’ projects sponsored by grant applicants and State
22 and local governments of constrained fiscal capacity in se-
23 lecting projects for full funding grant agreements.

24 “(i) PRELIMINARY ENGINEERING.—Not more than 8
25 percent of the amounts made available in each fiscal year

1 to carry out this section may be available for preliminary
2 engineering.

3 ~~“(j) UNDERTAKING PROJECTS IN ADVANCE.—~~

4 ~~“(1) The Secretary may pay the Government’s~~
5 ~~share of the net capital project cost to a State or~~
6 ~~local governmental authority that carries out any~~
7 ~~part of a project described in this section without~~
8 ~~the aid of amounts of the Government and according~~
9 ~~to all applicable procedures and requirements if—~~

10 ~~“(A) the State or local governmental au-~~
11 ~~thority applies for the payment;~~

12 ~~“(B) the Secretary approves the payment;~~
13 ~~and~~

14 ~~“(C) before carrying out the part of the~~
15 ~~project, the Secretary approves the plans and~~
16 ~~specifications for the part in the same way as~~
17 ~~other projects under this section.~~

18 ~~“(2) The cost of carrying out part of a project~~
19 ~~includes the amount of interest earned and payable~~
20 ~~on bonds issued by the State or local governmental~~
21 ~~authority to the extent proceeds of the bonds are ex-~~
22 ~~pende d in carrying out the part. However, the~~
23 ~~amount of interest under this paragraph may not be~~
24 ~~more than the most favorable interest terms reason-~~
25 ~~ably available for the project at the time of bor-~~

1 rowing. The applicant shall certify, in a manner sat-
2 isfactory to the Secretary, that the applicant has
3 shown reasonable diligence in seeking the most fa-
4 vorable financial terms.

5 “(3) The Secretary shall consider changes in
6 capital project cost indices when determining the es-
7 timated cost under paragraph (2) of this subsection.

8 “(k) USE OF DEOBLIGATED AMOUNTS.—An amount
9 available under this section that is deobligated may be
10 used for any purpose under this section.

11 “(l) REPORTS.—

12 “(1) Not later than the first Monday in Feb-
13 ruary of each year, the Secretary shall submit to the
14 Committee on Transportation and Infrastructure of
15 the House of Representatives and the Committee on
16 Banking, Housing, and Urban Affairs of the Senate,
17 as well as the Subcommittee on Transportation of
18 the Committees on Appropriations of both Houses,
19 a report that may include—

20 “(A) an allocation of amounts to be avail-
21 able to finance grants for capital investment
22 projects among applicants for these amounts;

23 “(B) an assessment of projects for funding
24 based on the evaluations and ratings and on ex-

1 isting commitments and anticipated funding
2 levels for the next 3 fiscal years; and

3 “(C) detailed ratings and evaluations on
4 each project listed.

5 “(2) The Secretary shall submit a report to
6 Congress on the first Monday in February, the first
7 Monday in June, and the first Monday in October
8 each year that includes—

9 “(A) a summary of the ratings of all appli-
10 cant’s capital investment projects;

11 “(B) detailed ratings and evaluations on
12 each applicant project with significant changes
13 to the finance or project proposal or has com-
14 pleted alternatives or preliminary engineering
15 since the date of the last report; and

16 “(C) all relevant information that support
17 the evaluation and rating of each updated
18 project, including a summary of each updated
19 project’s financial plan.

20 “(m) PROJECT DEFINED.—In this section, the term
21 ‘major capital investment project’ with respect to a new
22 fixed guideway system or extension to an existing fixed
23 guideway system, means a minimum operable segment of
24 the project.”.

1 **SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
2 **AND DEPLOYMENT PROJECTS.**

3 (a) IN GENERAL.—Section 5312 is amended—

4 (1) in subsection (a)—

5 (A) by striking “or contracts” and insert-
6 ing “, contracts, cooperative agreements, or
7 other transactions”;

8 (B) by striking “help reduce urban trans-
9 portation needs,”;

10 (C) by striking “urban” each place it ap-
11 pears; and

12 (D) by striking “and demonstration
13 projects related” and inserting “, demonstration
14 or deployment projects, or evaluation of tech-
15 nology of national significance”;

16 (2) by striking subsections (b) and (c);

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

19 (4) in subsection (b)(2), as redesignated, by
20 striking “other agreements” and inserting “other
21 transactions”;

22 (5) in subsection (b)(3), as redesignated, by
23 striking “50” and inserting “80”;

24 (6) in subsection (b)(4), by adding the following
25 sentence at the end: “The evaluation criteria shall

1 include consideration of a share of consortium con-
 2 tributions to the overall research costs.”;

3 (7) in subsection (e)(2), as redesignated, by
 4 striking “and” and inserting “or” before “private”;
 5 and

6 (8) in subsections (b)(5) and (e)(3), as redesign-
 7 nated, by striking “within the Mass Transit Account
 8 of the Highway Trust Fund”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 5312 is amended by striking the
 11 section heading and inserting the following:

12 **“§ 5312. Research, development, demonstration, and**
 13 **deployment projects”.**

14 (2) The item relating to section 5312 in the
 15 table of sections is amended to read as follows:

“§ 5312. Research, development, demonstration, and deployment projects.”.

16 **SEC. 3014. COOPERATIVE RESEARCH GRANT PROGRAM.**

17 (a) IN GENERAL.—Section 5313 is amended—

18 (1) in subsection (a) by—

19 (A) striking “(1)”;

20 (B) striking “paragraphs (1) and (2)(C)(ii)
 21 of section 5338(d) and inserting
 22 “5338(a)(2)(F)(iii)(I) and (III)”;

23 (C) striking “(2)” and inserting “(b) Fed-
 24 eral Assistance.—”;

25 (2) by striking subsection (b); and

1 (3) in subsection (c), by striking “subsection
2 (a) of”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 5313 is amended by striking the
5 section heading and inserting the following:

6 **“§ 5313. Cooperative research program”.**

7 (2) The item relating to section 5313 in the
8 table of sections is amended to read as follows:

 “5313. Cooperative research program.”.

9 **SEC. 3015. NATIONAL RESEARCH PROGRAMS.**

10 (a) IN GENERAL.—Section 5314 is amended—

11 (1) in the section heading, by striking “plan-
12 ning and”;

13 (2) in subsection (a)(1), by—

14 (A) striking “subsections (d) and (h)(7) of
15 section 5338” and inserting “section
16 5338(a)(2)(F)”;

17 (B) striking “and contracts” and inserting
18 “; contracts, cooperative agreements, or other
19 transactions”; and

20 (C) striking “5317,”;

21 (3) in the first sentence of subsection (a)(3), by
22 striking all that follows “chapter”;

23 (4) by striking subsection (a)(4)(B);

24 (5) by redesignating subsection (a)(4)(C) as
25 subsection (a)(4)(B); and

1 (6) in subsection (b), by striking “or contract”
 2 and all that follows in the first sentence, and insert-
 3 ing “; contract, cooperative agreement, or other
 4 transaction under subsection (a) of this section or
 5 section 5312.”

6 (b) CONFORMING AMENDMENTS.—The item relating
 7 to section 5314 in the table of sections is amended to read
 8 as follows:

“5314. National research programs.”

9 **SEC. 3016. NATIONAL TRANSIT INSTITUTE.**

10 Section 5315 is amended—

11 (1) in subsection (a)—

12 (A) by striking “public mass transpor-
 13 tation” and inserting “public transportation”
 14 each place it appears;

15 (B) by striking “mass” after “Govern-
 16 ment-aid” and inserting “public”; and

17 (C) in paragraphs (1), (6), (7), and (10)
 18 by striking “mass” each place it appears before
 19 “transportation” and inserting “public”;

20 (2) by striking subsection (b);

21 (3) by redesignating subsections (e) and (d) as
 22 subsections (b) and (c), respectively; and

23 (4) in subsection (c), as redesignated, by strik-
 24 ing “mass” each place it appears.

1 **SEC. 3017. BUS TESTING FACILITY.**

2 Section 5318 is amended—

3 (1) by revising subsection (a) to read as follows:

4 “(a) FACILITY.—The Secretary of Transportation
5 shall maintain one facility for testing a new bus model
6 for maintainability, reliability, safety, performance (in-
7 cluding braking performance), structural integrity, fuel
8 economy, emissions, and noise.”;

9 (2) in subsection (d), by striking “section
10 5309(m)(1)(C)” and inserting section 5338(a)(2)(I);
11 and

12 (3) by revising subsection (e) to read as follows:

13 “(e) ACQUIRING NEW BUS MODELS.—Amounts ap-
14 propriated or made available under this chapter may be
15 obligated or expended to acquire a new bus model only
16 if a bus of that model has been tested at the facility main-
17 tained by the Secretary under subsection (a).”.

18 **SEC. 3018. BICYCLE FACILITIES.**

19 Section 5319 is amended by striking “5309(h),” and
20 inserting “5309(g).”.

21 **SEC. 3019. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT**
22 **PROJECT.**

23 Section 5320 is repealed.

24 **SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.**

25 Section 5323 is amended—

26 (1) In paragraph (a)(1) by—

1 (A) striking “private mass transportation
2 company” each place it appears and inserting
3 “private company engaged in public transpor-
4 tation”;

5 (B) striking “mass transportation equip-
6 ment or a mass transportation facility” and in-
7 serting “a public transportation facility or
8 equipment”; and

9 (C) striking “mass transportation com-
10 pany” and inserting “public transportation
11 company”;

12 (2) in subsection (a)(1)(B), by striking “private
13 mass transportation companies” and inserting “pri-
14 vate companies engaged in public transportation”;

15 (3) in subsection (b)—

16 (A) in paragraph (1)—

17 (i) by striking “or loan”; and

18 (ii) by striking “a certificate of the
19 applicant” and inserting “in the environ-
20 mental record for the project evidence”;
21 and

22 (B) in subparagraph (A) of paragraph (1),
23 by striking “a public hearing with adequate
24 prior notice” and inserting “public review and
25 comment on the project”

1 (C) by amending subparagraph (B) of
2 paragraph (1) to read as follows:

3 “(B) held a public hearing on the project
4 if it affects significant economic, social, or envi-
5 ronmental interests;”;

6 (4) in paragraph (2); by striking the last sen-
7 tence;

8 (5) by revising subsection (e) to read as follows:

9 “(e) NEW TECHNOLOGY.—A grant for financial as-
10 sistance under this chapter for new technology, including
11 innovative or improved products, techniques, or methods
12 is subject to the requirements of section 5309 of this title
13 to the extent the Secretary considers appropriate.”;

14 (6) in subsection (d)—

15 (A) by revising paragraph (2) to read as
16 follows:

17 “(2) The Secretary may waive paragraph (1) of
18 this subsection if the Secretary finds that the provi-
19 sion of intercity charter bus transportation service
20 by the applicant, governmental authority, or publicly
21 owned operator is necessary to meet the transpor-
22 tation needs of the elderly and individuals with dis-
23 abilities.”; and

24 (B) by adding at the end the following
25 paragraph:

1 ~~“(3) On receiving a complaint about a violation~~
 2 ~~of the agreement required under paragraph (1), the~~
 3 ~~Secretary shall investigate and decide whether a vio-~~
 4 ~~lation has occurred. If the Secretary decides that a~~
 5 ~~violation has occurred, the Secretary shall correct~~
 6 ~~the violation under terms of the agreement. In addi-~~
 7 ~~tion to any remedy specified in the agreement, the~~
 8 ~~Secretary shall bar a recipient or an operator from~~
 9 ~~receiving Federal transit assistance in an amount~~
 10 ~~the Secretary deems appropriate.”;~~

11 ~~(7) by striking subsection (e);~~

12 ~~(8) by redesignating subsection (f) as (e);~~

13 ~~(9) in subsection (e), as redesignated—~~

14 ~~(A) by revising paragraph (2) to read as~~
 15 ~~follows:~~

16 ~~“(2) The Secretary may waive paragraph (1) of~~
 17 ~~this subsection if the Secretary finds that the provi-~~
 18 ~~sion of schoolbus transportation by the applicant,~~
 19 ~~governmental authority, or publicly owned operator~~
 20 ~~is necessary to meet the transportation needs of stu-~~
 21 ~~dents with disabilities.”; and~~

22 ~~(B) by adding at the end the following~~
 23 ~~paragraph:~~

24 ~~“(3) If the Secretary finds that an applicant,~~
 25 ~~governmental authority, or publicly owned operator~~

1 has violated the agreement required under para-
 2 graph (1) of this subsection, the Secretary shall bar
 3 a recipient or an operator from receiving Federal
 4 transit assistance in an amount the Secretary deems
 5 appropriate.”;

6 (10) by revising subsection (f) to read as fol-
 7 lows:

8 “(f) BOND PROCEEDS ELIGIBLE FOR LOCAL
 9 SHARE.—

10 “(1) Notwithstanding any other provision of
 11 law, a recipient of assistance under sections 5307 or
 12 5309 of this chapter, may use the proceeds from the
 13 issuance of revenue bonds as part of the local
 14 matching funds for a capital project.

15 “(2) The Secretary may reimburse an eligible
 16 recipient for deposits of bond proceeds in a debt
 17 service reserve that recipient established pursuant to
 18 section 5302(a)(1a)(K) of this title from amounts
 19 made available to the recipient under sections 5307
 20 or 5309 of this title.”;

21 (11) in subsection (g), by—

22 (A) striking “(f)” and inserting “(e)”;

23 (B) striking “103(e)(4) and” in the first
 24 and second sentence and inserting “133”; and

1 (C) striking (f)(1)(C) and inserting
2 “(e)(1)(C)”;

3 (12) by revising subsection (h) to read as fol-
4 lows:

5 “(h) TRANSFER OF LANDS OR INTERESTS IN LANDS
6 OWNED BY THE UNITED STATES.—

7 “(1) If the Secretary determines that any part
8 of the lands or interests in lands owned by the
9 United States and made available as a result of a
10 military base closure is necessary for transit pur-
11 poses eligible under this chapter, including corridor
12 preservation, the Secretary shall file with the Sec-
13 retary of the Department supervising the adminis-
14 tration of such lands or interests in lands a map
15 showing the portion of such lands or interests in
16 lands which is desired to be transferred for public
17 transportation purposes.

18 “(2) If within four months after such filing, the
19 Secretary of such Department shall not have cer-
20 tified to the Secretary that the proposed appropria-
21 tion of such land is contrary to the public interest
22 or inconsistent with the purposes for which such
23 land has been reserved, or shall have agreed to the
24 appropriation and transfer under conditions which
25 the Secretary of such Department deems necessary

1 for the adequate protection and utilization of the re-
2 serve, then such land and materials may be appro-
3 priated and transferred to a State, or local govern-
4 ment, or public transportation operator for such
5 purposes and subject to the conditions so specified.

6 “(3) If at any time such lands are no longer
7 needed for public transportation purposes, notice
8 shall be given by the State, or local government, or
9 public transportation operator that received the
10 land, to the Secretary, and such lands shall imme-
11 diately revert to the control of the Secretary of the
12 Department from which the land was originally
13 transferred.”;

14 (13) in subsection (j)—

15 (A) by revising paragraph (1) to read as
16 follows:

17 “(1)(A) The Secretary may obligate an amount
18 that may be appropriated to carry out this chapter
19 for a project only if the steel, iron, rolling stock, and
20 components and subcomponents of the rolling stock
21 used in the project are produced in the United
22 States.

23 “(B) When procuring rolling stock (including
24 train control, communication, and traction power
25 equipment) under this chapter—

1 “(i) the cost of components and subcompo-
2 nents produced in the United States shall be
3 more than 60 percent of the cost of all compo-
4 nents of the rolling stock; and

5 “(ii) final assembly of the rolling stock
6 shall occur in the United States.

7 “(C) In this subsection, labor costs involved in
8 final assembly are not included in calculating the
9 cost of components.”;

10 (B) in paragraph (2)(B)—

11 (i) by striking “and goods” and in-
12 serting “rolling stock, and the components
13 and subcomponents of rolling stock”; and

14 (ii) by adding “or” at the end;

15 (C) by striking paragraph (2)(C);

16 (D) by redesignating paragraph (2)(D) as
17 paragraph (2)(C);

18 (E) by striking paragraph (3) and redesignig-
19 nating paragraphs (4), (5), (6), and (7) as
20 paragraphs (3), (4), (5), and (6), respectively;

21 (F) in paragraph (4), as redesignated, by
22 striking “Intermodal Surface Transportation
23 Efficiency Act of 1991 (Public Law 102–240,
24 105 Stat. 1914” and inserting “Safe, Account-

1 able, Flexible, and Efficient Transportation Eq-
2 uity Act of 2003”;

3 (14) by revising subsection (l) to read as fol-
4 lows:

5 “(l) RELATIONSHIP TO OTHER LAWS.—Section 1001
6 of title 18, U.S.C., applies to a certificate, submission, or
7 statement provided under this chapter. The Secretary may
8 terminate financial assistance under this chapter and seek
9 reimbursement directly, or by offsetting amounts, avail-
10 able under this chapter, when a false or fraudulent state-
11 ment or related act within the meaning of section 1001
12 is made in connection with a Federal transit program.”;

13 (15) in subsection (m), by inserting at the end
14 the following: “Requirements to perform preaward
15 and postdelivery reviews of rolling stock purchases to
16 ensure compliance with subsection (j) of this section
17 do not apply to private nonprofit organizations or to
18 grantees serving areas with fewer than one million
19 people.”;

20 (16) in subsection (o) by striking “the Trans-
21 portation Infrastructure Finance and Innovation Act
22 of 1998” and inserting “23 U.S.C. 188”.

23 **SEC. 3021. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

24 (a) IN GENERAL.—Section 5324 is amended to read
25 as follows:

1 **§ 5324. Special provisions for capital projects**

2 “(a) REAL PROPERTY AND RELOCATION SERV-
 3 ICES.—Whenever real property is acquired and furnished
 4 as a required contribution incident to a project, the Sec-
 5 retary may not approve the application for financial assist-
 6 ance unless the applicant has made all payments and pro-
 7 vided all assistance and assurances as are required of a
 8 State agency under Sections 210 and 305 of the Uniform
 9 Relocation Assistance and Real Property Acquisition Poli-
 10 cies Act, as amended (Uniform Act). The Secretary must
 11 be advised of specific references to any State law that are
 12 believed to be an exception to Sections 301 or 302 of the
 13 Uniform Act.

14 “(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

15 “(1) The Secretary may participate in the ae-
 16 quisition of real property prior to completion of the
 17 environmental reviews for any project that may use
 18 the property if the Secretary determines that exter-
 19 nal market forces are jeopardizing the potential use
 20 of the property for the project, given any of the fol-
 21 lowing conditions—

22 “(A) there are offers on the open real es-
 23 tate market to convey that property for a use
 24 or uses incompatible with the project under
 25 study;

1 “(B) there is an imminent threat of devel-
2 opment or redevelopment of the property for
3 use or uses incompatible with the project under
4 study;

5 “(C) recent appraisals reflect a rapid in-
6 crease in the fair market value of the property;

7 “(D) the property, because it is located
8 near an existing transportation facility, is likely
9 to be developed, but also likely to be needed for
10 a future transportation improvement; or

11 “(E) the property owner can demonstrate
12 that, for health, safety, or financial reasons, re-
13 taining ownership of the property poses an
14 undue hardship on the owner in comparison to
15 other affected property owners and requests the
16 acquisition to alleviate that hardship.

17 “(2) Property acquired in accordance with this
18 subsection may not be developed in anticipation of
19 the project until the Secretary has complied with the
20 National Environmental Policy Act and the applica-
21 ble provisions of the Department of Transportation
22 Act for protection of publicly owned park lands,
23 wildlife and waterfowl refuges, and historic sites.

24 “(3) The Secretary shall limit the size and
25 number of properties acquired in accordance with

1 this subsection as necessary to avoid any prejudice
2 to the Secretary's objective evaluation of project al-
3 ternatives.

4 “(4) An acquisition undertaken pursuant to this
5 section shall be considered to be an exempt project
6 under section 176 of the Clear Air Act and its im-
7 plementing regulations.

8 “(c) RAILROAD CORRIDOR PRESERVATION.—

9 “(1) The Secretary may assist an applicant in
10 the acquisition of a pre-existing railroad right-of-way
11 prior to completion of the environmental reviews for
12 any project that may use the right-of-way if the ac-
13 quisition is otherwise permitted under Federal law;
14 furthermore, the Secretary may establish restrictions
15 on such an acquisition as the Secretary deems nec-
16 essary and appropriate.

17 “(2) Railroad right-of-way acquired in accord-
18 ance with this subsection may not be developed in
19 anticipation of the project until the Secretary has
20 complied with the National Environmental Policy
21 Act and the applicable provisions of the Department
22 of Transportation Act for protection of publicly
23 owned park lands, wildlife and waterfowl refuges,
24 and historic sites.

1 “(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND
2 ENVIRONMENTAL INTERESTS.—

3 “(1) In carrying out section 5301(e) of this
4 chapter, the Secretary shall cooperate and consult
5 with the Secretaries of the Interior, Housing and
6 Urban Development, and the Administrator of the
7 Environmental Protection Agency on each project
8 that may have a substantial impact on the environ-
9 ment.

10 “(2) In performing environmental reviews, the
11 Secretary shall consider the public comments on a
12 project submitted under section 5323(b) of this title
13 and ensure that an adequate opportunity to present
14 views was given to all parties having a significant
15 economic, social, or environmental interest in the
16 project, and that the project application includes a
17 record of—

18 “(A) the environmental impact of the pro-
19 posal;

20 “(B) adverse environmental effects that
21 cannot be avoided;

22 “(C) alternatives to the proposal; and

23 “(D) irreversible and irretrievable impacts
24 on the environment.

1 “(3)(A) The Secretary may approve an applica-
 2 tion for financial assistance for a capital project in
 3 accordance with this chapter only if the Secretary
 4 makes written findings, after reviewing the environ-
 5 mental record included with the project application,
 6 that—

7 “(i) an adequate opportunity to present
 8 views was given to all parties having a signifi-
 9 cant economic, social, or environmental interest;

10 “(ii) the preservation and enhancement of
 11 the environment and the interest of the commu-
 12 nity in which the project is located were consid-
 13 ered; and

14 “(iii) no adverse environmental effect is
 15 likely to result from the project, or no feasible
 16 and prudent alternative to the effect exists and
 17 all reasonable steps have been taken to mini-
 18 mize the effect.

19 “(B) The Secretary’s findings under subpara-
 20 graph (A) of this paragraph shall be made a matter
 21 of public record.”.

22 (b) CONFORMING AMENDMENT.—The item relating
 23 to section 5324 in the table of sections for chapter 53 is
 24 amended to read as follows:

“5324. Special provisions for capital projects.”.

1 **SEC. 3022. CONTRACT REQUIREMENTS.**

2 (a) IN GENERAL.—Section 5325 is amended—

3 (1) by revising subsection (a) to read as follows:

4 “(a) COMPETITION.—Recipients of Federal assist-
5 ance under this chapter shall conduct all procurement
6 transactions in a manner providing full and open competi-
7 tion as determined by the Secretary.”;

8 (2) by revising subsection (b) to read as follows:

9 “(b) ARCHITECTURAL, ENGINEERING, AND DESIGN
10 CONTRACTS.—A contract or requirement for program
11 management, architectural engineering, construction man-
12 agement, a feasibility study, and preliminary engineering,
13 design, architectural, engineering, surveying, mapping, or
14 related services for a project for which Federal assistance
15 is provided under this chapter shall be awarded in the
16 same way as a contract for architectural and engineering
17 services is negotiated under chapter 11 of title 40, U.S.C.,
18 or an equivalent qualifications-based requirement of a
19 State. This subsection does not apply to the extent a State
20 has adopted or adopts by law a formal procedure for pro-
21 curing those services. When awarding such contracts, re-
22 cipients of assistance under this chapter shall maximize
23 efficiencies of administration by accepting non-disputed
24 audits conducted by other governmental agencies as fol-
25 lows:

1 “(1) Any contract or subcontract awarded
2 under this chapter shall be performed and audited in
3 compliance with cost principles contained in the
4 Federal Acquisition Regulation, part 31 of title 48,
5 Code of Federal Regulations.

6 “(2) Instead of performing its own audits, a re-
7 cipient of funds under a contract or subcontract
8 awarded under this chapter shall accept indirect cost
9 rates established in accordance with the Federal Ac-
10 quisition Regulations for one-year applicable ac-
11 counting periods by a cognizant Federal or State
12 government agency, if such rates are not currently
13 under dispute.

14 “(3) Once a firm’s indirect cost rates are ac-
15 cepted under this paragraph, the recipient of the
16 funds shall apply such rates for the purposes of con-
17 tract estimation, negotiation, administration, report-
18 ing, and contract payment, and shall not be limited
19 by administrative or de facto ceilings.

20 “(4) A recipient of funds requesting or using
21 the cost and rate data described in paragraph (3)
22 shall notify any affected firm before such request or
23 use. Such data shall be confidential and shall not be
24 accessible or provided, in whole or in part by the
25 group of agencies sharing cost data under this para-

1 graph, except by written permission of the audited
 2 firm. If prohibited by law, such cost and rate data
 3 shall not be disclosed under any circumstances.”;

4 (3) by inserting new subsections (d) through
 5 (h), after subsection (c), to read as follows:

6 ~~“(d) DESIGN-BUILD SYSTEM PROJECTS.—~~

7 ~~“(1) ‘design-build system project’ means a~~
 8 ~~project under which a recipient enters into a con-~~
 9 ~~tract with a seller, firm, or consortium of firms to~~
 10 ~~design and build a public transportation system or~~
 11 ~~an operable segment thereof that meets specific per-~~
 12 ~~formance criteria. Such project may also include an~~
 13 ~~option to finance, or operate for a period of time,~~
 14 ~~the system or segment or any combination of design-~~
 15 ~~ing, building, operating, or maintaining such system~~
 16 ~~or segment.~~

17 ~~“(2) Government financial assistance under this~~
 18 ~~chapter may be made available for the capital costs~~
 19 ~~of a design-build system project after the recipient~~
 20 ~~complies with Government requirements.~~

21 ~~“(e) MULTIYEAR ROLLING STOCK.—~~

22 ~~“(1) A recipient procuring rolling stock with~~
 23 ~~Government financial assistance under this chapter~~
 24 ~~may make a multiyear contract, including options, to~~

1 buy not more than 5 years of requirements for roll-
 2 ing stock and replacement parts.

3 “(2) The Secretary shall allow a recipient to act
 4 on a cooperative basis to procure rolling stock in
 5 compliance with this subsection and other Govern-
 6 ment procurement requirements.

7 “(f) ACQUIRING ROLLING STOCK.—A recipient of fi-
 8 nancial assistance under this chapter may enter into a
 9 contract to expend that assistance to acquire rolling
 10 stock—

11 “(1) based on—

12 “(A) initial capital costs; or

13 “(B) performance, standardization, life
 14 cycle costs, and other factors; or

15 “(2) with a party selected through a competi-
 16 tive procurement process.

17 “(g) EXAMINATION OF THE RECORDS.—Upon re-
 18 quest, the Secretary and the Comptroller General, or any
 19 of their representatives, shall have access to and the right
 20 to examine and inspect all records, documents, papers, in-
 21 cluding contracts, related to a projects for which a grant
 22 is made under this chapter.

23 “(h) GRANT PROHIBITIONS.—A grant may not be
 24 used to support a procurement that uses an exclusionary
 25 or discriminatory specification.”.

1 (b) CONFORMING AMENDMENTS.—Chapter 53 of
2 title 49, United States Code, is amended by—

3 (1) repealing section 5326; and

4 (2) striking “5326. Special Procurements.” in
5 the table of sections for chapter 53.

6 **SEC. 3023. HUMAN RESOURCE PROGRAMS.**

7 (a) IN GENERAL.—Section 5322 is amended—

8 (1) by inserting “(a) IN GENERAL.—” before
9 the beginning of the first sentence of the section;

10 and

11 (2) by adding the following at the end:

12 “(b) GRANTS TO HIGHER LEARNING INSTITU-
13 TIONS.—

14 “(1) The Secretary (or the Secretary of Hous-
15 ing and Urban Development when required by sec-
16 tion 5334(i) of this title) may make grants to non-
17 profit institutions of higher learning—

18 “(A) to conduct competent research and
19 investigations into the theoretical or practical
20 problems of urban transportation; and

21 “(B) to train individuals to conduct fur-
22 ther research or obtain employment in an orga-
23 nization that plans, builds, operates, or man-
24 ages an urban transportation system.

1 “(2) Research and investigations under this
2 subsection include—

3 “(A) the design and use of urban public
4 transportation systems and urban roads and
5 highways;

6 “(B) the interrelationship between various
7 modes of urban and interurban transportation;

8 “(C) the role of transportation planning in
9 overall urban planning;

10 “(D) public preferences in transportation;

11 “(E) the economic allocation of transpor-
12 tation resources; and

13 “(F) the legal, financial, engineering, and
14 esthetic aspects of urban transportation.

15 “(3) When making a grant under this sub-
16 section, the Secretary shall give preference to an in-
17 stitution that brings together knowledge and exper-
18 tise in the various social science and technical dis-
19 ciplines related to urban transportation problems.

20 “(e) FELLOWSHIPS.—

21 “(1) The Secretary may make grants to States,
22 local governmental authorities, and operators of pub-
23 lic transportation systems to provide fellowships to
24 train personnel employed in managerial, technical,

1 and professional positions in the mass transportation
2 field.

3 “(2) A fellowship under this subsection may be
4 for not more than one year of training in an institu-
5 tion that offers a program applicable to the public
6 transportation industry. The recipient of the grant
7 shall select an individual on the basis of dem-
8 onstrated ability and for the contribution the indi-
9 vidual reasonably can be expected to make to an ef-
10 ficient public transportation operation. A grant for
11 a fellowship may not be more than the lesser of
12 \$65,000 or 75 percent of—

13 “(A) tuition and other charges to the fel-
14 lowship recipient;

15 “(B) additional costs incurred by the train-
16 ing institution and billed to the grant recipient;
17 and

18 “(C) the regular salary of the fellowship
19 recipient for the period of the fellowship to the
20 extent the salary is actually paid or reimbursed
21 by the grant recipient.

22 “(d) OTHER GRANTS.—The Secretary may make
23 grants to State and local governmental authorities for
24 projects that will use innovative techniques and methods
25 in managing and providing public transportation.”.

1 **SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND RE-**
 2 **VIEW.**

3 (a) **PROJECT MANAGEMENT PLAN REQUIRE-**
 4 **MENTS.**—Section 5327(a) is amended—

5 (1) by striking “and” at the end of paragraph
 6 11;

7 (2) in paragraph 12, by striking the “.” and in-
 8 serting “; and”; and

9 (3) by adding after paragraph (12) the fol-
 10 lowing:

11 “(13) safety and security management.”.

12 (b) **LIMITATIONS ON USE OF AVAILABLE**
 13 **AMOUNTS.**—Section 5327(e) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “.5” and inserting “1”;

16 (B) by striking “5307, 5309, or 5311 of
 17 this title, an interstate transfer mass transpor-
 18 tation project under section 103(e)(4) of title
 19 23 as in effect on September 30, 1991,” and in-
 20 serting “5307–5311, 5316, or 5317 of this
 21 title,”;

22 (C) by striking “to make a contract”;

23 (D) by striking “a major project” and in-
 24 serting “major projects”; and

1 (E) by striking “section 5307, 5309, 5311,
2 or 103(e)(4)” and inserting “sections 5307–
3 5311, 5316, 5317,”;

4 (2) in paragraph (2), by inserting “and secu-
5 rity” after “safety”; and

6 (3) by redesignating paragraph (3) as (4) and
7 inserting a new paragraph (3), as follows:

8 “(3) The Secretary shall deduct a sum in an
9 amount that the Secretary determines necessary to
10 administer this section from the amounts made
11 available under paragraph (1) of this subsection.
12 These funds shall be in addition to any other funds
13 made available for these purposes, and shall remain
14 available until expended.”.

15 **SEC. 3025. PROJECT REVIEW.**

16 Section 5328 is repealed.

17 **SEC. 3026. INVESTIGATIONS OF SAFETY AND SECURITY**
18 **RISK.**

19 (a) IN GENERAL.—Section 5329 is amended to read
20 as follows:

21 **“§ 5329. Investigation of safety and security risks**

22 “‘The Secretary may conduct investigations into safe-
23 ty and security risks associated with a condition in equip-
24 ment, a facility, or an operation financed under this chap-
25 ter to establish the nature and extent of the condition and

1 how to eliminate, mitigate, or correct it. If the Secretary
 2 establishes that a safety or security risk warrants further
 3 protective measures, the Secretary shall require the local
 4 governmental authority receiving amounts under this
 5 chapter to submit a plan for eliminating, mitigating, or
 6 correcting it. Any such plan relating to security risks shall
 7 be developed in consultation with the Secretary of Home-
 8 land Security. Financial assistance under this chapter, in
 9 an amount to be determined by the Secretary, may be
 10 withheld until a plan is approved and carried out.”.

11 (b) CONFORMING AMENDMENT.—The item relating
 12 to section 5329 in the table of sections for chapter 53 is
 13 amended to read as follows:

“5329. Investigation of safety and security risks.”.

14 **SEC. 3027. STATE SAFETY OVERSIGHT.**

15 (a) IN GENERAL.—Section 5330 is amended—

16 (1) by striking the heading “Withholding
 17 Amounts for Noncompliance with Safety Require-
 18 ments” and inserting “State Safety Oversight”;

19 (2) in subsection (a), by striking the text and
 20 inserting the following “This section applies only
 21 to—

22 “(1) States that have rail fixed guideway public
 23 transportation systems not subject to regulation by
 24 the Federal Railroad Administration; and

1 “(2) States that are designing rail fixed guide-
2 way public transportation systems that will not be
3 subjected to regulation by the Federal Railroad Ad-
4 ministration.”;

5 (3) in subsection (d) by inserting “shall ensure
6 uniform safety standards and enforcement and”
7 after “affected States”; and

8 (4) by striking subsection (f).

9 (b) CONFORMING AMENDMENT.—The item relating
10 to section 5330 in the table of sections for chapter 53 is
11 amended to read as follows:

“5330. State safety oversight.”.

12 **SEC. 3028. SENSITIVE SECURITY INFORMATION.**

13 Section 40119(b) is amended—

14 (1) in paragraph (1)(C) by striking “transpor-
15 tation safety” and inserting “the safety of transpor-
16 tation facilities or infrastructure, or transportation
17 employees”; and

18 (2) by adding at the end a new paragraph (3),
19 to read as follows:

20 “(3) A State or local government may not
21 enact, enforce, prescribe, issue, or continue in effect
22 any law, regulation, standard, or order to the extent
23 it is inconsistent with this section or regulations pre-
24 scribed under this section.”.

1 **SEC. 3029. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**
 2 **LENCE AGAINST PUBLIC TRANSPORTATION**
 3 **SYSTEMS.**

4 (a) IN GENERAL.—Section 1993 of title 18, U.S.C.,
 5 is amended—

6 (1) by striking “mass” in each place it appears
 7 before “transportation” and inserting “public”;

8 (2) in subsection (a)(5), by inserting “control-
 9 ling,” after “operating”; and

10 (3) in subsection (c)(5), by striking
 11 “5302(a)(7)” and inserting “5302(a)”.

12 (b) CONFORMING AMENDMENT.—The item related to
 13 section 1993 in the table of contents for chapter 97 of
 14 title 18, U.S.C. is amended to read as follows:

“1993. Terrorist attacks and other acts of violence against public transportation
 systems.”

15 **SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MIS-**
 16 **USE TESTING.**

17 (a) DEFINITIONS.—Section 5331(a)(3) is amended
 18 by inserting after “title” the following: “; or sections
 19 2303a, 7101(i), 7302(e) of title 46, United States Code.
 20 The Secretary may also decide that a form of public trans-
 21 portation is covered adequately; for employee alcohol and
 22 controlled substances testing purposes; under the alcohol
 23 and controlled substance statutes or regulations of an

1 agency within the Department of Transportation or other
2 Federal agency.”.

3 (b) REGULATIONS.—Section 5331(f) is amended by
4 striking paragraph (3).

5 **SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

6 Section 5333(b)(1) is amended by striking “5318(d),
7 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)”
8 each place it appears and inserting “5316–5318,
9 5323(a)(1), (b), and (e), 5337, and 5338(b)(3)(C)”.

10 **SEC. 3032. ADMINISTRATIVE PROCEDURES.**

11 Section 5334 is amended—

12 (1) in subsection (a),

13 (A) by striking “and” at the end of para-
14 graph (9);

15 (B) by striking the period at the end of
16 paragraph (10) and inserting “; and”; and

17 (C) by inserting after paragraph (10) the
18 following:

19 “(11) issue regulations as necessary to carry
20 out the purposes of this chapter.”;

21 (2) by redesignating subsections (b), (e), (d),
22 (e), (f), (g), (h), (i), and (j) as subsections (e), (d),
23 (e), (f), (g), (h), (i), (j), and (k);

24 (3) by adding a new subsection (b) after sub-
25 section (a), to read as follows:

1 “(b) PROHIBITIONS AGAINST REGULATING OPER-
 2 ATIONS AND CHARGES.—Except as directed by the Presi-
 3 dent for purposes of national defense or in the event of
 4 a national or regional emergency, the Secretary may not
 5 regulate the operation, routes, or schedules of a public
 6 transportation system for which a grant is made under
 7 this chapter, nor may the Secretary regulate the rates,
 8 fares, tolls, rentals, or other charges prescribed by any
 9 public or private transportation provider; provided, how-
 10 ever, that nothing in this subsection shall prevent the Sec-
 11 retary from requiring a recipient of funds under this chap-
 12 ter to comply with the terms and conditions of its Federal
 13 assistance agreement.”; and

14 (4) in subsection (j)(1), as redesignated,
 15 (A) by striking “carry” and inserting “ad-
 16 vise and assist the Secretary in carrying”; and
 17 (B) by striking “and (b)(1)” and insert
 18 “5322(b)(1)”.

19 **SEC. 3033. REPORTS AND AUDITS.**

20 Section 5335 is amended—

21 (1) in subsection (a), by—
 22 (A) striking “(1)”; and
 23 (B) striking “(2)” and inserting “(b) RE-
 24 PORTING AND UNIFORM SYSTEMS.—”; and
 25 (2) by striking subsection (b).

1 **SEC. 3034. APPORTIONMENTS OF APPROPRIATIONS FOR**
 2 **FORMULA GRANTS.**

3 (a) **IN GENERAL.**—Section 5336 is amended by—

4 (1) striking subsection (d);

5 (2) striking subsection (k);

6 (3) redesignating subsections (a) through (e) as
 7 subsections (b) through (d), respectively; and

8 (4) adding a new subsection (a) as follows:

9 “(a) **APPORTIONMENT OF ALLOCATIONS.**—Of the
 10 amounts allocated under section 5338(a)(2)(P) of this
 11 title—

12 “(1) the following percentages shall be appor-
 13 tioned to each urbanized area in accordance with
 14 subsection (k) of this section:

15 “(A) One percent in fiscal year 2004.

16 “(B) Three percent in fiscal year 2005.

17 “(C) Five percent in fiscal year 2006.

18 “(D) Seven percent in fiscal year 2007.

19 “(E) Nine percent in fiscal year 2008.

20 “(F) Ten percent in every fiscal year
 21 thereafter.

22 “(2) the remaining portion shall be apportioned
 23 to each urbanized area in accordance with sub-
 24 sections (b) through (d) of this section.”

25 (b) **BASED ON URBANIZED AREA POPULATION.**—

26 Subsection (b), as redesignated, is amended—

1 (1) by striking “Of the amount made available
2 or appropriated under section 5338(a) of this title”
3 and inserting “Of the amount to be apportioned
4 under subsection (a)(2) of this section”; and

5 (2) in paragraph (2), by striking “subsections
6 (b) and (c)” and inserting “subsections (c) and (d)”.

7 (c) ~~BASED ON FIXED GUIDEWAY REVENUE VEHIC-~~
8 ~~ELE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—~~
9 Subsection (c)(2), as redesignated, is amended by striking
10 “subsection (a)(2)” and inserting “subsection (b)(2)”.

11 (d) ~~BASED ON BUS REVENUE VEHICLE-MILES AND~~
12 ~~PASSENGER-MILES.—~~Subsection (d), as redesignated, is
13 amended by striking “subsection (a)(2)” and inserting
14 “subsection (b)(2)”.

15 (e) ~~DATE OF APPORTIONMENT.—~~Subsection (e)(1) is
16 amended by striking “subsections (a) and (h)(2) of section
17 5338” and inserting “section 5338(a)(2)(P)”.

18 (f) ~~TRANSFERS OF APPORTIONMENTS.—~~Subsection
19 (g) is amended by striking “subsection (a)(1)” and insert-
20 ing “subsection (b)(1)” each time it appears.

21 (g) ~~APPORTIONMENT BASED ON INCENTIVE FAC-~~
22 ~~TORS.—~~Section 5336 is amended by adding a new sub-
23 section (k) as follows:

24 “(k) ~~APPORTIONMENT BASED ON INCENTIVE FAC-~~
25 ~~TORS.—~~

1 “(1) Of the amounts apportioned under sub-
2 section (a)(1) of this section, the Secretary may use
3 the following amounts to make grants to establish
4 data collection systems capable of collecting the data
5 in paragraph (3) of this subsection:

6 “(A) \$25,000,000 in fiscal year 2004.

7 “(B) \$15,000,000 in fiscal year 2005.

8 “(C) \$5,000,000 in fiscal year 2006.

9 “(2) Amounts under paragraph (1) of this sub-
10 section not obligated within three years following the
11 end of the fiscal year in which those amounts be-
12 came available shall be available for apportionment
13 under paragraph (3) of this subsection.

14 “(3) The remaining amounts to be apportioned
15 under subsection (a)(1) of this section shall be ap-
16 portioned by a formula determined by the Secretary
17 that distributes funds based on increases in public
18 transportation patronage.

19 “(4) In apportioning funds under this sub-
20 section, the Secretary may consider the efficiency of
21 service provision in the urbanized area.

22 “(5) The Secretary shall not apportion any
23 amounts under this subsection to an urbanized area
24 that experiences a significant decline, as determined
25 by the Secretary, in public transportation patronage

1 by elderly individuals, individuals with disabilities, or
 2 low income persons.”.

3 **SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY**
 4 **FACTORS.**

5 (a) SECTION HEADING.—Section 5337 is amended by
 6 striking the section heading and inserting the following:
 7 “§ 5337. Apportionment based on fixed guideway fac-
 8 tors”.

9 (b) DISTRIBUTION.—The text of subsection 5337(a)
 10 before the first colon is amended to read as follows:
 11 “Amounts made available under section 5338(a)(2)(N) of
 12 this title are apportioned as follows:”.

13 (c) IN GENERAL.—Section 5337 is amended by—

14 (1) striking “section 5336(b)(2)(A)” each place
 15 it appears and inserting “section 5336(e)(2)(A)”;

16 (2) striking subsection (e); and

17 (3) redesignating subsection (f) as subsection
 18 (e).

19 (d) CONFORMING AMENDMENT.—The item relating
 20 to section 5337 in the table of sections for chapter 53 is
 21 amended to read as follows:

“5337. Apportionment based on fixed guideway factors.”.

22 **SEC. 3036. AUTHORIZATIONS.**

23 The text of section 5338 is amended to read as fol-
 24 lows:

25 “(a) FORMULA GRANTS AND RESEARCH.—

1 “(1) There shall be available from the Mass
2 Transit Account of the Highway Trust Fund to
3 carry out sections ~~5305, 5307, 5308, 5310–5318,~~
4 ~~5322, 5335, 5505,~~ and ~~5570–5575~~ of this title, and
5 section ~~3038~~ of Public Law ~~105–178~~—

6 “(A) \$5,615,406,000 for fiscal year 2004;

7 “(B) \$5,727,714,000 for fiscal year 2005;

8 “(C) \$5,846,851,000 for fiscal year 2006;

9 “(D) \$5,978,405,000 for fiscal year 2007;

10 “(E) \$6,126,071,000 for fiscal year 2008;

11 and

12 “(F) \$6,274,935,000 for fiscal year 2009.

13 “(2) Of the aggregate of amounts made avail-
14 able under this subsection for a fiscal year,

15 “(A) 1.25 percent shall be available to
16 carry out section ~~5305~~ in the fiscal year 2004;

17 “(B) 2 percent shall be available to carry
18 out section ~~5305~~ in fiscal years 2005 through
19 2009;

20 “(C) the following amounts shall be avail-
21 able to carry out section ~~5335~~—

22 “(i) \$3,500,000 in fiscal year 2004;

23 “(ii) \$3,700,000 in fiscal year 2005;

24 “(iii) \$3,900,000 in fiscal year 2006;

25 “(iv) \$4,100,000 in fiscal year 2007;

1 “(v) \$4,300,000 in fiscal year 2008;

2 and

3 “(vi) \$4,500,000 in fiscal year 2009;

4 “(D) \$4,849,950 shall be available for
5 grants to the Alaska Railroad for improvements
6 to its passenger operations in lieu of receiving
7 an apportionment under section 5336 of this
8 title;

9 “(E) \$6,950,000 shall be available to carry
10 out section 3038 of the Transportation Equity
11 Act for the 21st Century, as amended;

12 “(F) the following amounts shall be avail-
13 able to carry out transit cooperative research
14 programs under section 5313, the National
15 Transit Institute under section 5315, and na-
16 tional research programs under sections 5312,
17 5313, 5314, and 5322:

18 “(i) \$43,750,000 in fiscal year 2004;

19 “(ii) 0.779 percent in fiscal years
20 2005 through 2009; and

21 “(iii) Of the amount made available
22 by this paragraph:

23 “(I) 18.85 percent shall be avail-
24 able for carrying out transit coopera-

1 tive research programs under section
2 5313;

3 “(H) 9.14 percent shall be avail-
4 able to carry out programs under the
5 National Transit Institute under sec-
6 tion 5315, including not more than
7 \$1,000,000 shall be available to carry
8 out section 5315(a)(16); and ———

9 “(III) the remainder shall be
10 available for carrying out national re-
11 search programs under sections 5312,
12 5313, 5314, and 5322;

13 “(G) \$30,000,000 shall be available to
14 carry out section 5316 for each fiscal year 2005
15 through 2009, based on need and supported by
16 transportation financial feasibility studies and
17 planning analyses;

18 “(H) the following amounts shall be avail-
19 able for the New Freedom program under sec-
20 tion 5317 of this title:

21 “(i) \$145,000,000 in fiscal year 2004;

22 and

23 “(ii) 2.582 percent in fiscal years
24 2005 through 2009;

1 “(I) the following amounts shall be avail-
2 able to carry out section 5318:

3 “(i) \$3,000,000 in fiscal year 2004;
4 and

5 “(ii) 0.061 percent in fiscal years
6 2005 through 2009;

7 “(J) \$6,000,000 shall be available to carry
8 out section 5505 of this title;

9 “(K) 6.4 percent shall be available to pro-
10 vide financial assistance for other than urban-
11 ized areas under section 5311;

12 “(L) 1.55 percent shall be available to pro-
13 vide financial assistance for services for elderly
14 persons and persons with disabilities under sec-
15 tion 5310;

16 “(M) the following amounts shall be avail-
17 able to provide financial assistance for job ae-
18 cess and reverse commute projects under sec-
19 tion 5308:

20 “(i) \$150,000,000 in fiscal year 2004;
21 and

22 “(ii) 2.671 percent in fiscal years
23 2005 through 2009;

24 “(N) the following amounts shall be avail-
25 able to provide financial assistance for urban-

1 ized areas under section 5307 and apportioned
2 in accordance with section 5337:

3 “(i) \$1,214,400,000 in fiscal year
4 2004; and

5 “(ii) 21.626 percent in fiscal years
6 2005 through 2009; and

7 “(O) \$75,000,000 shall be available to
8 carry out sections 5570 through 5575 in fiscal
9 years 2005 through 2009.

10 “(P) The remaining amount shall be avail-
11 able to provide financial assistance for urban-
12 ized areas under section 5307 and apportioned
13 in accordance with section 5336.

14 “(b) MAJOR CAPITAL INVESTMENT PROGRAM
15 GRANTS.—

16 “(1) There shall be available from the Mass
17 Transit Account of the Highway Trust Fund to
18 carry out sections 5305 and 5309—

19 “(A) \$320,594,000 for fiscal year 2004;

20 “(B) \$327,006,000 for fiscal year 2005;

21 “(C) \$333,808,000 for fiscal year 2006;

22 “(D) \$341,318,000 for fiscal year 2007;

23 “(E) \$349,749,000 for fiscal year 2008;

24 and

25 “(F) \$358,248,000 for fiscal year 2009.

1 “(2) In addition to amounts made available
2 under paragraph (1), there are authorized to be ap-
3 propriated to carry out sections 5305 and 5309—

4 “(A) \$1,213,500,000 for fiscal year 2004;

5 “(B) \$1,236,192,000 for fiscal year 2005;

6 “(C) \$1,261,287,000 for fiscal year 2006;

7 “(D) \$1,289,162,000 for fiscal year 2007;

8 “(E) \$1,321,907,000 for fiscal year 2008;

9 and

10 “(F) \$1,355,219,000 for fiscal year 2009.

11 “(3) Of the amounts made available by and ap-
12 propriated under this subsection for a fiscal year,

13 “(A) 1.25 percent shall be available to
14 carry out section 5305 in the fiscal year 2004;

15 “(B) 2 percent shall be available to carry
16 out section 5305 in fiscal years 2005 through
17 2009; and

18 “(C) the remaining amount shall be avail-
19 able to carry out Major Capital Investment
20 Grants under section 5309 of this title. —

21 “(e) ADMINISTRATION.—There are authorized to be
22 appropriated to carry out section 5334—

23 “(A) \$76,500,000 for fiscal year 2004;

24 “(B) \$77,931,000 for fiscal year 2005;

25 “(C) \$79,513,000 for fiscal year 2006;

1 “(D) \$81,270,000 for fiscal year 2007;

2 “(E) \$83,334,000 for fiscal year 2008; and

3 “(F) \$85,434,000 for fiscal year 2009.

4 “(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—

5 “(1) A grant or contract approved by the Sec-
6 retary, that is financed with amounts made available
7 under subsections (a), (b)(1), or (c) is a contractual
8 obligation of the United States Government to pay
9 the Government’s share of the cost of the project.

10 “(2) A grant or contract, approved by the Sec-
11 retary, that is financed with amounts made available
12 under subsections (b)(2) or (c) is a contractual obli-
13 gation of the Government to pay the Government’s
14 share of the cost of the project only to the extent
15 that amounts are provided in advance in an appro-
16 priations Act.

17 “(e) REVENUE ALIGNED BUDGET AUTHORITY.—

18 “(1) On October 15 of fiscal year 2006 and
19 each fiscal year thereafter, the Secretary shall pro-
20 rate an amount of funds equal to the amount deter-
21 mined pursuant to section 251(b)(1)(C) of the Bal-
22 anced Budget and Emergency Deficit Control Act of
23 1985 in a portion equal to the amount available to
24 each Federal transit program for which funds are
25 available from the Mass Transit Account of the

1 Highway Trust Fund under subsections (a) and (b)
2 of this section.

3 ~~“(2) AUTHORIZATION OF APPROPRIATIONS.—~~

4 There are authorized to be appropriated from the
5 Mass Transit Account of the Highway Trust Fund
6 such sums as may be necessary to carry out this
7 subsection for fiscal years beginning after September
8 30, 2005.

9 ~~“(f) AVAILABILITY OF AMOUNTS.—~~Amounts made
10 available by or appropriated under subsections (a), (b),
11 and (c) shall remain available until expended.”.

12 **SEC. 3037. NATIONAL PARKS AND PUBLIC LANDS LEGACY**
13 **PROJECT.**

14 (a) ~~IN GENERAL.—~~Chapter 53 is amended by insert-
15 ing after section 5315 the following:

16 **“§ 5316. National parks and public lands Legacy**
17 **Project**

18 ~~“(a) IN GENERAL.—~~

19 ~~“(1) The Secretary of Transportation, in con-~~
20 ~~sultation with the Secretary of the Interior, may~~
21 ~~make a grant or enter into a contract, cooperative~~
22 ~~agreement, interagency agreement, intra-agency~~
23 ~~agreement, or other transaction to carry out a quali-~~
24 ~~fied project under this section to enhance the protec-~~
25 ~~tion of America’s National Parks and public lands~~

1 and increase the enjoyment of those visiting the
2 parks and public lands by ensuring access to all, in-
3 cluding the disabled, improving conservation and
4 park and public land opportunities in urban areas
5 through partnering with state and local govern-
6 ments, and improving park and public land trans-
7 portation infrastructure.

8 “(2) A grant, cooperative agreement, inter-
9 agency agreement, intra-agency agreement, or other
10 transaction for a qualified project under this section
11 shall be available to finance the leasing of equipment
12 and facilities for use in public transportation, sub-
13 ject to any regulation that the Secretary may pre-
14 scribe limiting the grant or agreement to leasing ar-
15 rangements that are more cost-effective than pur-
16 chase or construction.

17 “(b) DEFINITIONS.—In this section—

18 “(1) ‘eligible area’ means any federally owned
19 or managed park, refuge, or recreational area that
20 is open to the general public, including—

21 “(A) a unit of the National Park System;

22 “(B) a unit of the National Wildlife Ref-
23 uge System;

24 “(C) a recreational area managed by the
25 Bureau of Land Management; and

1 “(D) a recreation area managed by the
2 Bureau of Reclamation.

3 “(2) ‘Federal land management agency’ means
4 a Federal agency that manages an eligible area.

5 “(3) ‘public transportation’ means transpor-
6 tation by bus, rail, or any other publicly or privately
7 owned conveyance that provides to the public general
8 or special service on a regular basis, including sight-
9 seeing service.

10 “(4) ‘qualified participant’ means—

11 “(A) a Federal land management agency;
12 or

13 “(B) a State, tribal, or local governmental
14 authority with jurisdiction over land in the vi-
15 cinity of an eligible area acting with the consent
16 of the Federal land management agency, alone
17 or in partnership with a Federal land manage-
18 ment agency or other Governmental or non-
19 governmental participant.

20 “(5) ‘qualified project’ means a planning or
21 capital project in or in the vicinity of an eligible area
22 that—

23 “(A) is an activity described in section
24 5302, 5303, or 5304;

25 “(B) involves—

1 “(i) the purchase of rolling stock that
2 incorporates clean fuel technology or the
3 replacement of buses of a type in use on
4 the date of enactment of this section with
5 clean fuel vehicles; or

6 “(ii) the deployment of public trans-
7 portation vehicles that introduce innovative
8 technologies or methods;

9 “(C) relates to the capital costs of coordi-
10 nating the Federal land management agency
11 public transportation systems with other public
12 transportation systems;

13 “(D) provides a nonmotorized transpor-
14 tation system (including the provision of facili-
15 ties for pedestrians, bicycles, and nonmotorized
16 watercraft);

17 “(E) provides waterborne access within or
18 in the vicinity of an eligible area, as appropriate
19 to and consistent with this section; or

20 “(F) is any other public transportation
21 project that—

22 “(i) enhances the environment;

23 “(ii) prevents or mitigates an adverse
24 impact on a natural resource;

1 ~~“(iii) improves Federal land manage-~~
2 ~~ment agency resource management;~~

3 ~~“(iv) improves visitor mobility and ac-~~
4 ~~cessibility and the visitor experience;~~

5 ~~“(v) reduces congestion and pollution~~
6 ~~(including noise pollution and visual pollu-~~
7 ~~tion); or~~

8 ~~“(vi) conserves a natural, historical,~~
9 ~~or cultural resource (excluding rehabilita-~~
10 ~~tion or restoration of a non-transportation~~
11 ~~facility).~~

12 ~~“(6) ‘Secretary’ means the Secretary of Trans-~~
13 ~~portation.~~

14 ~~“(e) LIMITATION ON USE OF AVAILABLE~~
15 ~~AMOUNTS.—~~

16 ~~“(1) The Secretary, in consultation with the~~
17 ~~Secretary of the Interior, may use not more than 10~~
18 ~~percent of the amount made available for a fiscal~~
19 ~~year under section 5338(a)(2)(G) to carry out plan-~~
20 ~~ning, research, and technical assistance under this~~
21 ~~section, including the development of technology ap-~~
22 ~~propriate for use in a qualified project.~~

23 ~~“(2) Amounts made available under this sub-~~
24 ~~section are in addition to amounts otherwise avail-~~
25 ~~able to the Secretary to carry out planning, re-~~

1 search, and technical assistance under this title or
2 any other provision of law.

3 “(3) No qualified project shall receive more
4 than 12 percent of the total amount made available
5 to carry out this section under section
6 5338(a)(2)(G) for any fiscal year.

7 “(d) PLANNING PROCESS.—In undertaking a quali-
8 fied project under this section,

9 “(1) if the qualified participant is a Federal
10 land management agency—

11 “(A) the Secretary, in cooperation with the
12 Secretary of the Interior, shall develop trans-
13 portation planning procedures that are con-
14 sistent with—

15 “(i) the metropolitan planning provi-
16 sions under section 5303 of this title;

17 “(ii) the statewide planning provisions
18 under section 5304 of this title; and

19 “(iii) the public participation require-
20 ments under section 5307(e); and

21 “(B) in the case of a qualified project that
22 is at a unit of the National Park system, the
23 planning process shall be consistent with the
24 general management plans of the unit of the
25 National Park system; and

1 “(2) if the qualified participant is a State or
2 local governmental authority, or more than one
3 State or local governmental authority in more than
4 one State, the qualified participant shall—

5 “(A) comply with the metropolitan plan-
6 ning provisions under section 5303 of this title;

7 “(B) comply with the statewide planning
8 provisions under section 5304 of this title;

9 “(C) comply with the public participation
10 requirements under section 5307(e) of this title;

11 and

12 “(D) consult with the appropriate Federal
13 land management agency during the planning
14 process.

15 “(e) COST SHARING.—

16 “(1) The Secretary, in cooperation with the
17 Secretary of the Interior, shall establish the share of
18 assistance to be provided under this section to a
19 qualified participant.

20 “(2) In establishing the share of assistance to
21 be provided under this section, the Secretary shall
22 consider—

23 “(A) visitation levels and the revenue de-
24 rived from user fees in the eligible area in
25 which the qualified project is carried out;

1 “(B) the extent to which the qualified par-
2 ticipant coordinates with a public transpor-
3 tation authority or private entity engaged in
4 public transportation;

5 “(C) private investment in the qualified
6 project, including the provision of contract serv-
7 ices, joint development activities, and the use of
8 innovative financing mechanisms;

9 “(D) the clear and direct benefit to the
10 qualified participant; and

11 “(E) any other matters that the Secretary
12 considers appropriate to carry out this section.

13 “(3) Notwithstanding any other provision of
14 law, Federal funds appropriated to any Federal land
15 management agency may be counted toward the re-
16 mainder of the cost of a qualified project.

17 “(f) SELECTION OF QUALIFIED PROJECTS.—

18 “(1) The Secretary of the Interior, after con-
19 sultation with and in cooperation with the Secretary,
20 shall determine the final selection and funding of an
21 annual program of qualified projects in accordance
22 with this section.

23 “(2) In determining whether to include a
24 project in the annual program of qualified projects,
25 the Secretary of the Interior shall consider—

1 “(A) the justification for the qualified
2 project, including the extent to which the quali-
3 fied project would conserve resources, prevent
4 or mitigate adverse impact, and enhance the en-
5 vironment;

6 “(B) the location of the qualified project,
7 to ensure that the selected qualified projects—

8 “(i) are geographically diverse nation-
9 wide; and

10 “(ii) include qualified projects in eligi-
11 ble areas located in both urban areas and
12 rural areas;

13 “(C) the size of the qualified project, to
14 ensure that there is a balanced distribution;

15 “(D) the historical and cultural signifi-
16 cance of a qualified project;

17 “(E) safety;

18 “(F) the extent to which the qualified
19 project would-

20 “(i) enhance livable communities;

21 “(ii) reduce pollution (including noise
22 pollution, air pollution, and visual pollu-
23 tion);

24 “(iii) reduce congestion; and

1 “(iv) improve the mobility of people in
2 the most efficient manner; and

3 “(G) any other matters that the Secretary
4 considers appropriate to carry out this section;
5 including—

6 “(i) visitation levels;

7 “(ii) the use of innovative financing or
8 joint development strategies; and

9 “(iii) coordination with gateway com-
10 munities.

11 “(g) QUALIFIED PROJECTS CARRIED OUT IN AD-
12 VANCE.—

13 “(1) When a qualified participant carries out
14 any part of a qualified project without assistance
15 under this section in accordance with all applicable
16 procedures and requirements, the Secretary, in con-
17 sultation with the Secretary of the Interior, may pay
18 the share of the net capital project cost of a quali-
19 fied project if—

20 “(A) the qualified participant applies for
21 the payment;

22 “(B) the Secretary approves the payment;
23 and

24 “(C) before carrying out that part of the
25 qualified project, the Secretary approves the

1 plans and specifications in the same manner as
2 plans and specifications are approved for other
3 projects assisted under this section.

4 “(2)(A) The cost of carrying out part of a
5 qualified project under paragraph (1) includes the
6 amount of interest earned and payable on bonds
7 issued by a State or local governmental authority, to
8 the extent that proceeds of the bond are expended
9 in carrying out that part.

10 “(B) The rate of interest under this paragraph
11 may not exceed the most favorable rate reasonably
12 available for the qualified project at the time of bor-
13 rowing.

14 “(C) The qualified participant shall certify, in
15 a manner satisfactory to the Secretary, that the
16 qualified participant has exercised reasonable dili-
17 gence in seeking the most favorable interest rate.

18 “(h) RELATIONSHIP TO OTHER LAWS.—

19 “(1) A qualified participant under this section
20 is subject to the requirements of section 5307 of this
21 title to the extent the Secretary considers appro-
22 priate.

23 “(2) Section 5333(b) of this title shall apply,
24 provided that the Secretary of Labor shall utilize a

1 Special Warranty that provides a fair and equitable
2 arrangement to protect the interest of employees:

3 “(3) The Secretary may waive the applicability
4 of the Special Warranty under paragraph (B) for
5 private non-profit subrecipients on a case-by-case
6 basis as the Secretary deems appropriate

7 “(4) A qualified participant under this section
8 is subject to any other terms, conditions, require-
9 ments, and provisions that the Secretary determines
10 to be appropriate to carry out this section, including
11 requirements for the distribution of proceeds on dis-
12 position of real property and equipment resulting
13 from a qualified project assisted under this section:

14 “(5) If the amount of assistance anticipated to
15 be required for a qualified project under this section
16 is \$75,000,000 or more, the qualified participant
17 shall prepare a project management plan in accord-
18 ance with sections 5327(a) and (b) of this title.

19 “(i) ASSET MANAGEMENT.—The Secretary, in con-
20 sultation with the Secretary of the Interior, may transfer
21 the interest of the Department of Transportation in, and
22 control over, all facilities and equipment acquired under
23 this section to a qualified participant for use and disposi-
24 tion in accordance with any property management regula-
25 tions that the Secretary determines to be appropriate.

1 ~~“(j) COORDINATION OF RESEARCH AND DEPLOY-~~
 2 ~~MENT OF NEW TECHNOLOGIES.—~~

3 ~~“(1) The Secretary, in cooperation with the~~
 4 ~~Secretary of the Interior, may undertake, or make~~
 5 ~~grants, cooperative agreements, contracts (including~~
 6 ~~agreements with departments, agencies, and instru-~~
 7 ~~mentalities of the Federal Government) or other~~
 8 ~~transactions for research, development, and deploy-~~
 9 ~~ment of new technologies in eligible areas that will—~~

10 ~~“(A) conserve resources;~~

11 ~~“(B) prevent or mitigate adverse environ-~~
 12 ~~mental impact;~~

13 ~~“(C) improve visitor mobility, accessibility,~~
 14 ~~and enjoyment; and~~

15 ~~“(D) reduce pollution (including noise pol-~~
 16 ~~lution and visual pollution).”~~

17 ~~“(2) The Secretary may request and receive ap-~~
 18 ~~propriate information from any source.~~

19 ~~“(3) Grants, cooperative agreements, contracts~~
 20 ~~or other transactions under paragraph (1) shall be~~
 21 ~~awarded from amounts allocated under subsection~~
 22 ~~(e)(1).”~~

23 ~~(b) CONFORMING AMENDMENTS.—The table of sec-~~
 24 ~~tions for chapter 53 is amended by inserting after the item~~
 25 ~~relating to section 5315 the following:~~

~~“5316. National parks and public lands Legacy Project.”~~

1 **SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

2 (a) Section 3038 of the Transportation Equity Act
3 for the 21st Century, Public Law 105-178, is amended—

4 (1) by striking the section heading and insert-
5 ing the following: “~~OVER-THE-ROAD BUS AC-~~
6 ~~CESSIBILITY PROGRAM.~~”;

7 and

8 (2) by revising subsection (g) to read as follows:

9 “(g) FUNDING.—

10 “(1) Of the amounts made available by or ap-
11 propriated under section 5338(a)(2)(E) in each fis-
12 cal year, 75 percent shall be available for operators
13 of over-the-road buses used substantially or exclu-
14 sively in intercity, fixed-route over-the-road bus serv-
15 ice to finance the incremental capital and training
16 costs of the Department of Transportation’s final
17 rule regarding accessibility of over-the-road buses.
18 Such amounts shall remain available until expended.

19 “(2) Of the amounts made available by or ap-
20 propriated under section 5338(a)(2)(E) in each fis-
21 cal year, 25 percent shall be available for operators
22 of other over-the-road bus service to finance the in-
23 cremental capital and training costs of the Depart-
24 ment of Transportation’s final rule regarding acces-
25 sibility of over-the-road buses. Such amounts shall
26 remain available until expended.”.

1 (b) CONFORMING AMENDMENTS.—The item relating
 2 to section 3038 in the table of sections for the Transpor-
 3 tation Equity Act for the 21st Century is amended to read
 4 as follows:

“Over-the-road bus accessibility program.”.

5 **SEC. 3039. FORMULA GRANTS FOR SPECIAL NEEDS OF EL-**
 6 **DERLY INDIVIDUALS AND INDIVIDUALS WITH**
 7 **DISABILITIES.**

8 (a) IN GENERAL.—Section 5310 is amended to read
 9 as follows:

10 “(a) GENERAL AUTHORITY.—

11 “(1) The Secretary may make grants to a State
 12 under this section for capital public transportation
 13 projects planned, designed, and carried out to meet
 14 the special needs of elderly individuals and individ-
 15 uals with disabilities. A State may then allocate the
 16 funds to—

17 “(A) a private non-profit organization; or

18 “(B) a governmental authority—

19 “(i) approved by the State to coordi-
 20 nate services for elderly individuals and in-
 21 dividuals with disabilities; or

22 “(ii) that certifies that there are not
 23 any nonprofit organizations readily avail-
 24 able in the area to provide the services de-
 25 scribed under this paragraph.

1 “(2) A capital public transportation project
2 under this section may include acquiring public
3 transportation services as an eligible capital expense.

4 “(3) A State may use not more than 15 percent
5 of the amounts apportioned under this section to ad-
6 minister, plan and provided technical assistance for
7 a project funded under this section.

8 “(b) APPORTIONMENTS.—

9 “(1) The Secretary shall apportion amounts
10 made available under section 5338(a)(2)(M) of this
11 title under a formula the Secretary administers that
12 considers the number of elderly individuals and indi-
13 viduals with disabilities in each State.

14 “(2) The recipient may transfer any funds ap-
15 portioned to it under this subsection to sections
16 5311(e) or 5336. Any funds transferred pursuant to
17 this subsection shall be made available only for eligi-
18 ble projects selected under this section.

19 “(c) GOVERNMENT’S SHARE.—A grant for a capital
20 project under this section may not exceed 80 percent of
21 the net capital costs of the project, as determined by the
22 Secretary. The remainder—

23 “(1) may be provided from an undistributed
24 cash surplus, a replacement or depreciation cash
25 fund or reserve, a service agreement with a State or

1 local social service agency or a private social service
2 organization, or new capital; and

3 “(2) may be derived from amounts appropriated
4 to or made available to a department or agency of
5 the Federal government (other than the Department
6 of Transportation, except for Federal Land Highway
7 funds) that are eligible to be expended for transpor-
8 tation.

9 “(3) For purposes of paragraph (2), the prohi-
10 bitions on the use of funds for matching require-
11 ments under section 403(a)(5)(e)(vii) of the Social
12 Security Act shall not apply to federal or state funds
13 to be used for transportation purposes.

14 “(d) GRANT REQUIREMENTS.—

15 “(1) A recipient of a grant under this section
16 is subject to all requirements of a grant under sec-
17 tion 5307 of this title to the extent the Secretary
18 considers appropriate.”

19 “(2) A recipient that transfers funds to section
20 5336 pursuant to subsection (b)(2) shall certify that
21 the project for which the funds are requested has
22 been coordinated with private non-profit providers of
23 services under this section.

24 “(3) A recipient of funds under this section
25 shall certify that—

1 “(A) the projects selected were derived
2 from a locally developed, coordinated public
3 transit-human services transportation plan; and

4 “(B) the plan was developed through a
5 process that included representatives of public,
6 private, and nonprofit transportation and
7 human services providers and participation by
8 the public;

9 “(4) A recipient of a grant under this section
10 shall certify that allocations of the grant to sub-
11 recipients are distributed on a fair and equitable
12 basis.

13 “(e) STATE PROGRAM OF PROJECTS.—Amounts
14 made available to carry out this subsection may be used
15 for transportation projects to assist in providing transpor-
16 tation services for elderly individuals and individuals with
17 disabilities that are included in a State program of
18 projects. A program shall be submitted annually to the
19 Secretary for approval and shall contain an assurance that
20 the program provides for maximum feasible coordination
21 of transportation services assisted under this section with
22 transportation services assisted by other United States
23 Government sources.

24 “(f) LEASING VEHICLES.—Vehicles acquired under
25 this section may be leased to local governmental authori-

1 ties to improve transportation services designed to meet
 2 the special needs of elderly individuals and individuals
 3 with disabilities.

4 “(g) **HOMEBOUND INDIVIDUALS.**—Public transpor-
 5 tation service providers receiving assistance under this sec-
 6 tion or 5311(e) of this title may coordinate and assist in
 7 regularly providing meal delivery service for homebound
 8 individuals if the delivery service does not conflict with
 9 providing public transportation service or reduce service
 10 to public transportation passengers.

11 “(h) **TRANSFERS OF FACILITIES AND EQUIPMENT.**—
 12 With the consent of the recipient currently having a facil-
 13 ity or equipment acquired with assistance under this sec-
 14 tion, a State may transfer the facility or equipment to any
 15 recipient eligible to receive assistance under this chapter
 16 if the facility or equipment will continue to be used as
 17 required under this section.

18 “(i) **FARES NOT REQUIRED.**—This chapter does not
 19 require that elderly individuals and individuals with dis-
 20 abilities be charged a fare.”.

21 **SEC. 3040. JOB ACCESS AND REVERSE COMMUTE.**

22 (a) Section 5308 is amended to read as follows:

23 “§ **5308. Formula grants for job access and reverse**
 24 **commute projects**

25 “(a) **DEFINITIONS.**—In this section,

1 “(1) ‘recipient’ means a State that receives a
2 grant under this section directly; and

3 “(2) ‘subrecipient’ means a State or local public
4 authority, a nonprofit organization, or a private op-
5 erator of public transportation service that may re-
6 ceive a grant under this section indirectly through a
7 recipient, rather than directly from the Federal Gov-
8 ernment.”.

9 “(b) GENERAL AUTHORITY.—

10 “(1) The Secretary may make grants to a re-
11 cipient under this section for access to jobs and re-
12 verse commute projects to a recipient.

13 “(2) A recipient may use not more than 15 per-
14 cent of the amounts apportioned under this section
15 to administer, plan, and provide technical assistance
16 for a project funded under this section.

17 “(c) APPORTIONMENTS.—

18 “(1) The Secretary shall apportion amounts
19 made available under section 5338(a)(2)(M) of this
20 title under a formula the Secretary administers that
21 considers the number of low income people in each
22 State.

23 “(2) The recipient may transfer any funds ap-
24 portioned to it under this subsection to sections
25 5311(e) or 5336. Any apportionment transferred

1 pursuant to this subsection shall be made available
2 for eligible job access and reverse commute projects
3 under this section.

4 “(d) GRANT REQUIREMENTS.—

5 “(1) A grant under this section is subject to the
6 requirements of 5307 to the extent the Secretary
7 considers appropriate.

8 “(2) Section 5333(b) of this title shall apply,
9 provided that the Secretary of Labor shall utilize a
10 Special Warranty that provides a fair and equitable
11 arrangement to protect the interest of employees.

12 “(3) The Secretary may waive the applicability
13 of the Special Warranty under paragraph (2) for
14 private non-profit subrecipients on a case-by-case
15 basis as the Secretary deems appropriate.

16 “(4) A recipient of a grant under this section
17 shall certify that allocations of the grant to sub-
18 recipients are distributed on a fair and equitable
19 basis.

20 “(e) COMPETITIVE PROCESS.—

21 “(1) The recipient shall conduct a statewide so-
22 licitation for applications for grants under this sec-
23 tion.

24 “(2) Subrecipients seeking to receive a grant
25 under this section shall submit to the recipient an

1 application in the form and in accordance with such
2 requirements as the recipient shall establish.

3 ~~“(3) Subrecipients submitting applications pur-~~
4 ~~suant to paragraph (2) shall be selected on a com-~~
5 ~~petitive basis.~~

6 ~~“(f) COORDINATION.—~~

7 ~~“(1) The Secretary shall coordinate activities~~
8 ~~under this section with related activities under pro-~~
9 ~~grams of other Federal departments and agencies.~~

10 ~~“(2) A recipient that transfers funds to section~~
11 ~~5336 pursuant to subsection (e)(2) shall certify that~~
12 ~~the project for which the funds are requested has~~
13 ~~been coordinated with private non-profit providers of~~
14 ~~services under this section.~~

15 ~~“(3) A recipient of funds under this section~~
16 ~~shall certify that—~~

17 ~~“(A) the projects selected were derived~~
18 ~~from a locally developed, coordinated public~~
19 ~~transit-human services transportation plan; and~~

20 ~~“(B) the plan was developed through a~~
21 ~~process that included representatives of public,~~
22 ~~private, and nonprofit transportation and~~
23 ~~human services providers and participation by~~
24 ~~the public;~~

25 ~~“(g) GOVERNMENT’S SHARE OF COSTS.—~~

1 “(1) A grant for a capital project under this
2 section may not exceed 80 percent of the net capital
3 costs of the project, as determined by the Secretary.
4 A grant made under this section for operating as-
5 sistance may not exceed 50 percent of the net oper-
6 ating costs of the project, as determined by the Sec-
7 retary. The remainder—

8 “(A) may be provided from an undistrib-
9 uted cash surplus; a replacement or deprecia-
10 tion cash fund or reserve; a service agreement
11 with a State or local social service agency or a
12 private social service organization; or new cap-
13 ital; and

14 “(B) may be derived from amounts appro-
15 priated to or made available to a department or
16 agency of the Federal Government (other than
17 the Department of Transportation, except for
18 Federal Land Highway funds) that are eligible
19 to be expended for transportation.

20 “(2) A recipient carrying out a program of op-
21 erating assistance under this section may not limit
22 the level or extent of use of the Government grant
23 for the payment of operating expenses.

24 “(3) For purposes of paragraph (1)(B) of this
25 section, the prohibitions on the use of funds for

1 matching requirements under section
 2 403(a)(5)(e)(vii) of the Social Security Act shall not
 3 apply to Federal or State funds to be used for trans-
 4 portation purposes.”

5 (b) CONFORMING AMENDMENT.—The table of sec-
 6 tions for chapter 53 is amended after the item relating
 7 to section 5307 to read as follows:

“5308. Formula grants for job access and reverse commute projects.”.

8 **TITLE IV—MOTOR CARRIER**
 9 **SAFETY**

10 **SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) ADMINISTRATIVE EXPENSES.—Section 31104 of
 12 title 49, United States Code, is amended by adding the
 13 following at the end:

14 “(i) ADMINISTRATIVE EXPENSES.—

15 “(1) There are authorized to be appropriated
 16 from the Highway Trust Fund (other than the Mass
 17 Transit Account) for the Secretary of Transpor-
 18 tation to pay administrative expenses of the Federal
 19 Motor Carrier Safety Administration—

20 “(A) \$224,406,000 for fiscal year 2004;

21 “(B) \$228,000,000 for fiscal year 2005;

22 “(C) \$233,000,000 for fiscal year 2006;

23 “(D) \$239,000,000 for fiscal year 2007;

24 “(E) \$244,000,000 for fiscal year 2008;

25 and

1 ~~“(F) \$250,000,000 for fiscal year 2009.~~

2 ~~“(2) The funds authorized by this subsection~~
3 ~~shall be used for personnel costs; administrative in-~~
4 ~~frastructure; rent; information technology; programs~~
5 ~~for research and technology; information manage-~~
6 ~~ment; regulatory development (including a medical~~
7 ~~review board and rules for medical examiners); per-~~
8 ~~formance and registration information system man-~~
9 ~~agement (PRISM); a study of driver availability and~~
10 ~~retention; and outreach and education; other oper-~~
11 ~~ating expenses and similar matters; and such other~~
12 ~~expenses as may from time to time become necessary~~
13 ~~to implement statutory mandates not funded from~~
14 ~~other sources.~~

15 ~~“(3) The amounts made available under this~~
16 ~~section shall remain available until expended.~~

17 ~~“(4) Authorizations from the Highway Trust~~
18 ~~Fund (other than the Mass Transit Account) to~~
19 ~~carry out subtitle IV, part B, and subtitle VI, part~~
20 ~~B, of this title; or the provisions of subtitle IV of the~~
21 ~~‘Safe, Accountable, Flexible, and Efficient Transpor-~~
22 ~~tation Equity Act of 2003’, shall be available for ob-~~
23 ~~ligation on the date of their apportionment or alloca-~~
24 ~~tion or on October 1 of the fiscal year for which they~~
25 ~~are authorized, whichever occurs first.’.”~~

1 (b) AMENDMENT TO TITLE 23.—Section 104(a)(1)
 2 of title 23, United States Code, is amended by—

3 (1) deleting subparagraph (B);

4 (2) deleting the designation “(A)” at the begin-
 5 ning of subparagraph (A) and redesignating sub-
 6 paragraphs (A)(i) and (ii) as subparagraphs (A) and
 7 (B), respectively; and

8 (3) deleting “; and” at the end of subparagraph
 9 (B), as so redesignated, and inserting a period.

10 (c) GRANT PROGRAMS.—There are authorized to be
 11 appropriated from the Highway Trust Fund (other than
 12 the Mass Transit Account) for the following Federal
 13 Motor Carrier Safety Administration programs—

14 (1) Commercial driver’s license/driver improve-
 15 ment program grants under section 4002(c)—

16 (A) \$22,000,000 for fiscal year 2004;

17 (B) \$22,000,000 for fiscal year 2005;

18 (C) \$23,000,000 for fiscal year 2006;

19 (D) \$23,000,000 for fiscal year 2007;

20 (E) \$24,000,000 for fiscal year 2008; and

21 (F) \$25,000,000 for fiscal year 2009.

22 (2) Border enforcement grants under section
 23 4002(b)—

24 (A) \$ 32,000,000 for fiscal year 2004;

25 (B) \$ 33,000,000 for fiscal year 2005;

- 1 (C) \$ 33,000,000 for fiscal year 2006;
 2 (D) \$ 34,000,000 for fiscal year 2007;
 3 (E) \$ 35,000,000 for fiscal year 2008; and
 4 (F) \$ 36,000,000 for fiscal year 2009.

5 (3) Performance and registration information
 6 system management (PRISM) grant program under
 7 section 4016—

- 8 (A) \$4,000,000 for fiscal year 2004;
 9 (B) \$4,000,000 for fiscal year 2005;
 10 (C) \$4,000,000 for fiscal year 2006;
 11 (D) \$4,000,000 for fiscal year 2007;
 12 (E) \$4,000,000 for fiscal year 2008; and
 13 (F) \$4,000,000 for fiscal year 2009.

14 (d) PERIOD OF AVAILABILITY.—The amounts made
 15 available under subsection (c) of this section shall remain
 16 available until expended.

17 (e) CONTRACT AUTHORITY.—Authorizations from
 18 the Highway Trust Fund (other than the Mass Transit
 19 Account) to carry out subsection (c) of this section shall
 20 be available for obligation on the date of their apportion-
 21 ment or allocation or on October 1 of the fiscal year for
 22 which they are authorized, whichever occurs first. Ap-
 23 proval by the Secretary of a grant with funds made avail-
 24 able under subsection (c) of this section imposes upon the
 25 United States Government a contractual obligation for

1 payment of the Government's share of costs incurred in
2 carrying out the objectives of the grant.

3 **SEC. 4002. MOTOR CARRIER SAFETY GRANTS.**

4 (a) MOTOR CARRIER SAFETY ASSISTANCE PRO-
5 GRAM.—

6 (1) Section 31102 of title 49, United States
7 Code, is amended—

8 (A) in subsection (b)(1), by amending
9 paragraph (A) to read as follows:

10 “(A) implements performance-based activi-
11 ties.”;

12 (B) in subsection (b)(1), by deleting “and”
13 at the end of paragraph (S), replacing the pe-
14 riod at the end of paragraph (T) with a semi-
15 colon, and adding new paragraphs (U) and (V),
16 to read as follows:

17 “(U) provides that the State will include in
18 the training manual for the licensing examina-
19 tion to drive a non-commercial motor vehicle
20 and a commercial motor vehicle, information on
21 best practices for driving safely in the vicinity
22 of commercial motor vehicles and in the vicinity
23 of non-commercial vehicles, respectively; and

24 “(V) provides that the State will enforce
25 the registration requirements of 49 U.S.C.

1 13902 by placing out of service any vehicle dis-
2 covered to be operating without registration or
3 beyond the scope of its registration.”; and

4 (C) by revising subsection (c) to read as
5 follows:

6 “(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—

7 A State may use amounts received under a grant under
8 subsection (a) of this section for the following activities:

9 “(1) If the activities are carried out in conjunc-
10 tion with an appropriate inspection of the commer-
11 cial motor vehicle to enforce Government or State
12 commercial motor vehicle safety regulations:

13 “(A) Enforcement of commercial motor ve-
14 hicle size and weight limitations at locations
15 other than fixed weight facilities; at specific lo-
16 cations such as steep grades or mountainous
17 terrains where the weight of a commercial
18 motor vehicle can significantly affect the safe
19 operation of the vehicle; or at ports where inter-
20 modal shipping containers enter and leave the
21 United States.

22 “(B) Detection of the unlawful presence of
23 a controlled substance (as defined under section
24 102 of the Comprehensive Drug Abuse Preven-
25 tion and Control Act of 1970 (21 U.S.C. 802))

1 in a commercial motor vehicle or on the person
2 of any occupant (including the operator) of the
3 vehicle.

4 “(2) Documented enforcement of State traffic
5 laws and regulations designed to promote the safe
6 operation of commercial motor vehicles, including
7 documented enforcement of such laws and regula-
8 tions against non-commercial motor vehicles when
9 necessary to promote the safe operation of commer-
10 cial motor vehicles.”

11 (2) Section 31103(b) of title 49, United States
12 Code, is amended to read as follows:

13 “(b) OTHER ACTIVITIES.—

14 “(1) From the amounts designated under sec-
15 tion 31104(f)(2), the Secretary may make a grant to
16 a State agency, local government, or other person
17 for the full cost of research, development, dem-
18 onstration projects, public education, and other spe-
19 cial activities and projects relating to commercial
20 motor vehicle safety that are of benefit to all juris-
21 dictions or designed to address national safety con-
22 cerns and circumstances.

23 “(2) From the amounts designated under sec-
24 tion 31104(f)(3), the Secretary may allocate safety

1 performance incentive funds to States without re-
2 quiring a matching contribution from such States.

3 “(3) From the amounts designated under sec-
4 tion 31104(f)(4), the Secretary may allocate new en-
5 trant motor carrier audit funds to States and local
6 governments without requiring a matching contribu-
7 tion from such States or local governments. How-
8 ever, the Secretary may withhold such funds from a
9 State or local government that is unable to use gov-
10 ernment employees to conduct new entrant motor
11 carrier audits, and may instead utilize the funds di-
12 rectly to conduct audits in those jurisdictions.”.

13 (3) Section 31104(a) of title 49, United States
14 Code, is amended to read as follows:

15 “(a) IN GENERAL.—There are authorized to be ap-
16 propriated from the Highway Trust Fund (other than the
17 Mass Transit Account) to carry out section 31102:

18 “(1) Not more than \$164,594,000 for fiscal
19 year 2004.

20 “(2) Not more than \$168,000,000 for fiscal
21 year 2005.

22 “(3) Not more than \$172,000,000 for fiscal
23 year 2006.

24 “(4) Not more than \$176,000,000 for fiscal
25 year 2007.

1 “(5) Not more than \$180,000,000 for fiscal
2 year 2008.

3 “(6) Not more than \$184,000,000 for fiscal
4 year 2009.”.

5 (4) Section 31104(f) is amended by revising
6 paragraph (2) and adding new paragraphs (3) and
7 (4), to read as follows:

8 “(2) HIGH-PRIORITY ACTIVITIES.—The Sec-
9 retary may designate up to 10 percent of amounts
10 available for allocation under paragraph (1) for
11 States, local governments, and other persons for ear-
12 rying out high priority activities and projects that
13 improve commercial motor vehicle safety and compli-
14 ance with commercial motor vehicle safety regula-
15 tions, including activities and projects that are na-
16 tional in scope, increase public awareness and edu-
17 cation, or demonstrate new technologies. The
18 amounts designated under this paragraph shall be
19 allocated by the Secretary to State agencies, local
20 governments, and other persons that use and train
21 qualified officers and employees in coordination with
22 State motor vehicle safety agencies. Allocations
23 under this paragraph do not require a matching con-
24 tribution from a State, local government, or other
25 person.

1 “(3) SAFETY PERFORMANCE INCENTIVE PRO-
 2 GRAMS.—The Secretary may designate up to 10 per-
 3 cent of the amounts available for allocation under
 4 paragraph (1) for safety performance incentive pro-
 5 grams for States. The Secretary shall establish safe-
 6 ty performance criteria to be used to distribute in-
 7 centive program funds. Such criteria shall include,
 8 at a minimum, reduction in the number and rate of
 9 fatal accidents involving commercial motor vehicles.
 10 Allocations under this paragraph do not require a
 11 matching contribution from a State.

12 “(4) NEW ENTRANT AUDITS.—The Secretary
 13 may designate up to \$17,000,000 of the amounts
 14 available for allocation under paragraph (1) for au-
 15 dits of new entrant motor carriers conducted pursu-
 16 ant to section 210 of the Motor Carrier Safety Im-
 17 provement Act of 1999, 113 Stat. 1764. Allocations
 18 under this paragraph do not require a matching con-
 19 tribution from a State or local government.”.

20 (b) GRANTS TO STATES FOR BORDER ENFORCE-
 21 MENT.—Chapter 311 of title 49, United States Code, is
 22 amended by revising section 31107 to read as follows:

23 “§ 31107. **Border enforcement grants**

24 “(a) GENERAL AUTHORITY.—From the funds au-
 25 thorized by sections 4001(c)(2) of the Safe, Accountable,

1 Flexible, and Efficient Transportation Equity Act of
2 2003, the Secretary may make a grant in a fiscal year
3 to a State, except as otherwise provided in subsection (e),
4 that shares a border with another country for carrying out
5 border commercial motor vehicle safety programs and re-
6 lated enforcement activities and projects.

7 “(b) MAINTENANCE OF EXPENDITURES.—Except as
8 otherwise provided in subsection (e), the Secretary may
9 make a grant to a State under this section only if the
10 State agrees that the total expenditure of amounts of the
11 State and political subdivisions of the State, exclusive of
12 United States Government amounts, for carrying out bor-
13 der commercial motor vehicle safety programs and related
14 enforcement activities and projects will be maintained at
15 a level at least equal to the average level of that expendi-
16 ture by the State and political subdivisions of the State
17 for the last two State or Federal fiscal years before Octo-
18 ber 1, 2003.

19 “(c) GOVERNMENT SHARE.—The Secretary may
20 make a grant to a State agency, local government, or other
21 person for the full cost of research, development, dem-
22 onstration projects, public education, and other special ac-
23 tivities and projects relating to cross-border operations of
24 commercial motor vehicles that are beneficial to all jurisdic-

1 ditions or designed to address national safety concerns
2 and circumstances.

3 “(d) AVAILABILITY OF AMOUNTS.—Amounts made
4 available to a State under section 4001(c)(2) of the Safe,
5 Accountable, Flexible, and Efficient Transportation Eq-
6 uity Act of 2003 to carry out this section shall remain
7 available until expended.

8 “(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Ap-
9 proval by the Secretary of a grant with funds made avail-
10 able under section 4001(c)(2) of the Safe, Accountable,
11 Flexible, and Efficient Transportation Equity Act of 2003
12 imposes upon the United States Government contractual
13 obligation for payment of the amount of the grant.”.

14 (e) GRANTS TO STATES FOR COMMERCIAL DRIVER’S
15 LICENSE IMPROVEMENTS.—Chapter 313 of title 49,
16 United States Code, is amended by adding new section
17 31318 at the end, to read as follows:

18 “§ 31318. Grants for commercial driver’s license pro-
19 gram improvements

20 “(a) GENERAL AUTHORITY.—From the funds au-
21 thorized by section 4001(c)(1) of the Safe, Accountable,
22 Flexible, and Efficient Transportation Equity Act of
23 2003, the Secretary may make a grant to a State, except
24 as otherwise provided in subsection (c), in a fiscal year
25 to improve its implementation of the commercial driver’s

1 license program, providing the State is in substantial com-
2 pliance with the requirements of section 31311 and this
3 section. The Secretary shall establish criteria for the dis-
4 tribution of grants and notify the States annually of such
5 criteria.

6 “(b) CONDITIONS.—Except as otherwise provided in
7 subsection (c), a State may use a grant under this section
8 only for expenses directly related to its commercial driver’s
9 license program, including, but not limited to, computer
10 hardware and software, publications, testing, personnel,
11 training, and quality control. The grant may not be used
12 to rent, lease, or buy land or buildings. The Secretary may
13 allocate the funds appropriated for such grants in a fiscal
14 year among the eligible States whose applications for
15 grants have been approved, under criteria that best serve
16 the purposes of this section.

17 “(c) MAINTENANCE OF EXPENDITURES.—Except as
18 otherwise provided in subsection (c), the Secretary may
19 make a grant to a State under this section only if the
20 State agrees that the total expenditure of amounts of the
21 State and political subdivisions of the State, exclusive of
22 United States Government amounts, for the operation of
23 the commercial driver’s license program will be maintained
24 at a level at least equal to the average level of that expend-

1 iture by the State and political subdivisions of the State
2 for the last 2 fiscal years before October 1, 2003

3 “(d) GOVERNMENT SHARE.—Except as otherwise
4 provided in subsection (e), the Secretary shall reimburse
5 a State, from a grant made under this section, an amount
6 that is not more than 80 percent of the costs incurred
7 by the State in a fiscal year in implementing the commer-
8 cial driver’s license improvements described in subsection
9 (b). In determining those costs, the Secretary shall include
10 in-kind contributions by the State. Amounts of the State
11 required to be expended under subsection (e) may not be
12 included as part of the share not provided by the United
13 States Government.

14 “(e) HIGH-PRIORITY ACTIVITIES.—

15 “(1) The Secretary may make a grant to a
16 State agency, local government, or other person for
17 the full cost of research, development, demonstration
18 projects, public education, or other special activities
19 and projects relating to commercial driver licensing
20 and motor vehicle safety that are of benefit to all ju-
21 risdictions or designed to address national safety
22 concerns and circumstances.

23 “(2) The Secretary may designate up to 10 per-
24 cent of the amounts made available under section
25 4001(e)(1) of the Safe, Accountable, Flexible, and

1 Efficient Transportation Equity Act of 2003 in a
2 fiscal year for high-priority activities under sub-
3 section (e)(1).

4 “(f) EMERGING ISSUES.—The Secretary may des-
5 ignate up to 25 percent of the amounts made available
6 under section 4001(e)(1) of the Safe, Accountable, Flexi-
7 ble, and Efficient Transportation Equity Act of 2003 in
8 a fiscal year for allocation to a State agency, local govern-
9 ment, or other person at the discretion of the Secretary
10 to address emerging issues relating to commercial driver’s
11 license improvements.

12 “(g) GOVERNMENT SHARE.—Except as otherwise
13 provided in subsections (e) and (f), all amounts available
14 in a fiscal year to carry out this section shall be appor-
15 tioned to States according to a formula prescribed by the
16 Secretary.

17 “(h) DEDUCTION FOR ADMINISTRATIVE EX-
18 PENSES.—On October 1 of each fiscal year or as soon
19 after that date as practicable, the Secretary may deduct,
20 from amounts made available under section 4001(e)(1) of
21 the Safe, Accountable, Flexible, and Efficient Transpor-
22 tation Equity Act of 2003 for that fiscal year, up to 1.25
23 percent of those amounts for administrative expenses in-
24 curred in carrying out this section in that fiscal year.

1 “(i) AVAILABILITY OF AMOUNTS.—Amounts made
2 available to a State under section 4001(e)(1) of the Safe,
3 Accountable, Flexible, and Efficient Transportation Eq-
4 uity Act of 2003 to carry out this section shall remain
5 available until expended.

6 “(j) GRANTS AS CONTRACTUAL OBLIGATIONS.—Ap-
7 proval by the Secretary of a grant with funds made avail-
8 able under section 4001(e)(1) of the Safe, Accountable,
9 Flexible, and Efficient Transportation Equity Act of 2003
10 imposes upon the United States Government a contractual
11 obligation for payment of the amount of the grant.”.

12 (d) NONCOMPLIANCE WITH CDL REQUIREMENTS.—
13 Subsections (a) and (b) of section 31314 of title 49,
14 United States Code, are amended to read as follows:

15 “(a) FIRST FISCAL YEAR.—The Secretary of Trans-
16 portation shall withhold up to 5 percent of the amount
17 required to be apportioned to a State under section
18 104(b)(1), (3), and (4) of title 23 on the first day of the
19 fiscal year after the first fiscal year beginning after Sep-
20 tember 30, 1992, throughout which the State does not
21 comply substantially with a requirement of section
22 31311(a) of this title.

23 “(b) SECOND FISCAL YEAR.—The Secretary shall
24 withhold up to 10 percent of the amount required to be
25 apportioned to a State under section 104(b)(1), (3), and

1 (4) of title 23 on the first day of each fiscal year after
 2 the 2d fiscal year beginning after September 30, 1992,
 3 throughout which the State does not comply substantially
 4 with a requirement of section 31311(a) of this title.”.

5 (e) CONFORMING AMENDMENTS—

6 (1) The table of sections at the beginning of
 7 chapter 311 of title 49, United States Code, is
 8 amended by—

9 (A) revising the heading of Subchapter I to
 10 read as follows:

11 “SUBCHAPTER I—GENERAL AUTHORITY AND
 12 STATE GRANTS”;

13 and

14 (B) revising the item relating to section
 15 31107 to read as follows:

“31107. Border enforcement grants.”.

16 (2) Chapter 311 of title 49, United States
 17 Code, is amended following the table of sections by
 18 striking—

19 “SUBCHAPTER I—STATE GRANTS”

20 and substituting—

21 “SUBCHAPTER I—GENERAL AUTHORITY AND
 22 STATE GRANTS”.

23 (3) The table of sections at the beginning of
 24 chapter 313 of title 49, United States Code, is

1 amended after the item relating to section 31317 by
 2 adding the following:

“31318. Grants for commercial driver’s license program improvements.”.

3 **SEC. 4003. HOBBS ACT.**

4 (a) Section 2342(3)(A) of title 28, United States
 5 Code, is amended to read as follows:

6 “(A) the Secretary of Transportation
 7 issued pursuant to section 2, 9, 37, or 41 of the
 8 Shipping Act, 1916 (46 U.S.C. App. 802, 803,
 9 808, 835, 839, and 841a) or pursuant to part
 10 B or C of subtitle IV of title 49 [49 U.S.C.
 11 chapters 131–161] or pursuant to subchapter
 12 III of chapter 311, chapter 313, and chapter
 13 315 of part B of subtitle VI of title 49; and”.

14 (b) Section 351(a) of title 49, United States Code,
 15 is amended to read as follows:

16 “(a) JUDICIAL REVIEW.—An action of the Secretary
 17 of Transportation in carrying out a duty or power trans-
 18 ferred under the Department of Transportation Act (Pub-
 19 lic Law 89–670, 80 Stat. 931), or an action of the Admin-
 20 istrator of the Federal Railroad Administration, Federal
 21 Motor Carrier Safety Administration, or the Federal Avia-
 22 tion Administration in carrying out a duty or power spe-
 23 cifically assigned to the Administrator by that Act, may
 24 be reviewed judicially to the same extent and in the same
 25 way as if the action had been an action by the department,

1 agency, or instrumentality of the United States Govern-
2 ment carrying out the duty or power immediately before
3 the transfer or assignment.”.

4 (e) Section 352 of title 49, United States Code, is
5 amended to read as follows:

6 **“§ 352. Authority to carry out certain transferred du-
7 ties and powers**

8 “In carrying out a duty or power transferred under
9 the Department of Transportation Act (Public Law 89-
10 670, 80 Stat. 931), the Secretary of Transportation and
11 the Administrators of the Federal Railroad Administra-
12 tion, the Federal Motor Carrier Safety Administration,
13 and the Federal Aviation Administration have the same
14 authority that was vested in the department, agency, or
15 instrumentality of the United States Government carrying
16 out the duty or power immediately before the transfer. An
17 action of the Secretary or Administrator in carrying out
18 the duty or power has the same effect as when carried
19 out by the department, agency, or instrumentality.”.

20 **SEC. 4004. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

21 Section 521(b)(2) of title 49, United States Code, is
22 amended by adding new subparagraph (E) at the end, to
23 read as follows:

24 “(E) COPYING OF RECORDS AND ACCESS
25 TO EQUIPMENT, LANDS, AND BUILDINGS.—A

1 person subject to chapter 51 of subtitle III,
2 Part B of Subtitle IV, or Part B of Subtitle VI
3 of this title who fails to allow the Secretary, or
4 an employee designated by the Secretary,
5 promptly upon demand to inspect and copy any
6 record or inspect and examine equipment,
7 lands, buildings and other property in accord-
8 ance with sections 504(e), 5121(e), and
9 14122(b) of this title shall be liable to the
10 United States for a civil penalty not to exceed
11 \$500 for each offense; and each day the Sec-
12 retary is denied the right to inspect and copy
13 any record or inspect and examine equipment,
14 lands, buildings and other property shall con-
15 stitute a separate offense; except that the total
16 of all civil penalties against any violator for all
17 offenses related to a single violation shall not
18 exceed \$5,000. It shall be a defense to such
19 penalty that the records did not exist at the
20 time of the Secretary's request or could not be
21 timely produced without unreasonable expense
22 or effort. Nothing herein amends or supersedes
23 any remedy available to the Secretary under
24 sections 502(d), 507(e), or other provision of
25 this title.".

1 **SEC. 4005. MEDICAL REVIEW BOARD AND MEDICAL EXAM-**
2 **INERS.**

3 (a) **MEDICAL REVIEW BOARD.—**

4 (1) **ESTABLISHMENT AND FUNCTION.—**The
5 Federal Motor Carrier Safety Administrator shall es-
6 tablish a Medical Review Board as an advisory com-
7 mittee to provide the Federal Motor Carrier Safety
8 Administration with medical advice and rec-
9 ommendations on driver qualification medical stand-
10 ards and guidelines, medical examiner education,
11 and medical research.

12 (2) **COMPOSITION.—**The Medical Review Board
13 shall be appointed by the Secretary and shall consist
14 of 5 members selected from medical institutions and
15 private practice. The membership shall reflect exper-
16 tise in a variety of specialties relevant to the func-
17 tions of the Federal Motor Carrier Safety Adminis-
18 tration.

19 (3) **TERMINATION DATE.—**The Medical Review
20 Board shall remain in effect until September 30,
21 2009.

22 (b) **MEDICAL EXAMINERS.—**Section 31136(a)(3) of
23 title 49, United States Code, is amended to read as fol-
24 lows:

25 “(3) the physical condition of operators of com-
26 mercial motor vehicles is adequate to enable them to

1 operate the vehicles safely, and the periodic physical
 2 examinations required of such operators are per-
 3 formed by medical examiners who have received
 4 training in physical and medical examination stand-
 5 ards and are listed on a national registry maintained
 6 by the Department of Transportation;”.

7 **SEC. 4006. ENFORCEMENT OF HOUSEHOLD GOODS REGU-**
 8 **LATIONS.**

9 (a) DISPUTE SETTLEMENT PROGRAM FOR HOUSE-
 10 HOLD GOODS CARRIERS.—

11 (1) Section 14708(a) of title 49, United States
 12 Code, is amended to read as follows:

13 “(a) SHIPPER ARBITRATION.—

14 “(1) As a condition of registration under sec-
 15 tion 13902 or 13903, a carrier providing transpor-
 16 tation of household goods subject to jurisdiction
 17 under subchapter I or III of chapter 135 must agree
 18 to offer in accordance with this section to shippers
 19 of household goods arbitration as a means of settling
 20 disputes between such carriers and shippers. How-
 21 ever, the carrier may not require the shipper to
 22 agree to use arbitration prior to the time that a dis-
 23 pute arises.

24 “(2) If the dispute involves a claim for \$5,000
 25 or less and the shipper requests arbitration, such ar-

1 arbitration shall be binding on the parties. If the dis-
 2 pute involves a claim for more than \$5,000 and the
 3 shipper requests arbitration, such arbitration shall
 4 be binding on the parties only if the carrier agrees
 5 to arbitration.”.

6 (2) Subsection (b)(6) of section 14708 is de-
 7 leted, and subsections (b)(7) and (b)(8) are redesi-
 8 gnated as subsections (b)(6) and (b)(7), respectively.

9 (b)(1) Chapter 147 of title 49, United States Code,
 10 is amended by adding new section 14710 at the end, to
 11 read as follows:

12 **“§ 14710. Enforcement by State attorneys general**

13 “(a) IN GENERAL.—A State, as *parens patriae*, may
 14 bring a civil action on behalf of its residents in an appro-
 15 priate district court of the United States to enforce this
 16 part, or a regulation or order of the Secretary or Board,
 17 as applicable, or to impose the civil penalties authorized
 18 by this part or such regulation or order, whenever the at-
 19 torney general of the State has reason to believe that the
 20 interests of the residents of the State have been or are
 21 being threatened or adversely affected by (1) a carrier or
 22 broker providing transportation subject to jurisdiction
 23 under subchapter I or III of chapter 135 of this title, or
 24 (2) a foreign motor carrier providing transportation reg-
 25 istered under section 13902 of this title, that is engaged

1 in household goods transportation that violates this part
2 or a regulation or order of the Secretary or Board, as ap-
3 plicable.

4 “(b) NOTICE.—The State shall serve prior written
5 notice of any civil action under subsection (a) or (e)(2)
6 upon the Secretary or Board, as applicable, and provide
7 the Secretary or Board with a copy of its complaint, except
8 that if it is not feasible for the State to provide such prior
9 notice, the State shall serve such notice immediately upon
10 instituting such action. Upon receiving a notice respecting
11 a civil action, the Secretary or Board shall have the
12 right—

13 “(1) to intervene in such action;

14 “(2) upon so intervening, to be heard on all
15 matters arising therein; and

16 “(3) to file petitions for appeal.

17 “(e) CONSTRUCTION.—For purposes of bringing any
18 civil action under subsection (a), nothing in this Act shall
19 prevent an attorney general from exercising the powers
20 conferred on the attorney general by the laws of such
21 State to conduct investigations or to administer oaths or
22 affirmations or to compel the attendance of witnesses or
23 the production of documentary and other evidence.

24 “(d) VENUE; SERVICE OF PROCESS.—In a civil ac-
25 tion brought under subsection (a) of this section—

1 “(1) trial is in the judicial district in which—

2 “(A) the carrier, foreign motor carrier, or
3 broker operates;

4 “(B) the carrier, foreign motor carrier, or
5 broker was authorized to provide transportation
6 or service under this part when the violation oc-
7 curred; or

8 “(C) the offender is found;

9 “(2) process may be served without regard to
10 the territorial limits of the district or of the State
11 in which the action is instituted; and

12 “(3) a person participating with a carrier or
13 broker in a violation may be joined in the civil action
14 without regard to the residence of the person.

15 “(e) ACTIONS BY OTHER STATE OFFICIALS.—

16 “(1) Nothing contained in this section shall
17 prohibit an authorized State official from proceeding
18 in State court on the basis of an alleged violation of
19 any criminal statute of such State.

20 “(2) In addition to actions brought by an attor-
21 ney general of a State under subsection (a), such an
22 action may be brought by officers of such State who
23 are authorized by the State to bring actions in such
24 State on behalf of its residents.”.

1 (2) CONFORMING AMENDMENT.—The table of
 2 sections at the beginning of chapter 147 of title 49,
 3 United States Code, is amended by inserting after
 4 the item relating to section 14709 the following:

“14710. Enforcement by State attorneys general.”.

5 **SEC. 4007. REGISTRATION OF COMMERCIAL MOTOR CAR-**
 6 **RIERS, FREIGHT FORWARDERS, AND BRO-**
 7 **KERS.**

8 (a) Sections 13102(6), (7), (12) and (13) of title 49,
 9 United States Code, are amended to read as follows:

10 “~~(6)~~ FOREIGN MOTOR CARRIER.—The term
 11 ‘foreign motor carrier’ means a person (including a
 12 motor carrier of property but excluding a motor pri-
 13 vate carrier)—

14 “~~(A)~~(i) that is domiciled in a contiguous
 15 foreign country; or

16 “~~(ii)~~ that is owned or controlled by persons
 17 of a contiguous foreign country; and

18 “~~(B)~~ in the case of a person that is not a
 19 motor carrier of property, that provides inter-
 20 state transportation of property by commercial
 21 motor vehicle, as defined in section 31132(1) of
 22 this title, under an agreement or contract en-
 23 tered into with a motor carrier of property
 24 (other than a motor private carrier or a motor

1 carrier of property described in subparagraph
2 (A)).

3 “(7) FOREIGN MOTOR PRIVATE CARRIER.—The
4 term ‘foreign motor private carrier’ means a person
5 (including a motor private carrier but excluding a
6 motor carrier of property)—

7 “(A)(i) that is domiciled in a contiguous
8 foreign country; or

9 “(ii) that is owned or controlled by persons
10 of a contiguous foreign country; and

11 “(B) in the case of a person that is not a
12 motor private carrier, that provides interstate
13 transportation of property by commercial motor
14 vehicle, as defined in section 31132(1) of this
15 title, under an agreement or contract entered
16 into with a person (other than a motor carrier
17 of property or a motor private carrier described
18 in subparagraph (A)).”

19 “(12) MOTOR CARRIER.—The term ‘motor car-
20 rier’ means a person providing transportation for
21 compensation by commercial motor vehicle, as de-
22 fined in section 31132(1) of this title.

23 “(13) MOTOR PRIVATE CARRIER.—The term
24 ‘motor private carrier’ means a person, other than a
25 motor carrier, transporting property by commercial

1 motor vehicle, as defined in section ~~31132~~(1) of this
2 title, when—

3 “(A) the transportation is as provided in
4 section ~~13501~~ of this title;

5 “(B) the person is the owner, lessee, or
6 bailee of the property being transported; and

7 “(C) the property is being transported for
8 sale, lease, rent, or bailment or to further a
9 commercial enterprise.”.

10 (b) Section ~~13903~~(a) of title 49, United States Code,
11 is amended to read as follows:

12 “(a) IN GENERAL.—

13 “(1) The Secretary of Transportation shall reg-
14 ister a person to provide service subject to jurisdic-
15 tion under subchapter III of chapter ~~135~~ as a
16 freight forwarder of household goods if the Secretary
17 finds that the person is fit, willing, and able to pro-
18 vide the service and to comply with this part and ap-
19 plicable regulations of the Secretary and the Board.

20 “(2) The Secretary may register a person to
21 provide service subject to jurisdiction under sub-
22 chapter III of chapter ~~135~~ as a freight forwarder if
23 the Secretary finds that such registration is needed
24 for the protection of shippers and that the person is
25 fit, willing, and able to provide the service and to

1 comply with this part and applicable regulations of
2 the Secretary and Board.”.

3 (c) Section 13904(a) of title 49, United States Code,
4 is amended to read as follows:

5 “(a) IN GENERAL.—

6 “(1) The Secretary of Transportation shall reg-
7 ister, subject to section 13906(b), a person to be a
8 broker for transportation of household goods subject
9 to jurisdiction under subchapter I of chapter 135, if
10 the Secretary finds that the person is fit, willing,
11 and able to be a broker for transportation of house-
12 hold goods and to comply with this part and applica-
13 ble regulations of the Secretary.

14 “(2) The Secretary may register, subject to sec-
15 tion 13906(b), a person to be a broker for transpor-
16 tation of other property subject to jurisdiction under
17 subchapter I of chapter 135, if the Secretary finds
18 that such registration is needed for the protection of
19 shippers and that the person is fit, willing, and able
20 to be a broker for transportation and to comply with
21 this part and applicable regulations of the Sec-
22 retary.”.

1 **SEC. 4008. FINANCIAL RESPONSIBILITY FOR PRIVATE**
2 **MOTOR CARRIERS.**

3 (a)(1) Section 31138(a) of title 49, United States
4 Code, is amended to read as follows:

5 “(a) **GENERAL REQUIREMENT.**—The Secretary of
6 Transportation shall prescribe regulations to require min-
7 imum levels of financial responsibility sufficient to satisfy
8 liability amounts established by the Secretary covering
9 public liability and property damage for the transportation
10 of passengers by motor vehicle in the United States be-
11 tween a place in a State and—

12 “(1) a place in another State;

13 “(2) another place in the same State through a
14 place outside of that State; or

15 “(3) a place outside the United States.”

16 (2) Section 31138(e) of title 49, United States Code,
17 is amended by adding paragraph (4) at the end, to read
18 as follows:

19 “(4) The Secretary may require a person, other
20 than a motor carrier as defined in section 13102(12)
21 of this title, transporting passengers by motor vehi-
22 cle to file with the Secretary the evidence of finan-
23 cial responsibility specified in subsection (c)(1) of
24 this section in an amount not less than that required
25 by this section, and the laws of the State or States
26 in which the person is operating, to the extent appli-

1 eable. The amount of the financial responsibility
 2 must be sufficient to pay, not more than the amount
 3 of the financial responsibility, for each final judg-
 4 ment against the person for bodily injury to, or
 5 death of, an individual resulting from the negligent
 6 operation, maintenance, or use of motor vehicles, or
 7 for loss or damage to property, or both.”.

8 (b)(1) Section 31139(b)(1) of title 49, United States
 9 Code, is amended to read as follows:

10 “(b) GENERAL REQUIREMENTS AND MINIMUM
 11 AMOUNT.—

12 “(1) The Secretary of Transportation shall pre-
 13 scribe regulations to require minimum levels of fi-
 14 nancial responsibility sufficient to satisfy liability
 15 amounts established by the Secretary covering public
 16 liability, property damage, and environmental res-
 17 toration for the transportation of property by motor
 18 vehicle in the United States between a place in a
 19 State and—

20 “(A) a place in another State;

21 “(B) another place in the same State
 22 through a place outside of that State; or

23 “(C) a place outside the United States.”.

24 (2) Subsections (e) through (g) of section 31139 of
 25 title 49, United States Code, are redesignated as sub-

1 sections (d) through (h), and new subsection (e) is in-
 2 serted after subsection (b), to read as follows:

3 “(e) **FILING OF EVIDENCE OF FINANCIAL RESPONSIBI-**
 4 **BILITY.**—The Secretary may require a motor private car-
 5 rier, as defined in section 13102 of this title, to file with
 6 the Secretary the evidence of financial responsibility speci-
 7 fied in subsection (b) of this section in an amount not
 8 less than that required by this section, and the laws of
 9 the State or States in which the motor private carrier is
 10 operating, to the extent applicable. The amount of the fi-
 11 nancial responsibility must be sufficient to pay, not more
 12 than the amount of the financial responsibility, for each
 13 final judgment against the motor private carrier for bodily
 14 injury to, or death of, an individual resulting from neg-
 15 ligent operation, maintenance, or use of motor vehicles,
 16 or for loss or damage to property, or both.”.

17 **SEC. 4009. INCREASED PENALTIES FOR OUT-OF-SERVICE**
 18 **VIOLATIONS AND FALSE RECORDS.**

19 (a) Section 521(b)(2)(B) of title 49, United States
 20 Code, is amended to read as follows:

21 “(B) **RECORDKEEPING AND REPORTING VIOLA-**
 22 **TIONS.**—A person required to make a report to the Sec-
 23 retary, answer a question, or make, prepare, or preserve
 24 a record under section 504 of this title or under any regu-
 25 lation issued by the Secretary pursuant to subchapter III

1 of chapter 311 (except sections 31138 and 31139) or sec-
2 tion 31502 of this title about transportation by motor ear-
3 rier, motor carrier of migrant workers, or motor private
4 carrier, or an officer, agent, or employee of that person—

5 “(i) who does not make that report, does not
6 specifically, completely, and truthfully answer that
7 question in 30 days from the date the Secretary re-
8 quires the question to be answered, or does not
9 make, prepare, or preserve that record in the form
10 and manner prescribed by the Secretary, shall be lia-
11 ble to the United States for a civil penalty in an
12 amount not to exceed \$1,000 for each offense, and
13 each day of the violation shall constitute a separate
14 offense, except that the total of all civil penalties as-
15 sessed against any violator for all offenses related to
16 any single violation shall not exceed \$10,000; or

17 “(ii) who knowingly falsifies, destroys, muti-
18 lates, or changes a required report or record, know-
19 ingly files a false report with the Secretary, know-
20 ingly makes or causes or permits to be made a false
21 or incomplete entry in that record about an oper-
22 ation or business fact or transaction, or knowingly
23 makes, prepares, or preserves a record in violation of
24 a regulation or order of the Secretary, shall be liable
25 to the United States for a civil penalty in an amount

1 not to exceed \$10,000 for each violation, if any such
2 action can be shown to have misrepresented a fact
3 that constitutes a violation other than a reporting or
4 recordkeeping violation.”.

5 (b) Section 31310(i)(2) of title 49, United States
6 Code, is amended to read as follows:

7 “(2) The Secretary shall prescribe regulations estab-
8 lishing sanctions and penalties related to violations of out-
9 of-service orders by individuals operating commercial
10 motor vehicles. The regulations shall require at least
11 that—

12 “(A) an operator of a commercial motor vehicle
13 found to have committed a first violation of an out-
14 of-service order shall be disqualified from operating
15 such a vehicle for at least 180 days and liable for
16 a civil penalty of at least \$2,500;

17 “(B) an operator of a commercial motor vehicle
18 found to have committed a second violation of an
19 out-of-service order shall be disqualified from oper-
20 ating such a vehicle for at least 2 years and not
21 more than 5 years and liable for a civil penalty of
22 at least \$5,000; —

23 “(C) an employer that knowingly allows or re-
24 quires an employee to operate a commercial motor
25 vehicle in violation of an out-of-service order shall be

1 liable for a civil penalty of not more than \$25,000;
2 and

3 “(D) an employer that knowingly and willfully
4 allows or requires an employee to operate a commer-
5 cial motor vehicle in violation of an out-of-service
6 order shall, upon conviction, be subject for each of-
7 fense to imprisonment for a term not to exceed one
8 year or a fine under title 18, United States Code, or
9 both.”.

10 **SEC. 4010. ELIMINATION OF COMMODITY AND SERVICE EX-**
11 **EMPTIONS.**

12 (a) Section 13506(a) of title 49, United States Code,
13 is amended—

14 (1) by deleting paragraphs (2), (6), (11), (12),
15 (13), and (15); and

16 (2) by redesignating paragraphs (3), (4), (5),
17 (7), (8), (9), (10), and (14) as paragraphs (2), (3),
18 (4), (5), (6), (7), (8), and (9), respectively.

19 (b) The first sentence of section 13507 of title 49,
20 United States Code, is amended to read as follows: “A
21 motor carrier of property providing transportation exempt
22 from jurisdiction under paragraph (6) of section 13506(a)
23 may transport property under such paragraph in the same
24 vehicle and at the same time as property which the carrier

1 is authorized to transport under a registration issued
2 under section 13902(a).”.

3 **SEC. 4011. INTRASTATE OPERATIONS OF INTERSTATE**
4 **MOTOR CARRIERS.**

5 (a) Subsection (a) of section 31144 of title 49, United
6 States Code, is amended to read as follows:

7 “(a) IN GENERAL.—The Secretary shall—

8 “(1) determine whether an owner or operator is
9 fit to operate safely commercial motor vehicles, uti-
10 lizing among other things the accident record of an
11 owner or operator operating in interstate commerce
12 and the accident record and safety inspection record
13 of such owner or operator in operations that affect
14 interstate commerce;

15 “(2) periodically update such safety fitness de-
16 terminations;

17 “(3) make such final safety fitness determina-
18 tions readily available to the public; and

19 “(4) prescribe by regulation penalties for viola-
20 tions of this section consistent with section 521.”.

21 (b) Subsection (c) of section 31144 of title 49, United
22 States Code, is amended by adding new paragraph (5) at
23 the end, to read as follows:

24 “(5) TRANSPORTATION AFFECTING INTERSTATE
25 COMMERCE.—Owners or operators of commercial motor

1 vehicles prohibited from operating in interstate commerce
2 pursuant to paragraphs (1) through (3) of this section
3 may not operate any commercial motor vehicle that affects
4 interstate commerce until the Secretary determines that
5 such owner or operator is fit.”.

6 (e) Subsections (d) and (e) of section 31144 of title
7 49, United States Code, are redesignated as subsections
8 (e) and (f), respectively, and new subsection (d) is added
9 after subsection (e), to read as follows:

10 “(d) DETERMINATION OF UNFITNESS BY A STATE.—
11 If a State that receives Motor Carrier Safety Assistance
12 Program funds pursuant to section 31102 of this title de-
13 termines, by applying the standards prescribed by the Sec-
14 retary under subsection (b) of this section, that an owner
15 or operator of commercial motor vehicles that has its prin-
16 cipal place of business in that State and operates in intra-
17 state commerce is unfit under such standards and pro-
18 hibits the owner or operator from operating such vehicles
19 in the State, the Secretary shall prohibit the owner or op-
20 erator from operating such vehicles in interstate commerce
21 until the State determines that the owner or operator is
22 fit.”.

1 **SEC. 4012. AUTHORITY TO STOP COMMERCIAL MOTOR VE-**
2 **HICLES.**

3 (a) Chapter 2 of title 18, United States Code, is
4 amended by adding at the end new section 38, to read
5 as follows:

6 **“§ 38. Commercial motor vehicles required to stop for**
7 **inspections**

8 “(a) A driver of a commercial motor vehicle, as de-
9 fined in 49 U.S.C. 31132(1), shall stop and submit to in-
10 spection of the vehicle, driver, cargo, and required records
11 when directed to do so by a uniformed special agent of
12 the Federal Motor Carrier Safety Administration, Depart-
13 ment of Transportation, at or in the vicinity of an inspec-
14 tion site. The driver shall not leave the inspection site until
15 authorized to do so by an agent.

16 “(b) A driver of a commercial motor vehicle, as de-
17 fined in subsection (a), who knowingly fails to stop for
18 inspection when directed to do so by a uniformed special
19 agent of the Federal Motor Carrier Safety Administration
20 at or in the vicinity of an inspection site, or leaves the
21 inspection site without authorization, shall be fined under
22 this title or imprisoned not more than one year, or both.”.

23 (b) Chapter 203 of title 18, United States Code, is
24 amended by adding at the end new section 3064, to read
25 as follows:

1 **“§ 3064. Powers of Federal Motor Carrier Safety Ad-**
 2 **ministration**

3 “Uniformed special agents of the Federal Motor Car-
 4 rier Safety Administration may direct a driver of a com-
 5 mercial motor vehicle, as defined in 49 U.S.C. 31132(1),
 6 to stop for inspection of the vehicle, driver, cargo, and re-
 7 quired records at or in the vicinity of an inspection site.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) The table of sections at the beginning of
 10 chapter 2 of title 18, United States Code, is amend-
 11 ed by inserting after the item relating to section 37
 12 the following:

“38. Commercial motor vehicles required to stop for inspections.”.

13 (2) The table of sections at the beginning of
 14 chapter 203 of title 18, United States Code, is
 15 amended by inserting after the item relating to sec-
 16 tion 3063 the following:

“3064. Powers of the Federal Motor Carrier Safety Administration.”.

17 **SEC. 4013. PATTERN OF SAFETY VIOLATIONS BY MOTOR**
 18 **CARRIER MANAGEMENT.**

19 (a) Section 31135 of title 49, United States Code,
 20 is amended by designating the existing text as subsection
 21 “(a) IN GENERAL.—” and adding new subsections (b),
 22 (c), (d), and (e), to read as follows:

23 “(b) PATTERN OF NONCOMPLIANCE.—If an officer of
 24 a motor carrier engages in a pattern or practice of avoid-

1 ing compliance, or masking or otherwise concealing non-
 2 compliance, with regulations on commercial motor vehicle
 3 safety prescribed under this subchapter, the Secretary
 4 may suspend, amend, or revoke any part of the motor car-
 5 rier's registration under section 13905 of this title.

6 “(e) LIST OF PROPOSED OFFICERS.—Each person
 7 seeking registration as a motor carrier under section
 8 13902 of this title shall submit a list of the proposed offi-
 9 cers of the motor carrier. If the Secretary determines that
 10 any of the proposed officers has previously engaged in a
 11 pattern or practice of avoiding compliance, or masking or
 12 otherwise concealing non-compliance, with regulations on
 13 commercial motor vehicle safety prescribed under this
 14 chapter, the Secretary may deny the person's application
 15 for registration as a motor carrier under section
 16 13902(a)(3).

17 “(d) REGULATIONS.—The Secretary shall by regula-
 18 tion establish standards to implement subsections (b) and
 19 (c).

20 “(e) DEFINITIONS.—In this section —

21 “(1) ‘motor carrier’ has the same meaning as in
 22 section 13102(12) of this title; and

23 “(2) ‘officer’ means an owner, chief executive
 24 officer, chief operating officer, chief financial officer,
 25 safety director, vehicle maintenance supervisor and

1 driver supervisor of a motor carrier, regardless of
2 the title attached to those functions.”.

3 (b) Section 13902(a)(1)(B) of title 49, United States
4 Code, is amended to read as follows:

5 “(B) any safety regulations imposed by the
6 Secretary; the duties of employers and employ-
7 ees established by the Secretary under section
8 31135; and the safety fitness requirements es-
9 tablished by the Secretary under section 31144;
10 and”.

11 **SEC. 4014. MOTOR CARRIER RESEARCH AND TECHNOLOGY**
12 **PROGRAM.**

13 (a) IN GENERAL.—Title 49, United States Code, is
14 amended by repealing section 31108 and inserting the fol-
15 lowing new section, to read as follows:

16 **“§ 31108. Motor carrier research and technology pro-**
17 **gram**

18 “(a) RESEARCH, TECHNOLOGY AND TECHNOLOGY
19 TRANSFER ACTIVITIES.—

20 “(1) The Secretary of Transportation shall es-
21 tablish and carry out a motor carrier research and
22 technology program. The Secretary may carry out
23 research, development, technology, and technology
24 transfer activities with respect to—

1 “(A) the causes of accidents, injuries and
2 fatalities involving commercial motor vehicles;
3 and

4 “(B) means of reducing the number and
5 severity of accidents, injuries and fatalities in-
6 volving commercial motor vehicles.

7 “(2) The Secretary may test, develop, or assist
8 in testing and developing any material, invention,
9 patented article, or process related to the research
10 and technology program.

11 “(3) The Secretary may use the funds appro-
12 priated to carry out this section for training or edu-
13 cation of commercial motor vehicle safety personnel,
14 including, but not limited to, training in accident re-
15 construction and detection of controlled substances
16 or other contraband, and stolen cargo or vehicles.

17 “(4) The Secretary may carry out this sec-
18 tion—

19 “(A) independently;

20 “(B) in cooperation with other Federal de-
21 partments, agencies, and instrumentalities and
22 Federal laboratories; or

23 “(C) by making grants to, or entering into
24 contracts, cooperative agreements, and other
25 transactions with, any Federal laboratory, State

1 agency, authority, association, institution, for-
2 profit or non-profit corporation, organization,
3 foreign country, or person.

4 “(5) The Secretary shall use funds made avail-
5 able to carry out this section to develop, administer,
6 communicate, and promote the use of products of re-
7 search, technology, and technology transfer pro-
8 grams under this section.

9 “(b) COLLABORATIVE RESEARCH AND DEVELOP-
10 MENT.—

11 (1) To advance innovative solutions to problems
12 involving commercial motor vehicle and motor ear-
13 rier safety, security, and efficiency, and to stimulate
14 the deployment of emerging technology, the Sec-
15 retary may carry out, on a cost-shared basis, col-
16 laborative research and development with—

17 “(A) non-Federal entities, including State
18 and local governments, foreign governments,
19 colleges and universities, corporations, institu-
20 tions, partnerships, and sole proprietorships
21 that are incorporated or established under the
22 laws of any State; and

23 “(B) Federal laboratories.

24 “(2) In carrying out this subsection, the Sec-
25 retary may enter into cooperative research and de-

1 development agreements (as defined in section 12 of
2 the Stevenson-Wydler Technology Innovation Act of
3 1980 (15 U.S.C. 3710a)).

4 “(3)(A) The Federal share of the cost of activi-
5 ties carried out under a cooperative research and de-
6 velopment agreement entered into under this sub-
7 section shall not exceed 50 percent, except that if
8 there is substantial public interest or benefit, the
9 Secretary may approve a greater Federal share.

10 “(B) All costs directly incurred by the non-Fed-
11 eral partners, including personnel, travel, and hard-
12 ware or software development costs, shall be credited
13 toward the non-Federal share of the cost of the ac-
14 tivities described in subparagraph (A).

15 “(4) The research, development, or use of a
16 technology under a cooperative research and develop-
17 ment agreement entered into under this subsection,
18 including the terms under which the technology may
19 be licensed and the resulting royalties may be dis-
20 tributed, shall be subject to the Stevenson-Wydler
21 Technology Innovation Act of 1980 (15 U.S.C. 3701
22 et seq.).

23 “(5) Section 3705 of title 41, United States
24 Code, shall not apply to a contract or agreement en-
25 tered into under this section.

1 “(c) AVAILABILITY OF AMOUNTS.—The amounts
2 made available under section 4001(b) of the Safe, Ac-
3 countable, Flexible, and Efficient Transportation Equity
4 Act of 2003 to carry out this section shall remain available
5 until expended.

6 —“(d) CONTRACT AUTHORITY.—Approval by the Sec-
7 retary of a grant with funds made available under section
8 4001(b) of the Safe, Accountable, Flexible, and Efficient
9 Transportation Equity Act of 2003 to carry out this sec-
10 tion imposes upon the United States Government a con-
11 tractual obligation for payment of the Government’s share
12 of costs incurred in carrying out the objectives of the
13 grant.”.

14 (b) CONFORMING AMENDMENT.—The table of see-
15 tions at the beginning of chapter 311 of title 49, United
16 States Code, is amended by revising the item relating to
17 section 31108 to read as follows:

“31108. Motor carrier research and technology program.”.

18 **SEC. 4015. INTERNATIONAL COOPERATION.**

19 (a) Chapter 311 of title 49, United States Code, is
20 amended by inserting at the end the following:

21 “SUBCHAPTER IV—MISCELLANEOUS
22 **“§ 31161. International cooperation**

23 ““The Secretary is authorized to use funds appro-
24 priated under section 31104(i) of this title to participate
25 and cooperate in international activities to enhance motor

1 carrier, driver, and highway safety by such means as ex-
 2 changing information, conducting research, and examining
 3 needs, best practices, and new technology.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
 5 at the beginning of chapter 311 of title 49, United States
 6 Code, is amended by adding at the end the following:

“SUBCHAPTER IV—MISCELLANEOUS

“31161. International cooperation.”.

7 **SEC. 4016. PERFORMANCE AND REGISTRATION INFORMA-**
 8 **TION SYSTEM MANAGEMENT (PRISM).**

9 (a) Paragraphs (2) and (3) of section 31106(b) of
 10 title 49, United States Code, are amended to read as fol-
 11 lows:

12 “(2) The program shall link Federal motor car-
 13 rier safety information systems with State commer-
 14 cial vehicle registration and licensing systems and
 15 shall be designed to enable a State to—

16 “(A) determine the safety fitness of a
 17 motor carrier or registrant when licensing or
 18 registering the registrant or motor carrier or
 19 while the license or registration is in effect; and

20 “(B) deny, suspend, or revoke the commer-
 21 cial motor vehicle registrations of a motor car-
 22 rier or registrant that has been issued an oper-
 23 ations out-of-service order by the Secretary.

1 “~~(3)~~ The Secretary shall require States, as a
2 condition of participation in the program, to—

3 “~~(A)~~ comply with the uniform policies, pro-
4 cedures, and technical and operational stand-
5 ards prescribed by the Secretary under sub-
6 section ~~(a)(4)~~; and

7 “~~(B)~~ possess or seek the authority to deny,
8 suspend, or revoke commercial motor vehicle
9 registrations based on the issuance of an oper-
10 ations out-of-service order by the Secretary.”

11 ~~(b) DELETION.—~~Paragraph ~~(4)~~ of section ~~31106(b)~~
12 of title 49, United States Code, is deleted.

13 ~~(c) PERFORMANCE AND REGISTRATION INFORMA-~~
14 ~~TION SYSTEM MANAGEMENT GRANTS.—~~

15 ~~(1)~~ Chapter ~~311~~ of title 49, United States
16 Code, as amended by this Act, is further amended
17 by adding a new section after section ~~31108~~, to read
18 as follows:

19 “**§ 31109. Performance and Registration Information**
20 **System Management (PRISM)**

21 “~~(a)~~ ~~IN GENERAL.—~~From the funds authorized by
22 section ~~4001(c)(3)~~ of the Safe, Accountable, Flexible, and
23 Efficient Transportation Equity Act of 2003, the Sec-
24 retary may make a grant in a fiscal year to a State to

1 implement the Performance and Registration Information
2 System Management requirements of 49 U.S.C. 31106(b).

3 “(b) AVAILABILITY OF AMOUNTS.—Amounts made
4 available to a State under section 4001(e)(3) of the Safe,
5 Accountable, Flexible, and Efficient Transportation Eq-
6 uity Act of 2003 to carry out this section shall remain
7 available until expended.

8 “(c) SECRETARY’S APPROVAL.—Approval by the Sec-
9 retary of a grant to a State under section 4001(e)(3) of
10 the Safe, Accountable, Flexible, and Efficient Transpor-
11 tation Equity Act of 2003 to carry out this section is a
12 contractual obligation of the Government for payment of
13 the amount of the grant.”.

14 (2) CONFORMING AMENDMENT.—The table of
15 sections at the beginning of chapter 311 of title 49,
16 United States Code, is amended after the item relat-
17 ing to section 31108 by adding the following:

“31109. Performance and Registration Information System Management
(PRISM).”.

18 **SEC. 4017. INFORMATION SYSTEMS AND DATA ANALYSIS.**

19 The Secretary of Transportation shall carry out a
20 program to improve the collection and analysis of safety
21 data on, including crash causation involving, commercial
22 motor vehicles.

1 **SEC. 4018. OUTREACH AND EDUCATION.**

2 (a) **IN GENERAL.**—The Secretary shall conduct an
 3 outreach and education program to be administered by the
 4 Federal Motor Carrier Safety Administration. The pro-
 5 gram shall include expanded implementation of the “Share
 6 the Road Safely” and “Safety is Good Business” pro-
 7 grams. The Federal Motor Carrier Safety Administration
 8 shall establish programs to directly educate the industry
 9 and public about the requirements of new and existing
 10 regulatory requirements. The Secretary, through the Fed-
 11 eral Motor Carrier Safety Administration, may undertake
 12 other outreach and education initiatives that may reduce
 13 the number of accidents, injuries, and fatalities involving
 14 commercial motor vehicles.

15 (b) **LIKELY RISK FACTORS.**—The Secretary, through
 16 the Federal Motor Carrier Safety Administration, shall
 17 conduct an outreach program to identify the practices of
 18 commercial motor vehicle drivers that are most likely to
 19 increase and decrease the risk of accidents.

20 **TITLE V—TRANSPORTATION**
 21 **RESEARCH AND EDUCATION**
 22 **Subtitle A—Funding**

23 **SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.**

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

1 (1) SURFACE TRANSPORTATION RESEARCH, DE-
 2 VELOPMENT AND DEPLOYMENT PROGRAM.—To
 3 carry out sections 502, 503, 506 and 507 of title 23,
 4 United States Code, and section 5206 of this Act re-
 5 lating to research, development, technology transfer,
 6 technology deployment, and application activities,
 7 \$199,000,000 for each of fiscal years 2004 through
 8 2009.

9 (2) TRAINING AND EDUCATION.—For carrying
 10 out section 504 of title 23, United States Code,
 11 \$26,000,000 for each of fiscal years 2004 through
 12 2009.

13 (3) BUREAU OF TRANSPORTATION STATIS-
 14 TICS.—For the Bureau of Transportation Statistics
 15 to carry out section 111 of title 49, United States
 16 Code, the following:

17 (A) \$31,568,000 for fiscal year 2004.

18 (B) \$32,199,000 for fiscal year 2005.

19 (C) \$32,869,000 for fiscal year 2006.

20 (D) \$33,609,000 for fiscal year 2007.

21 (E) \$34,439,000 for fiscal year 2008.

22 (F) \$35,276,000 for fiscal year 2009.

23 (4) UNIVERSITY TRANSPORTATION RE-
 24 SEARCH.—For carrying out section 5505 of title 49,

1 United States Code, \$26,500,000 for each of fiscal
2 years 2004 through 2009.

3 (5) INTELLIGENT TRANSPORTATION SYSTEMS
4 RESEARCH.—For carrying out the Intelligent Trans-
5 portation Systems Act of 2003 under subtitle E of
6 this title, \$121,000,000 for each of fiscal years 2004
7 through 2009.

8 (b) COLLABORATIVE RESEARCH AND DEVELOP-
9 MENT.—Section 502 of title 23, United States Code, is
10 amended—

11 (1) by striking subsection (b)(3); and

12 (2) by redesignating subsections (b)(4) and
13 (b)(5) as (b)(3) and (b)(4), respectively.

14 (c) APPLICABILITY OF TITLE 23, UNITED STATES
15 CODE.—Funds authorized to be appropriated by sub-
16 section (a) shall be available for obligation in the same
17 manner as if such funds were apportioned under chapter
18 1 of title 23, United States Code, except that the Federal
19 share of the cost of a project or activity carried out using
20 such funds shall be 100 percent unless otherwise deter-
21 mined by the Secretary or specified otherwise in this Act,
22 and such funds shall remain available until expended.

1 **Subtitle B—Research, Technology,**
 2 **and Education**

3 **SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

4 (a) RESEARCH, TECHNOLOGY, AND EDUCATION.—

5 Title 23, United States Code, is amended—

6 (1) in the table of chapters by striking—

“5. Research and Technology 501”;

7 and substituting—

“5. Research, Technology, and Education 501”;

8 and

9 (2) by striking the heading—

10 “CHAPTER 5—RESEARCH AND TECHNOLOGY”

11 and inserting—

12 “CHAPTER 5—RESEARCH, TECHNOLOGY, AND
 13 EDUCATION.”.

14 (b) STATEMENT OF PRINCIPLES GOVERNING RE-
 15 SEARCH AND TECHNOLOGY INVESTMENTS.—Section 502
 16 of title 23, United States Code, is amended—

17 (1) by redesignating subsections (a) through (g)
 18 as subsections (b) through (h), respectively; and

19 (2) by inserting a new subsection (a) at the be-
 20 ginning, to read as follows:

21 “(a) BASIC PRINCIPLES GOVERNING RESEARCH AND
 22 TECHNOLOGY INVESTMENTS.—

23 “(1) COVERAGE.—Surface transportation re-
 24 search and technology development (R&T) shall in-

1 elude all activities leading to technology development
2 and transfer, as well as the introduction of new and
3 innovative ideas, practices and approaches, through
4 such mechanisms as field applications, education and
5 training, and technical support.

6 “(2) FEDERAL RESPONSIBILITY.—Funding and
7 conducting surface transportation research and tech-
8 nology transfer activities shall be considered a basic
9 responsibility of the Federal Government when—

10 “(A) the work is of national significance;

11 “(B) it supports research in which there is
12 a clear public benefit and private sector invest-
13 ment is less than optimal due to market failure;

14 “(C) it supports a Federal stewardship role
15 in assuring that state and local governments
16 use national resources efficiently; or

17 “(D) it presents the best means to support
18 Federal policy goals compared to other policy
19 alternatives.

20 “(3) ROLE.—Consistent with these Federal re-
21 sponsibilities, the Secretary of Transportation
22 shall—

23 “(A) conduct research;

1 “(B) support and facilitate research and
2 technology transfer activities by state highway
3 agencies;

4 “(C) share results of completed research;
5 and

6 “(D) support and facilitate technology and
7 innovation deployment.

8 “(4) PROGRAM CONTENT.—A surface transpor-
9 tation research program shall include—

10 “(A) fundamental, long-term highway re-
11 search;

12 “(B) research aimed at significant highway
13 research gaps, and emerging issues with na-
14 tional implications; and

15 “(C) research related to policy and plan-
16 ning.

17 “(5) STAKEHOLDER INPUT.—Federally spon-
18 sored surface transportation R&T activities shall ad-
19 dress the needs of partners and stakeholders, and
20 provide for stakeholder input in preparation of a
21 strategic plan for surface transportation R&T.

22 “(6) COMPETITION.—To the greatest extent
23 possible, investment decisions for surface transpor-
24 tation R&T activities shall be based on the well-es-
25 tablished principles of competition and merit review.

1 “(7) PERFORMANCE REVIEW.—Surface trans-
 2 portation R&T activities shall include a component
 3 of performance measurement.”.

4 (c) TRANSPORTATION POOLED FUND PROGRAM.—
 5 Section 502(b) of title 23, United States Code, as redesignig-
 6 nated by this Act, is amended by inserting the following
 7 at the end:

8 “(6) POOLED FUNDING.—

9 “(A) To promote effective utilization of
 10 available resources, the Secretary may cooper-
 11 ate with the States and other appropriate agen-
 12 cies in funding research, development, and tech-
 13 nology transfer activities of mutual interest on
 14 a pooled funds basis:

15 “(B) The Secretary may enter into con-
 16 tracts, cooperative agreements, grants, and
 17 other transactions as agent for all participating
 18 parties in carrying out such research, develop-
 19 ment, or technology transfer.”.

20 (d) OPERATIONS ELEMENTS IN RESEARCH ACTIVI-
 21 TIES.—Section 502 of title 23, United States Code, is
 22 amended—

23 (1) in subsection (b)(1), as redesignated by this
 24 Act, by striking subparagraphs (B) and (C) and in-
 25 serting the following:

1 “(B) all phases of transportation planning
2 and development (including construction, trans-
3 portation system management and operations,
4 modernization, development, design, mainte-
5 nance, safety, financing, and traffic conditions);

6 “(C) freight security processes and proce-
7 dures; and

8 “(D) the effect of State laws on the activi-
9 ties described in subparagraphs (A) and (B).”;

10 (2) in subsection (d)(5)(C), as redesignated by
11 this Act, by inserting “system management and”
12 after “transportation”; and

13 (3) in subsection (d), as redesignated by this
14 Act, by inserting at the end:

15 “(12) Investigation and development of various
16 operational methodologies to reduce the occurrence
17 and impact of recurrent congestion and non-recur-
18 rent congestion, and increase transportation system
19 reliability.

20 “(13) Investigate processes, procedures, and
21 technologies to secure container and hazardous ma-
22 terial transport, including the evaluation of regula-
23 tions, liability, terrorist countermeasures, and the
24 impact of good security practices on commerce and
25 productivity.

1 “(14) Research, development, and technology
2 transfer related to asset management.”.

3 (c) ~~TURNER FAIRBANK HIGHWAY RESEARCH CEN-~~
4 ~~TER.~~—Section 502 of title 23, United States Code, is
5 amended by inserting at the end the following:

6 “(i) ~~TURNER FAIRBANK HIGHWAY RESEARCH CEN-~~
7 ~~TER.~~—

8 “(1) ~~IN GENERAL.~~—The Secretary shall operate
9 in the Federal Highway Administration a Turner-
10 Fairbank Highway Research Center.

11 “(2) ~~USES OF THE CENTER.~~—The Turner-
12 Fairbank Highway Research Center shall support
13 the—

14 “(A) conduct of highway research and de-
15 velopment related to new highway technology;

16 “(B) development of understandings, tools,
17 and techniques that provide solutions to com-
18 plex technical problems through the develop-
19 ment of economical and environmentally sen-
20 sitive designs, efficient and quality controlled
21 construction practices, and durable materials;
22 and

23 “(C) development of innovative highway
24 products and practices.”.—

1 (f) EXPLORATORY ADVANCED RESEARCH PRO-
2 GRAM.—Section 502 of title 23, United States Code, is
3 amended by striking subsection (e), as redesignated by
4 this Act, and inserting the following:

5 “(e) EXPLORATORY ADVANCED RESEARCH.—

6 “(1) IN GENERAL.—The Secretary shall estab-
7 lish an exploratory advanced research program, con-
8 sistent with the surface transportation research and
9 technology development strategic plan developed
10 under section 508, that involves and draws upon
11 basic research results to provide a better under-
12 standing of problems and develop innovative solu-
13 tions. The phrase “exploratory advanced research”
14 conveys a more fundamental character, broader ob-
15 jective, multi-disciplinary nature, and greater uncer-
16 tainty in expected outcomes than found in problem-
17 solving research. In carrying out the program, the
18 Secretary shall strive to develop partnerships with
19 the public and private sectors.

20 “(2) RESEARCH AREAS.—In carrying out the
21 program, the Secretary may make grants and enter
22 into cooperative agreements and contracts in such
23 areas of surface transportation research and tech-
24 nology as the Secretary determines appropriate, in-
25 cluding the following:

1 “(A) Characterization of materials used in
2 highway infrastructure, including analytical
3 techniques, microstructure modeling, and the
4 deterioration processes.

5 “(B) Assessing the effects of transpor-
6 tation decisions on human health.

7 “(C) Development of surrogate measures
8 of safety.

9 “(D) Environmental research.

10 “(E) Data acquisition techniques for sys-
11 tem condition and performance monitoring.

12 “(F) System performance data and infor-
13 mation processing needed to assess the day-to-
14 day operational performance of the system in
15 support of hour-to-hour operational decision
16 making.”.

17 (g) ~~AUTHORITY TO PURCHASE PROMOTIONAL~~
18 ~~ITEMS.~~—Section 503 of title 23, United States Code, as
19 amended by this Act, is further amended by inserting the
20 following at the end:

21 “(e) ~~PROMOTIONAL AUTHORITY.~~—Funds authorized
22 to be appropriated under this or any other Act for nec-
23 essary expenses for administration and operation of the
24 Federal Highway Administration shall be available to pur-
25 chase promotional items of nominal value for use in the

1 recruitment of individuals and to promote the programs
2 of the Federal Highway Administration.”.

3 (h) FACILITATING TRANSPORTATION RESEARCH AND
4 TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section
5 502(e) of title 23, United States Code, as redesignated
6 by this Act, is amended by striking paragraph (2) and in-
7 serting the following:

8 “(2) COOPERATION, GRANTS, CONTRACTS AND
9 AGREEMENTS.—Notwithstanding any other provision
10 of law, the Secretary may directly initiate contracts,
11 cooperative research and development agreements
12 (as defined in section 12 of the Stevenson-Wydler
13 Technology Innovation Act of 1980 (15 U.S.C.
14 3710a)), and other transactions to fund, and accept
15 funds from, the National Research Council/ Trans-
16 portation Research Board, American Association of
17 State Highway and Transportation Officials, State
18 Departments of Transportation, cities, and counties,
19 and their agents to conduct joint transportation re-
20 search and technology efforts.”.

21 (i) LONG-TERM PAVEMENT PERFORMANCE PRO-
22 GRAM.—

23 (1) SURFACE TRANSPORTATION RESEARCH.—
24 Chapter 5 of title 23, United States Code is amend-
25 ed by adding after section 504 the following:

1 **“§ 505. Surface transportation research**

2 “(a) **AUTHORITY.**—The Secretary of Transportation
3 shall complete the 20-year long-term pavement perform-
4 ance program tests initiated under the strategic highway
5 research program established under section 307(d) (as in
6 effect on the day before the date of enactment of this sec-
7 tion) and continued by the Intermodal Surface Transpor-
8 tation Efficiency Act of 1991 and the Transportation Eq-
9 uity Act For The 21st Century.

10 “(b) **GRANTS, COOPERATIVE AGREEMENTS, AND**
11 **CONTRACTS.**—Under the program, the Secretary shall
12 make grants and enter into cooperative agreements and
13 contracts to—

14 “(1) monitor, material-test, and evaluate high-
15 way test sections in existence as of the date of the
16 grant, agreement, or contract;

17 “(2) analyze the data obtained in carrying out
18 subparagraph (A); and

19 “(3) prepare products to fulfill program objec-
20 tives and meet future pavement technology needs.”.

21 (2) **CONFORMING AMENDMENT.**—The analysis
22 for chapter 5 of title 23 is amended by inserting
23 after item 504 the following:

“505. Surface transportation research.”.

24 (j) **PROCUREMENT FOR RESEARCH, DEVELOPMENT,**
25 **AND TECHNOLOGY TRANSFER ACTIVITIES.**—Section

1 502(b) of title 23, United States Code, as redesignated
 2 by this Act, is amended by striking paragraph (3) and in-
 3 serting the following:

4 “(3) COOPERATION, GRANTS, AND CON-
 5 TRACTS.—The Secretary may carry out research, de-
 6 velopment, and technology transfer activities related
 7 to transportation—

8 “(A) independently;

9 “(B) in cooperation with other Federal de-
 10 partments, agencies, and instrumentalities and
 11 Federal laboratories; or

12 “(C) by making grants to, or entering into
 13 contracts, cooperative agreements, and other
 14 transactions with the following: the National
 15 Academy of Sciences, the American Association
 16 of State Highway and Transportation Officials,
 17 or any Federal laboratory, Federal agency,
 18 State agency, authority, association, institution,
 19 for-profit or nonprofit corporation, organiza-
 20 tion, foreign country, or person.”.

21 (k) INFRASTRUCTURE INVESTMENT NEEDS RE-
 22 PORT.—

23 (1) TITLE 23 AMENDMENT.—Section 502(h)(1)
 24 of title 23, United States Code, as redesignated by
 25 this Act, is amended by striking “Not later than

1 January 31, 1999, and January 31 of every second
 2 year thereafter,” and inserting “Not later than July
 3 31, 2004, and July 31 of every second year there-
 4 after.”

5 (2) CONFORMING AMENDMENT TO TITLE 49,
 6 UNITED STATES CODE.—Section 308(c)(1) of title
 7 49, United States Code, is amended by striking “in
 8 March 1998, and in March of each even-numbered
 9 year thereafter” and inserting “not later than July
 10 31, 2004, and July 31 of every second year there-
 11 after.”

12 **SEC. 5202. SURFACE TRANSPORTATION ENVIRONMENT AND**
 13 **PLANNING COOPERATIVE RESEARCH PRO-**
 14 **GRAM.**

15 (a) SURFACE TRANSPORTATION ENVIRONMENT AND
 16 PLANNING COOPERATIVE RESEARCH PROGRAM.—Chap-
 17 ter 5 of title 23, United States Code, is amended by strik-
 18 ing section 507 and inserting the following:

19 **“§ 507. Surface transportation environment and plan-**
 20 **ning cooperative research program**

21 “(a) ESTABLISHMENT.—The Secretary shall estab-
 22 lish and support a collaborative, public-private surface
 23 transportation environment and planning cooperative re-
 24 search program.

1 “(b) AGREEMENT.—The Secretary shall enter into an
2 agreement with the National Academy of Sciences or other
3 organization to support and carry out administrative and
4 management activities relating to the governance of the
5 surface transportation environment and planning coopera-
6 tive research program.

7 “(c) ADVISORY BOARD.—The organization described
8 in subsection (b) shall select an advisory board drawn
9 from core partners that represent environment, transpor-
10 tation, and neutral interests, including the Department of
11 Transportation, other Federal agencies, the States, local
12 governments, nonprofit entities, academia, and the private
13 sector.

14 “(d) GOVERNANCE.—The surface transportation en-
15 vironment and planning cooperative research program es-
16 tablished under this section shall include the following ad-
17 ministrative and management elements:

18 “(1) NATIONAL RESEARCH AGENDA.—The advi-
19 sory board, in consultation with core partners and
20 other stakeholders, shall develop and periodically up-
21 date a national research agenda for the surface
22 transportation environment and planning cooperative
23 research program. The national research agenda
24 shall include a multi-year strategic plan.

1 “(2) STAKEHOLDER INVOLVEMENT.—Stake-
2 holders may:

3 “(A) submit research proposals;

4 “(B) participate in merit reviews of re-
5 search proposals and peer reviews of research
6 products; and

7 “(C) receive research results.

8 “(3) OPEN COMPETITION AND PEER REVIEW OF
9 RESEARCH PROPOSALS.—The organization described
10 in subsection (b) may award research contracts and
11 grants through open competition and merit review
12 conducted on a regular basis.

13 “(4) EVALUATION OF RESEARCH.—

14 “(A) PEER REVIEW.—Research contracts
15 and grants may allow peer review of the re-
16 search results.

17 “(B) PROGRAMMATIC EVALUATIONS.—The
18 organization described in subsection (b) may
19 conduct periodic programmatic evaluations on a
20 regular basis.

21 “(5) DISSEMINATION OF RESEARCH FIND-
22 INGS.—The organization described in subsection (b)
23 shall disseminate research findings to researchers,
24 practitioners, and decision-makers, through con-
25 ferences and seminars, field demonstrations, work-

1 shops, training programs, presentations, testimony
2 to Government officials, world wide web, and publi-
3 cations for the general public.

4 “(e) CONTENTS.—The national research agenda for
5 the surface transportation environment and planning co-
6 operative research program required under subsection
7 (e)(2) shall include research in the following areas for the
8 purposes cited:

9 “(1) HUMAN HEALTH.—Human health to es-
10 tablish the links between transportation activities
11 and human health; substantiate the linkages between
12 exposure to concentration levels, emissions, and
13 health impacts; examine the potential health impacts
14 from the implementation and operation of transpor-
15 tation infrastructure and services; develop strategies
16 for avoidance and reduction of these impacts; and
17 develop strategies to understand the economic value
18 of health improvements; and for incorporating health
19 considerations into valuation methods.

20 “(2) ECOLOGY AND NATURAL SYSTEMS.—Ecol-
21 ogy and natural systems to measure transportation’s
22 short- and long-term impact on natural systems; de-
23 velop ecologically based performance measures; de-
24 velop insight into both the spatial and temporal
25 issues associated with transportation and natural

1 systems; study the relationship between highway
2 density and ecosystem integrity, including the im-
3 pacts of highway density on habitat integrity and
4 overall ecosystem health; develop a rapid assessment
5 methodology for use by transportation and regu-
6 latory agencies in determining the relationship be-
7 tween highway density and ecosystem integrity; and
8 develop ecologically based performance techniques to
9 evaluate the success of highway project mitigation
10 and enhancement measures.

11 “(3) ENVIRONMENTAL AND SOCIOECONOMIC
12 RELATIONSHIPS.—Environmental and socioeconomic
13 relationships to understand differences in mobility,
14 access, travel behavior, and travel preferences across
15 socioeconomic groups; develop improved planning ap-
16 proaches that better reflect and respond to commu-
17 nity needs; improve evaluation methods for exam-
18 ining the incidence of benefits and costs; examine
19 the differential impacts of current methods of fi-
20 nance and explore alternatives; understand the socio-
21 economic implications of emerging land development
22 patterns and new transportation technologies; de-
23 velop cost-effective applications of technology that
24 improve the equity of the transport system; and de-

1 develop improved methods for community involvement,
2 collaborative planning, and conflict resolution.

3 “(4) **EMERGING TECHNOLOGIES.**—Emerging
4 technologies to assist in the transition to environ-
5 mentally benign fuels and vehicles for passengers
6 and freight; develop responses to and demand for
7 new technologies that could offer improved environ-
8 mental performance; identify possible applications of
9 Intelligent Transportation Systems technologies for
10 environmental benefit; develop policy instruments
11 that would encourage the development of beneficial
12 new technologies in a cost-effective manner; and re-
13 spond to the impact of new technologies.

14 “(5) **LAND USE.**—Land use to assess land con-
15 sumption trends and contributing factors of trans-
16 portation investment, housing policies, school qual-
17 ity, and consumer preferences; incorporate impacts
18 of transportation investments on location decision
19 and land use; identify the costs and benefits of cur-
20 rent development patterns and their transportation
21 implications; determine the effect of the built envi-
22 ronment on people’s willingness to walk, drive, or
23 take public transportation; determine the roles of
24 public policy and institutional arrangements in cur-
25 rent and prospective land use and transportation

1 choices; and develop improved data, methods, and
2 processes for considering land use, transportation,
3 and the environment in an integrated, systematic
4 fashion.

5 “(6) PLANNING AND PERFORMANCE MEAS-
6 URES.—Planning and performance measures to im-
7 prove understanding of travel needs and preferences;
8 improve planning methods for system analysis, fore-
9 casting, and decision making; expand information on
10 consumer choice processes and travel and activity
11 patterns for both local and long-distance trips and
12 both passenger and freight transportation analysis
13 of social, environmental, and economic benefits and
14 cost of various transport options; develop tools for
15 measuring and forecasting complex transportation
16 decision for all modes and users; and develop per-
17 formance measures and policy analysis approaches
18 that can be used to determine effectiveness.

19 “(7) ADDITIONAL PRIORITIES.—Additional pri-
20 orities to identify and address the emerging and fu-
21 ture surface transportation research needs related to
22 planning and environment. —

23 “(f) FUNDING.—In addition to using funds author-
24 ized for this section, the organization that administers this
25 program may seek and accept additional funding sources

1 from public and private entities capable of attracting and
 2 accepting funding from the United States Department of
 3 Transportation (Federal Highway Administration, Fed-
 4 eral Transit Administration, Federal Railroad Administra-
 5 tion, Research and Special Programs Administration, and
 6 the National Highway Traffic Safety Administration), En-
 7 vironmental Protection Agency, Department of Energy,
 8 Fish and Wildlife and other Federal environmental agen-
 9 cies, States, local governments, nonprofit foundations, and
 10 the private sector.”.

11 (b) CONFORMING AMENDMENT.—The analysis for
 12 chapter 5 of title 23, United States Code, is amended by
 13 striking the item related to section 507 and inserting the
 14 following:

“507. Surface transportation environment and planning cooperative research
 program.”.

15 **SEC. 5203. LONG-TERM BRIDGE PERFORMANCE PROGRAM;**
 16 **INNOVATIVE BRIDGE RESEARCH AND DE-**
 17 **PLOYMENT PROGRAM.**

18 (a) LONG-TERM BRIDGE PERFORMANCE PRO-
 19 GRAM.—Section 502 of title 23, United States Code, is
 20 amended by striking 502(g), as redesignated by this Act,
 21 and inserting the following:

22 “(g) LONG-TERM BRIDGE PERFORMANCE PRO-
 23 GRAM.—

1 “(1) AUTHORITY.—The Secretary shall estab-
2 lish a 20 year long-term bridge performance pro-
3 gram.

4 “(2) GRANTS, COOPERATIVE AGREEMENTS, AND
5 CONTRACTS.—Under the program, the Secretary
6 shall make grants and enter into cooperative agree-
7 ments and contracts to—

8 “(A) monitor, material-test, and evaluate
9 test bridges;

10 “(B) analyze the data obtained in carrying
11 out subparagraph (A); and

12 “(C) prepare products to fulfill program
13 objectives and meet future bridge technology
14 needs.”.

15 (b) INNOVATIVE BRIDGE RESEARCH AND DEPLOY-
16 MENT PROGRAM.—

17 (1) IN GENERAL.—Section 503(b) of title 23,
18 United States Code, is amended by striking
19 503(b)(1) and inserting:

20 “(1) IN GENERAL.—The Secretary shall estab-
21 lish and carry out a program to promote, dem-
22 onstrate, evaluate, and document the application of
23 innovative designs, materials and construction meth-
24 ods in the construction, repair, and rehabilitation of
25 bridges and other highway structures.”.

1 (2) GOALS.—Section 503(b)(2) of such title is
2 amended by striking 503(b)(2) and inserting:

3 “(2) GOALS.—The goals of the program shall
4 include—

5 “(A) the development of new, cost-effective,
6 innovative highway bridge applications;

7 “(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

8 “(C) the development of engineering design
9 criteria for innovative products, materials, and
10 structural systems for use in highway bridges
11 and structures;

12 “(D) the reduction of maintenance costs
13 and life-cycle costs of bridges, including the
14 costs of new construction, replacement, or rehabilitation of deficient bridges;

15 “(E) the development of highway bridges
16 and structures that will withstand natural disasters and terrorist attacks;

17 “(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs,
18 materials, and construction methods; and
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1 “(G) the effective transfer of resulting in-
2 formation and technology.”.

3 **SEC. 5204. TECHNOLOGY DEPLOYMENT.**

4 (a) **TECHNOLOGY DEPLOYMENT PROGRAM.**—Section
5 503(a) of title 23, United States Code, is amended—

6 (1) in the subsection heading, by striking “ini-
7 tiatives and partnerships”;

8 (2) by striking paragraph (1) and inserting the
9 following:

10 “(1) **ESTABLISHMENT.**—The Secretary shall
11 develop and administer a national technology deploy-
12 ment program.”.

13 (3) by striking paragraph (7) and inserting the
14 following:

15 “(7) **GRANTS, COOPERATIVE AGREEMENTS, AND**
16 **CONTRACTS.**—

17 “(A) **IN GENERAL.**—Under the program,
18 the Secretary shall make grants to, and enter
19 into cooperative agreements and contracts with
20 States, other Federal agencies, universities and
21 colleges, private sector entities, and nonprofit
22 organizations to pay the Federal share of the
23 cost of research, development, and technology
24 transfer concerning innovative materials.

1 “(B) APPLICATIONS.—To receive a grant
2 under this subsection, an entity described in
3 subparagraph (A) shall submit an application to
4 the Secretary. The application shall be in such
5 form and contain such information as the Sec-
6 retary may require. The Secretary shall select
7 and approve the applications based on whether
8 the project that is the subject of the grant
9 meets the goals of the program described in
10 paragraph (2).”;

11 (4) by striking paragraph (8);

12 (5) by redesignating paragraph (9) as para-
13 graph (10); and

14 (6) by inserting after paragraph (7) the fol-
15 lowing:

16 “(8) TECHNOLOGY AND INFORMATION TRANS-
17 FER.—The Secretary shall ensure that the informa-
18 tion and technology resulting from research con-
19 ducted under paragraph (3) is made available to
20 State and local transportation departments and
21 other interested parties as specified by the Sec-
22 retary.

23 “(9) FEDERAL SHARE.—The Federal share of
24 the cost of a project under this section shall be de-
25 termined by the Secretary.”.

1 (b) INNOVATIVE PAVEMENT RESEARCH AND DE-
2 PLOYMENT PROGRAM.—Section 503 of title 23, United
3 States Code, is amended by adding after subsection (b)
4 the following:

5 “(e) INNOVATIVE PAVEMENT RESEARCH AND DE-
6 PLOYMENT PROGRAM.—

7 “(1) IN GENERAL.—The Secretary shall estab-
8 lish and implement a program to promote, dem-
9 onstrate, support, and document the application of
10 innovative pavement technologies, practices, per-
11 formance, and benefits.

12 “(2) GOALS.—The goals of the innovative pave-
13 ment research and deployment program shall in-
14 clude—

15 “(A) the deployment of new, cost-effective
16 innovative designs, materials, and practices to
17 extend pavement life and performance and to
18 improve customer satisfaction;

19 “(B) the reduction of initial costs and life-
20 cycle costs of pavements, including the costs of
21 new construction, replacement, maintenance,
22 and rehabilitation;

23 “(C) the deployment of accelerated con-
24 struction techniques to increase safety and re-

1 duce construction time and traffic disruption
2 and congestion;

3 “(D) the deployment of engineering design
4 criteria and specifications for innovative prac-
5 tices, products, and materials for use in high-
6 way pavements;

7 “(E) the deployment of new nondestructive
8 and real time pavement evaluation technologies
9 and techniques;

10 “(F) evaluation, refinement, and docu-
11 mentation of the performance and benefits of
12 innovative technologies deployed to improve life,
13 performance, cost effectiveness, safety, and cus-
14 tomer satisfaction;

15 “(G) effective technology transfer and in-
16 formation dissemination to accelerate imple-
17 mentation of innovative technologies and to im-
18 prove life, performance, cost effectiveness, safe-
19 ty, and customer satisfaction; and

20 “(H) the development of designs and mate-
21 rials to reduce storm water runoff.”.

22 (c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—
23 Section 503 of title 23, United States Code, as amended
24 by this Act, is further amended by adding the following:

1 “(d) SAFETY INNOVATION DEPLOYMENT PRO-
2 GRAM.—

3 “(1) IN GENERAL.—The Secretary shall estab-
4 lish and implement a program to demonstrate the
5 application of innovative technologies in highway
6 safety.

7 “(2) GOALS.—The goals of the program shall
8 include—

9 “(A) the deployment and evaluation of
10 safety technologies and innovations at state and
11 local levels; and

12 “(B) the deployment of best practices in
13 training, management, design, and planning.

14 “(3) GRANTS, COOPERATIVE AGREEMENTS, AND
15 CONTRACTS.—

16 “(A) IN GENERAL.—Under the program,
17 the Secretary shall make grants to, and enter
18 into cooperative agreements and contracts with
19 States, other Federal agencies, universities and
20 colleges, private sector entities, and nonprofit
21 organizations for research, development, and
22 technology transfer for innovative safety tech-
23 nologies.

24 “(B) APPLICATIONS.—To receive a grant
25 under this subsection, an entity described in

1 subparagraph (A) shall submit an application to
2 the Secretary. The application shall be in such
3 form and contain such information as the Sec-
4 retary may require. The Secretary shall select
5 and approve the applications based on whether
6 the project that is the subject of the grant
7 meets the goals of the program described in
8 paragraph (2).

9 “(4) **TECHNOLOGY AND INFORMATION TRANS-**
10 **FER.**—The Secretary shall take such action as is
11 necessary to ensure that the information and tech-
12 nology resulting from research conducted under
13 paragraph (3) is made available to State and local
14 transportation departments and other interested
15 parties as specified by the Secretary.

16 “(5) **FEDERAL SHARE.**—The Federal share of
17 the cost of a project under this section shall be de-
18 termined by the Secretary.”

19 **SEC. 5205. TRAINING AND EDUCATION.**

20 (a) **NATIONAL HIGHWAY INSTITUTE.**—Section
21 504(a) of title 23, United States Code, is amended by
22 striking paragraph (3) and inserting the following:

23 “(3) **COURSES.**—The Institute may develop and
24 administer courses in modern developments, tech-
25 niques, methods, regulations, management, and pro-

1 eedures in areas including surface transportation;
 2 environmental stewardship and streamlining; acqui-
 3 sition of rights-of-way; relocation assistance; engi-
 4 neering; safety; transportation system management
 5 and operations; construction; maintenance; contract
 6 administration; inspection; and highway finance.”.

7 (b) FEDERAL SHARE.—Section 504(b) of title 23,
 8 United States Code, is amended by adding at the end the
 9 following:

10 “(3) FEDERAL SHARE.—

11 “(A) GRANTS.—The grant funds author-
 12 ized to carry out this subsection may be used
 13 to cover up to 50 percent of the program costs
 14 relating to local technical assistance. Funds
 15 available for technology transfer and training
 16 purposes under this title and title 49 may be
 17 used to cover the remaining 50 percent of the
 18 program costs.

19 “(B) TRIBAL TECHNICAL ASSISTANCE
 20 CENTERS.—The Federal share of the cost of ae-
 21 tivities carried out by the tribal technical assist-
 22 ance centers under paragraph (b)(2)(D)(ii) of
 23 this subsection shall be 100 percent.”.

24 (c) SURFACE TRANSPORTATION WORKFORCE DE-
 25 VELOPMENT, TRAINING, AND EDUCATION.—Section 504

1 of title 23, United States Code, is amended by adding at
2 the end the following:

3 “(d) SURFACE TRANSPORTATION WORKFORCE DE-
4 VELOPMENT, TRAINING, AND EDUCATION.—

5 “(1) FUNDING.—Subject to project approval by
6 the Secretary, a State may obligate funds appor-
7 tioned to it under sections 104(b)(1), (3), and (4)
8 and 144(e) of this title for surface transportation
9 workforce development, training and education, in-
10 cluding:

11 “(A) tuition and direct educational ex-
12 penses, excluding salaries, in connection with
13 the education and training of employees of
14 State and local transportation agencies;

15 “(B) employee professional development;

16 “(C) student internships;

17 “(D) university or community college sup-
18 port; or

19 “(E) education outreach activities to de-
20 velop interest and promote participation in sur-
21 face transportation careers.

22 “(2) FEDERAL SHARE.—The Federal share of
23 the cost of activities carried out in accordance with
24 this subsection shall be 100 percent.”.

1 (d) DEFINITIONS AND DECLARATION OF POLICY.—

2 Section 101(a) of title 23, United States Code, as amend-
3 ed by this Act, is further amended—

4 (1) in paragraph (3), by—

5 (A) striking “and” after subparagraph
6 (H);

7 (B) striking the period after subparagraph
8 (I) and inserting “; and”; and

9 (C) adding after subparagraph (I) the fol-
10 lowing:

11 “(J) surface transportation workforce de-
12 velopment, training, and education.”;

13 (2) by redesignating paragraphs (36) through
14 (39), as redesignated by this Act, as paragraphs
15 (37) through (40) respectively; and

16 (3) by adding after paragraph (35), as redesign-
17 ated by this Act, the following:

18 “(36) SURFACE TRANSPORTATION WORKFORCE
19 DEVELOPMENT, TRAINING, AND EDUCATION.—The
20 term ‘surface transportation workforce development,
21 training, and education’ means activities associated
22 with surface transportation career awareness, stu-
23 dent transportation career preparation, and training
24 and professional development for surface transpor-
25 tation workers.”.

1 **SEC. 5206. ADVANCED TRAVEL FORECASTING PROCEDURES**
2 **PROGRAM.**

3 (a) CONTINUATION AND ACCELERATION OF
4 TRANSIMS DEPLOYMENT.—The Secretary shall accel-
5 erate the deployment of the advanced transportation
6 model known as the Transportation Analysis Simulation
7 System (“TRANSIMS”), developed by the Los Alamos
8 National Laboratory. The program shall assist State de-
9 partments of transportation and metropolitan planning or-
10 ganizations in the implementation of TRANSIMS; develop
11 methods for TRANSIMS applications to transportation
12 planning and air quality analysis; and provide training and
13 technical assistance for the implementation of
14 TRANSIMS. The program may support the development
15 of methods to plan for the transportation response to
16 chemical and biological terrorism and other security con-
17 cerns.

18 (b) ELIGIBLE ACTIVITIES.—The Secretary shall use
19 funds made available under section 5101(a)(1) of this Act
20 to—

21 (1) provide funding to State departments of
22 transportation and metropolitan planning organiza-
23 tions serving transportation management areas des-
24 ignated under the metropolitan planning section of
25 chapter 52 of title 49, United States Code, rep-

1 representing a diversity of populations, geographic re-
2 gions and analytic needs to implement TRANSIMS;

3 (2) develop methods to demonstrate a wide
4 spectrum of TRANSIMS applications to support
5 metropolitan and statewide transportation planning;
6 including integrating highway and transit oper-
7 ational considerations into the transportation plan-
8 ning process; and

9 (3) provide training and technical assistance
10 with respect to the implementation and application
11 of TRANSIMS to States, local governments and
12 Metropolitan Planning Organizations with responsi-
13 bility for travel modeling.

14 (e) ALLOCATION OF FUNDS.—Not more than 75 per-
15 cent of the funds made available to carry out this section
16 may be allocated to activities described in subsection
17 (b)(1).

18 **Subtitle C—Multimodal Research**
19 **Programs; Scholarship Opportu-**
20 **nities**

21 **SEC. 5301. UNIVERSITY TRANSPORTATION RESEARCH.**

22 Section 5505 of title 49, United States Code, is re-
23 vised to read as follows:

1 **“§ 5505. University transportation research**

2 “(a) UNIVERSITY INDUSTRY GOVERNMENT PART-
3 NERSHIPS.—The Secretary of Transportation shall make
4 grants to nonprofit institutions of higher learning to ad-
5 dress transportation management and research and devel-
6 opment matters, with special attention to increasing the
7 number of highly skilled individuals entering the field of
8 transportation.

9 “(b) OBJECTIVES.—

10 “(1) Each university receiving a grant under
11 this section shall conduct the following programs
12 and activities:

13 “(A) Basic and applied research that sup-
14 ports the Department’s transportation research
15 agenda, the products of which are judged by
16 peers or other experts in the field to advance
17 the body of knowledge in transportation.

18 “(B) An education program that includes
19 multidisciplinary course work, faculty and stu-
20 dent participation in research, and an oppor-
21 tunity for practical experience.

22 “(C) An ongoing program of technology
23 transfer that makes the results of research and
24 education activities broadly available to poten-
25 tial users in a form that can be implemented,
26 utilized, or otherwise applied.

1 “(2) Each university shall elect as its primary
2 objective either subsection (b)(1)(A) or (b)(1)(B) of
3 this section and shall direct at least 50 percent of
4 total costs to the accomplishment thereof.

5 “(c) SELECTION OF GRANT RECIPIENTS.—

6 “(1) In order to be eligible to receive a grant
7 under this section, a nonprofit institution of higher
8 learning shall submit to the Secretary an application
9 that is in such form and contains such information
10 as the Secretary may require.

11 “(2) The Secretary shall select each recipient of
12 a grant under this section through a competitive
13 process in which applications are evaluated on the
14 basis of the following:

15 “(A) The demonstrated research and ex-
16 tension resources available to the applicant to
17 carry out this section.

18 “(B) The capability of the applicant to
19 provide leadership in making national and re-
20 gional contributions to the solution of imme-
21 diate and long-range transportation problems.

22 “(C) The applicant’s demonstrated com-
23 mitment of at least \$200,000 in regularly-budg-
24 eted institutional amounts each year to support

1 ongoing transportation research and education
2 programs.

3 “(D) The amount of matching funds for
4 which the applicant has obtained binding com-
5 mitments.

6 “(E) Evidence of the applicant’s research
7 and education partnerships with at least one
8 private sector partner and at least one non-Fed-
9 eral Government partner.

10 “(F) The applicant’s demonstrated ability
11 to disseminate results of transportation re-
12 search and education programs through na-
13 tional and statewide or regionwide continuing
14 education and capacity-building programs.

15 “(G) The strategic plan the applicant pro-
16 poses to achieve the objectives of the grant
17 and—

18 “(i) if the applicant’s primary objec-
19 tive is subsection (b)(1)(A) of this section,
20 the strategic plan shall include a research
21 plan that addresses more than one mode of
22 transportation; or

23 “(ii) if the applicant’s primary objec-
24 tive is subsection (b)(1)(B) of this section,
25 the strategic plan shall include an edu-

1 cation plan that addresses multimodal
2 issues.

3 “(d) MAINTENANCE OF EFFORT.—In order to be eli-
4 gible to receive a grant under this section, a recipient shall
5 enter into an agreement with the Secretary to ensure that
6 the recipient will maintain total expenditures from all
7 other sources to carry out the objectives of a grant at a
8 level at least equal to the average level of such expendi-
9 tures in its 2 fiscal years prior to award of a grant under
10 this section.

11 “(e) FEDERAL SHARE.—The Federal share of the
12 costs of activities carried out using a grant made under
13 this section shall not exceed 50 percent of costs. The non-
14 Federal share may include funds provided to a recipient
15 under section 503, or 104(i) of title 23, United States
16 Code.

17 “(f) PROGRAM ADMINISTRATION.—

18 “(1) The Secretary shall conduct all grant man-
19 agement and administration functions necessary to
20 facilitate the research, education, training, and tech-
21 nology transfer activities that grant recipients carry
22 out under this section; to coordinate these activities
23 among the grant recipients; to ensure that the re-
24 sults of the research, education, training and tech-

1 nology transfer activities are widely disseminated;
2 and to ensure the effective use of program resources.

3 “(2) At least annually and consistent with the
4 plan developed under section 508 of title 23, United
5 States Code, the Secretary shall review and evaluate
6 programs the grant recipients carry out.

7 “(3) The Secretary may not use more than 1
8 percent of amounts made available from Government
9 sources to carry out this subsection.

10 “(g) USE OF TRANSPORTATION RESEARCH INFOR-
11 MATION SERVICES (TRIS) DATABASES.—

12 (1) Recipients of awards under this section
13 shall make use of the National Research Council
14 (NRC), Transportation Research Board (TRB),
15 Transportation Research Information Services
16 (TRIS) online databases for the following purposes:

17 “(A) Program development and strategic
18 planning.

19 “(B) Reporting of active R&T activities
20 undertaken with funding provided here.

21 “(C) Input and dissemination of results
22 and reports from completed research.

23 “(2) Recipients shall recommend a representa-
24 tive to serve as liaison to the Transportation Re-
25 search Board.

1 “(h) **LIMITATION ON AVAILABILITY OF FUNDS.**—
2 Funds made available to carry out this program shall re-
3 main available for obligation for a period of 2 years after
4 the last day of the fiscal year for which such funds are
5 authorized.”.

6 **SEC. 5302. MULTIMODAL RESEARCH PROGRAM.**

7 (a) **IN GENERAL.**—Section 5506 of title 49, United
8 States Code, is revised to read as follows:

9 **“§ 5506. Multimodal research program**

10 “(a) **PURPOSE.**—The Secretary shall establish a pro-
11 gram to encourage and promote the research, develop-
12 ment, demonstration and testing of technologies that have
13 multimodal transportation applications, and shall foster
14 adoption of those technologies in transportation through
15 demonstration and testing to remove impediments to an
16 efficient, safe, and cost-effective national transportation
17 system.

18 “(b) **OTHER RESEARCH ACTIVITIES.**—To ensure the
19 activities performed pursuant to this section achieve the
20 maximum benefit, the Secretary, the Secretary of Energy,
21 the Administrator of the Environmental Protection Agen-
22 cy, and other relevant Federal agencies shall coordinate
23 their research, development and demonstration activities
24 related to heavy-duty vehicle technologies and hydrogen
25 transportation and refueling infrastructure. Nothing in

1 this section may be construed to authorize the Secretary
2 to conduct research, development, demonstration or test-
3 ing activities that the Secretary of Energy or the Adminis-
4 trator of the Environmental Protection Agency is author-
5 ized to conduct, or to modify the authorities of the Sec-
6 retary of Energy or the Administrator of the Environ-
7 mental Protection Agency.

8 “(e) ADVANCED HEAVY-DUTY VEHICLE TECH-
9 NOLOGIES.—

10 “(1) The Secretary of Transportation shall con-
11 duct research, development, demonstration and test-
12 ing to integrate emerging multimodal heavy-duty ve-
13 hicle technologies in order to provide seamless, safe,
14 secure and efficient transportation.

15 “(2) There is authorized to be appropriated
16 from the Highway Trust Fund (other than the Mass
17 Transit Account) to carry out this paragraph
18 \$24,000,000 for fiscal year 2005, \$25,000,000 for
19 fiscal year 2006, \$23,000,000 for fiscal year 2007,
20 \$18,000,000 for fiscal year 2008, and \$10,000,000
21 for fiscal year 2009.

22 “(3) The funding made available under para-
23 graph (2) of this subsection shall be available for ob-
24 ligation in the same manner as if such funds were
25 apportioned under chapter 1 of title 23 and shall be

1 subject to any obligation limitation imposed on
2 funds for Federal-aid highways and highway safety
3 construction programs.

4 “(d) HYDROGEN INFRASTRUCTURE SAFETY RE-
5 SEARCH AND DEVELOPMENT.—

6 “(1) The Secretary of Transportation is author-
7 ized to conduct research, development, demonstra-
8 tion and testing on the safety aspects of hydrogen
9 transportation and refueling infrastructure necessary
10 to support the use of next generation vehicle tech-
11 nologies.

12 “(2) To carry out this subsection, there is au-
13 thorized to be appropriated \$1,000,000 for fiscal
14 years 2004, \$15,000,000 for fiscal year 2005,
15 \$13,000,000 for fiscal year 2006, \$11,000,000 for
16 fiscal year 2007, \$9,000,000 for fiscal year 2008,
17 and \$6,000,000 for fiscal year 2009.

18 “(e) GRANTS, COOPERATIVE AGREEMENTS, AND
19 OTHER TRANSACTIONS.— The Secretary may enter into
20 grants, cooperative agreements, and other transactions
21 with Federal and other public agencies (including State
22 and local governments) and private organizations and
23 other persons to carry out this section.

1 “(f) **COST SHARING.**—At least 50 percent of the
2 funding for projects authorized in this section must be
3 provided by non-Federal sources.”.

4 (b) **CONFORMING AMENDMENT.**—The analysis of
5 chapter 55 of title 49, United States Code, is amended
6 by substituting the following for the item designated 5506:
“Sec. 5506. Multimodal research program.”.

7 **SEC. 5303. COMMERCIAL REMOTE SENSING PRODUCTS.**

8 Section 5113 of the Transportation Equity Act of the
9 21st Century (23 U.S.C. 502 note) is amended by revising
10 subsection (b) to read as follows:

11 “(b) **PROGRAM.**—

12 “(1) **NATIONAL POLICY.**—The Secretary shall
13 establish and maintain a national policy for the use
14 of commercial remote sensing products and spatial
15 information technologies in national transportation
16 infrastructure development and construction.

17 “(2) **POLICY IMPLEMENTATION.**—The Sec-
18 retary shall develop new applications of commercial
19 remote sensing products and spatial information
20 technologies for the implementation of the national
21 policy established and maintained under (b)(1) of
22 this section.”.

1 **SEC. 5304. TRANSPORTATION SCHOLARSHIP OPPORTUNI-**
2 **TIES PROGRAM.**

3 (a) **IN GENERAL.**—(1) The Secretary may establish
4 and implement a scholarship program for the purpose of
5 attracting qualified students for transportation-related
6 critical jobs.

7 (2) The Secretary may accomplish this objective by
8 developing a program in partnership with appropriate non-
9 governmental institutions.

10 (b) **PARTICIPATION AND FUNDING.**—An operating
11 administration of the Department of Transportation and
12 the Office of Inspector General of the Department of
13 Transportation (DOT) may participate in the scholarship
14 program. Notwithstanding any other law, the Secretary
15 may use funds available to an operating administration
16 or from the Office of Inspector General for the purpose
17 of carrying out this provision.

18 **Subtitle D—Transportation Data**
19 **and Analysis**

20 **SEC. 5401. BUREAU OF TRANSPORTATION STATISTICS.**

21 Section 111 of title 49, United States Code, is
22 amended by deleting subsections (b) through (k) and in-
23 serting the following new subsections, as follows:

24 “(b) **DIRECTOR.**—

1 “(1) The Bureau shall be headed by a Director,
2 who shall be appointed by the President, by and
3 with the advice and consent of the Senate.

4 “(2) The Director shall be appointed from
5 among individuals who are qualified to serve by vir-
6 tue of their training and experience in the collection,
7 analysis and use of transportation data.

8 “(3) The Director shall report directly to the
9 Secretary of Transportation.

10 “(4) The term of the Director shall be 4 years.
11 The Director may continue to serve after the expira-
12 tion of the term until a successor is appointed and
13 confirmed.

14 “(e) RESPONSIBILITIES.—The Director of the Bu-
15 reau shall serve as the Secretary’s senior advisor on data
16 and statistics and be responsible for carrying out the fol-
17 lowing duties:

18 “(1) Collecting, analyzing and disseminating
19 data concerning the domestic and international
20 movement of freight.

21 “(2) Collecting, analyzing and disseminating
22 data concerning travel patterns for local and long-
23 distance travel, at the local, State, national and
24 international levels.

1 “(3) Developing, analyzing and disseminating
2 information on the economies of transportation.

3 “(4) Building and disseminating the transpor-
4 tation layer of the National Spatial Data Infrastruc-
5 ture, including coordinating the development of
6 transportation geospatial data standards, compiling
7 intermodal geospatial data, and collecting geospatial
8 data that is not being collected by others.

9 “(5) Developing, publishing and disseminating
10 a comprehensive set of measures of investment, use,
11 costs, performance and impacts of the national
12 transportation system, including publishing an an-
13 nual transportation statistics abstract, and identi-
14 fying information needs and reviewing such needs at
15 least annually with the Advisory Council on Trans-
16 portation Statistics.

17 “(6) Conducting or supporting research relating
18 to methods of gathering or analyzing transportation
19 statistics and issuing guidelines for the collection of
20 information by the Department in order to ensure
21 that such information is accurate, relevant, com-
22 parable, accessible and in a form that permits sys-
23 tematic analysis.

24 “(d) COORDINATING COLLECTION OF INFORMA-
25 TION.—The Director shall work with the operating admin-

1 istrations of the Department to establish and implement
 2 the Bureau's data programs and to improve the coordina-
 3 tion of information collection efforts with other Federal
 4 agencies.

5 “(e) SUPPORTING TRANSPORTATION DECISION-
 6 MAKING.—The Director shall ensure that the statistics
 7 compiled under this section are relevant for transportation
 8 policy, planning, and decision making by the Federal Gov-
 9 ernment, State and local governments, transportation-re-
 10 lated associations, private businesses, and the public. The
 11 Director shall provide, to the Department's other oper-
 12 ating administrations, technical assistance on collecting,
 13 compiling, analyzing and verifying transportation data
 14 and statistics and the design of surveys.

15 “(f) RESEARCH AND DEVELOPMENT GRANTS.—

16 (1) The Secretary may make grants to, or enter
 17 into cooperative agreements or contracts with, public
 18 and nonprofit private entities (including State trans-
 19 portation departments, metropolitan planning orga-
 20 nizations, and institutions of higher education) if the
 21 grants—

22 “(A) provide for an alternative means of
 23 accomplishing program-related research;

24 “(B) contribute to research and develop-
 25 ment of new methods of data collection; or

1 “(C) improve the methods for sharing geo-
2 graphic data.

3 “(2) Not more than \$500,000 of the amounts
4 made available to carry out this section in a fiscal
5 year may be used for Research and Development
6 Grants.

7 “(g) TRANSPORTATION STATISTICS ANNUAL RE-
8 PORT.—By March 31 of each year, the Director shall
9 transmit to the President and Congress a report that in-
10 cludes information on the subjects covered by subsection
11 (e) of this section, documentation of the methods used to
12 obtain the information and ensure the quality of the statis-
13 tics presented in the report, and recommendations for im-
14 proving transportation statistical information.

15 “(h) PROCEEDS OF DATA PRODUCT SALES.—Not-
16 withstanding section 3302 of title 31, United States Code,
17 funds received by the Bureau from the sale of data prod-
18 ucts, for necessary expenses incurred, may be credited to
19 the Highway Trust Fund (other than the Mass Transit
20 Account) for the purpose of reimbursing the Bureau for
21 the expenses.

22 “(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—
23 Nothing in this section shall be construed to—

24 “(1) authorize the Bureau to require any other
25 department or agency to collect data; or

1 “(2) reduce the authority of any other officer of
2 the Department of Transportation to collect and dis-
3 seminate data independently.

4 “(j) MANDATORY RESPONSE AUTHORITY FOR
5 FREIGHT DATA COLLECTION.—Whoever, being the
6 owner, official, agent, person in charge, or assistant to the
7 person in charge, of any corporation, company, business,
8 institution, establishment, or organization of any nature
9 whatsoever, neglects or refuses, when requested by the Di-
10 rector or other authorized officer, employee or contractor
11 of the Bureau, to answer completely and correctly to the
12 best of his/her knowledge all questions relating to the cor-
13 poration, company, business, institution, establishment, or
14 other organization, or to records or statistics in his/her
15 official custody, contained in a data collection request pre-
16 pared and submitted under the authority of subsection
17 (e)(1), shall be fined not more than \$500; and if the indi-
18 vidual willfully gives a false answer to a question, shall
19 be fined not more than \$10,000.

20 “(k) PROHIBITION ON CERTAIN DISCLOSURES.—

21 “(1) An officer, employee or contractor of the
22 Bureau may not—

23 “(A) make any disclosure in which the
24 data provided by an individual or organization
25 under subsection (e) can be identified;

1 “(B) use the information provided under
2 subsection (e) for a nonstatistical purpose; or

3 “(C) permit anyone other than an indi-
4 vidual authorized by the Director to examine
5 any individual report provided under subsection
6 (e).

7 “(2)(A) No department, bureau, agency, officer,
8 or employee of the United States (except the Direc-
9 tor in carrying out this section) may require, for any
10 reason, a copy of any report that has been filed
11 under subsection (e) with the Bureau or retained by
12 an individual respondent.

13 “(B) A copy of a report described in subpara-
14 graph (A) that has been retained by an individual
15 respondent or filed with the Bureau or any of its
16 employees, contractors, or agents—

17 “(i) shall be immune from legal process;
18 and

19 “(ii) shall not, without the consent of the
20 individual concerned, be admitted as evidence or
21 used for any purpose in any action, suit, or
22 other judicial or administrative proceeding.

23 “(C) This subsection shall apply only to reports
24 that permit information concerning an individual or

1 organization to be reasonably inferred by direct or
2 indirect means.

3 ~~“(3) In a case in which the Bureau is author-~~
4 ~~ized by statute to collect data or information for a~~
5 ~~nonstatistical purpose, the Director shall clearly dis-~~
6 ~~tinguish the collection of the data or information, by~~
7 ~~rule and on the collection instrument, so as to in-~~
8 ~~form a respondent that is requested or required to~~
9 ~~supply the data or information of the nonstatistical~~
10 ~~purpose.~~

11 ~~“(1) DATA ACCESS.—The Director shall have access~~
12 ~~to transportation and transportation-related information~~
13 ~~in the possession of any Federal agency except informa-~~
14 ~~tion—~~

15 ~~“(1) the disclosure of which to another Federal~~
16 ~~agency is expressly prohibited by law, or~~

17 ~~“(2) the disclosure of which the agency so re-~~
18 ~~quested determines would significantly impair the~~
19 ~~discharge of authorities and responsibilities which~~
20 ~~have been delegated to, or vested by law, in such~~
21 ~~agency.~~

22 ~~“(m) ADVISORY COUNCIL ON TRANSPORTATION STA-~~
23 ~~TISTICS.—~~

1 “(1) The Bureau of Transportation Statistics
2 has an Advisory Council on Transportation Statis-
3 tics.

4 “(2) It shall be the function of the advisory
5 council established under this subsection to advise
6 the Director of the Bureau of Transportation Statis-
7 tics on transportation statistics and analyses, includ-
8 ing whether or not the statistics and analysis dis-
9 seminated by the Bureau of Transportation Statis-
10 tics are of high quality and are based upon the best
11 available objective information.

12 “(3) The advisory council established under this
13 subsection shall be composed of not more than 6
14 members appointed by the Director who are not offi-
15 cers or employees of the United States and who have
16 expertise in transportation data collection or analysis
17 or application (except for 1 member who shall have
18 expertise in economics and 1 member who shall have
19 expertise in statistics).

20 “(4) The Federal Advisory Committee Act (5
21 App. U.S.C.) shall apply to the advisory council es-
22 tablished under this section, except that section 14
23 of the Federal Advisory Committee Act shall not
24 apply to the Advisory Committee established under
25 this section.”.

1 **Subtitle E—Intelligent**
2 **Transportation Systems Research**

3 **SEC. 5501. SHORT TITLE.**

4 This subtitle may be cited as the “Intelligent Trans-
5 portation Systems Act of 2003”.

6 **SEC. 5502. GOALS AND PURPOSES.**

7 (a) **GOALS.**—The goals of the intelligent transpor-
8 tation system program include—

9 (1) Enhancement of surface transportation effi-
10 ciency and facilitation of intermodalism and inter-
11 national trade to enable existing facilities to meet a
12 significant portion of future transportation needs,
13 including public access to employment, goods, and
14 services, and to reduce regulatory, financial, and
15 other transaction costs to public agencies and sys-
16 tem users;

17 (2) Achievement of national transportation
18 safety goals, including the enhancement of safe oper-
19 ation of motor vehicles and nonmotorized vehicles as
20 well as improved emergency response to a crash,
21 with particular emphasis on decreasing the number
22 and severity of collisions;

23 (3) Protection and enhancement of the natural
24 environment and communities affected by surface
25 transportation, with particular emphasis on assisting

1 State and local governments to achieve national en-
2 vironmental goals;

3 (4) Accommodation of the needs of all users of
4 surface transportation systems, including operators
5 of commercial vehicles, passenger vehicles, and mo-
6 torcycles, including individuals with disabilities; and

7 (5) Improvement of the Nation's ability to re-
8 spond to security related or other man made emer-
9 gencies and natural disasters and enhancement of
10 national defense mobility.

11 (b) PURPOSES.—The Secretary shall implement ac-
12 tivities under the intelligent system transportation pro-
13 gram to, at a minimum—

14 (1) expedite, in both metropolitan and rural
15 areas, deployment and integration of intelligent
16 transportation systems for consumers of passenger
17 and freight transportation;

18 (2) ensure that Federal, State, and local trans-
19 portation officials have adequate knowledge of intel-
20 ligent transportation systems for full consideration
21 in the transportation planning process;

22 (3) improve regional cooperation and operations
23 planning for effective intelligent transportation sys-
24 tem deployment;

1 (4) promote the innovative use of private re-
2 sources;

3 (5) facilitate, in cooperation with the motor ve-
4 hicle industry, the introduction of a vehicle-based
5 safety enhancing system;

6 (6) support the application of intelligent trans-
7 portation systems that increase the safety and effi-
8 ciency of commercial vehicle operations; and

9 (7) develop a workforce capable of developing,
10 operating, and maintaining intelligent transportation
11 systems.

12 **SEC. 5503. GENERAL AUTHORITIES AND REQUIREMENTS.**

13 (a) **SCOPE.**—Subject to the provisions of this subtitle,
14 the Secretary shall conduct an ongoing intelligent trans-
15 portation system program to research, develop, and oper-
16 ationally test intelligent transportation systems and ad-
17 vance nationwide deployment of such systems as a compo-
18 nent of the surface transportation systems of the United
19 States.

20 (b) **POLICY.**—Intelligent transportation system re-
21 search projects and operational tests funded pursuant to
22 this subtitle shall encourage and not displace public-pri-
23 vate partnerships or private sector investment in such
24 tests and projects.

1 (c) ~~COOPERATION WITH GOVERNMENTAL, PRIVATE,~~
2 ~~AND EDUCATIONAL ENTITIES.~~—The Secretary shall carry
3 out the intelligent transportation system program in co-
4 operation with State and local governments and other pub-
5 lie entities, the United States private sector, the Federal
6 laboratories, and colleges and universities, including his-
7 torically black colleges and universities and other minority
8 institutions of higher education.

9 (d) ~~CONSULTATION WITH FEDERAL OFFICIALS.~~—In
10 carrying out the intelligent transportation system pro-
11 gram, the Secretary, as appropriate, shall consult with the
12 Secretary of Commerce, the Secretary of the Treasury, the
13 Administrator of the Environmental Protection Agency,
14 the Secretary of Homeland Security, the Director of the
15 National Science Foundation, and the heads of other Fed-
16 eral departments and agencies.

17 (e) ~~TECHNICAL ASSISTANCE, TRAINING, AND INFOR-~~
18 ~~MATION.~~—The Secretary may provide technical assistance,
19 training, and information to State and local governments
20 seeking to implement, operate, maintain, or evaluate intel-
21 ligent transportation system technologies and services.

22 (f) ~~TRANSPORTATION PLANNING.~~—The Secretary
23 may provide funding to support adequate consideration of
24 transportation systems management and operations, in-

1 eluding intelligent transportation systems, within metro-
2 politan and statewide transportation planning processes.

3 ~~(g) INFORMATION CLEARINGHOUSE.—~~

4 ~~(1) IN GENERAL.—The Secretary shall—~~

5 ~~(A) maintain a repository for technical and~~
6 ~~safety data collected as a result of federally~~
7 ~~sponsored projects carried out under this sub-~~
8 ~~title; and~~

9 ~~(B) on request, make that information (ex-~~
10 ~~cept for proprietary information and data)~~
11 ~~readily available to all users of the repository at~~
12 ~~an appropriate cost.~~

13 ~~(2) AGREEMENT.—~~

14 ~~(A) IN GENERAL.—The Secretary may~~
15 ~~enter into an agreement with a third party for~~
16 ~~the maintenance of the repository for technical~~
17 ~~and safety data under paragraph (1)(A) of this~~
18 ~~subsection.~~

19 ~~(B) FEDERAL FINANCIAL ASSISTANCE.—If~~
20 ~~the Secretary delegates the responsibility, the~~
21 ~~entity to which the responsibility is delegated~~
22 ~~shall be eligible for Federal financial assistance~~
23 ~~under this section.~~

24 ~~(h) ADVISORY COMMITTEES.—~~

1 (1) IN GENERAL.—In carrying out this subtitle,
2 the Secretary may use one or more advisory commit-
3 tees.

4 (2) APPLICABILITY OF FEDERAL ADVISORY
5 COMMITTEE ACT.—Any advisory committee so used
6 shall be subject to the Federal Advisory Committee
7 Act (5 U.S.C. App.).

8 (i) EVALUATIONS.—

9 (1) GUIDELINES AND REQUIREMENTS.—

10 (A) IN GENERAL.—The Secretary shall
11 issue guidelines and requirements for the eval-
12 uation of operational tests and deployment
13 projects carried out under this subtitle.

14 (B) OBJECTIVITY AND INDEPENDENCE.—
15 The guidelines and requirements issued under
16 subparagraph (A) shall include provisions to en-
17 sure the objectivity and independence of the
18 evaluator so as to avoid any real or apparent
19 conflict of interest or potential influence on the
20 outcome by parties to any such test or deploy-
21 ment project or by any other formal evaluation
22 carried out under this subtitle.

23 (C) FUNDING.—The guidelines and re-
24 quirements issued under subparagraph (A) shall
25 establish evaluation funding levels based on the

1 size and scope of each test or project that en-
2 sure adequate evaluation of the results of the
3 test or project.

4 (2) SPECIAL RULE.—Any survey, questionnaire,
5 or interview that the Secretary considers necessary
6 to carry out the evaluation of any test, deployment
7 project, or program assessment activity under this
8 subtitle shall not be subject to chapter 35 of title 44.

9 (j) USE OF RIGHTS-OF-WAY.—Intelligent transpor-
10 tation system projects specified in sections 5117(b)(3) and
11 5117(b)(6) of the Transportation Equity Act for the 21st
12 Century and involving privately owned intelligent trans-
13 portation system components that are carried out using
14 funds made available from the Highway Trust Fund shall
15 not be subject to any law or regulation of a State or polit-
16 ical subdivision of a State prohibiting or regulating com-
17 mercial activities in the rights-of-way of a highway for
18 which Federal-aid highway funds have been utilized for
19 planning, design, construction, or maintenance, if the Sec-
20 retary of Transportation determines that such use is in
21 the public interest. Nothing in this subsection shall affect
22 the authority of a State or political subdivision of a State
23 to regulate highway safety.

24 **SEC. 5504. NATIONAL ARCHITECTURE AND STANDARDS.**

25 (a) IN GENERAL.—

1 (1) DEVELOPMENT, IMPLEMENTATION, AND
2 MAINTENANCE.—Consistent with section 12(d) of
3 the National Technology Transfer and Advancement
4 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783),
5 the Secretary shall develop, implement, and maintain
6 a national architecture and supporting standards
7 and protocols to promote the widespread use and
8 evaluation of intelligent transportation system tech-
9 nology as a component of the surface transportation
10 systems of the United States.

11 (2) INTEROPERABILITY AND EFFICIENCY.—To
12 the maximum extent practicable, the national archi-
13 tecture shall promote interoperability among, and ef-
14 ficiency of, intelligent transportation system tech-
15 nologies implemented throughout the United States.

16 (3) USE OF STANDARDS DEVELOPMENT ORGA-
17 NIZATIONS.—In carrying out this section, the Sec-
18 retary may use the services of such standards devel-
19 opment organizations as the Secretary determines to
20 be appropriate.

21 (b) PROVISIONAL STANDARDS.—

22 (1) IN GENERAL.—If the Secretary finds that
23 the development or balloting of an intelligent trans-
24 portation system standard jeopardizes the timely
25 achievement of the objectives identified in subsection

1 (a), the Secretary may establish a provisional stand-
2 ard after consultation with affected parties, and
3 using, to the extent practicable, the work product of
4 appropriate standards development organizations.

5 (2) PERIOD OF EFFECTIVENESS.—A provisional
6 standard established under paragraph (1) or (2)
7 shall be published in the Federal Register and re-
8 main in effect until the appropriate standards devel-
9 opment organization adopts and publishes a stand-
10 ard.

11 (c) CONFORMITY WITH NATIONAL ARCHITEC-
12 TURE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graphs (2) and (3), the Secretary shall ensure that
15 intelligent transportation system projects carried out
16 using funds made available from the Highway Trust
17 Fund, including funds made available under this
18 subtitle to deploy intelligent transportation system
19 technologies, conform to the national architecture,
20 applicable standards or provisional standards, and
21 protocols developed under subsection (a).

22 (2) SECRETARY'S DISCRETION.—The Secretary
23 may authorize exceptions to paragraph (1) for—

24 (A) projects designed to achieve specific re-
25 search objectives outlined in the National ITS

1 Program Plan or the Surface Transportation
2 Research and Development Strategic Plan de-
3 veloped under section 508 of title 23, United
4 States Code; or

5 (B) the upgrade or expansion of an intel-
6 ligent transportation system in existence on the
7 date of enactment of this subtitle, if the Sec-
8 retary determines that the upgrade or expan-
9 sion—

10 (i) would not adversely affect the
11 goals or purposes of this subtitle;

12 (ii) is carried out before the end of
13 the useful life of such system; and

14 (iii) is cost-effective as compared to
15 alternatives that would meet the con-
16 formity requirement of paragraph (1).

17 (3) EXCEPTIONS.—Paragraph (1) shall not
18 apply to funds used for operation or maintenance of
19 an intelligent transportation system in existence on
20 the date of enactment of this subtitle.

21 **SEC. 5505. RESEARCH AND DEVELOPMENT.**

22 (a) IN GENERAL.—The Secretary shall carry out a
23 comprehensive program of intelligent transportation sys-
24 tem research, development, and operational tests of intel-
25 ligent vehicles and intelligent infrastructure systems; and

1 other similar activities that are necessary to carry out this
2 subtitle.

3 (b) PRIORITY AREAS.—Under the program, the Sec-
4 retary shall give higher priority to funding projects that—

5 (1) enhance mobility and productivity through
6 improved traffic management, incident management,
7 transit management, freight management, road
8 weather management, toll collection, traveler infor-
9 mation, or highway operations systems;

10 (2) enhance safety through improved crash-
11 avoidance and protection, crash and other notifica-
12 tion, commercial vehicle operations, and infrastruc-
13 ture-based or cooperative safety systems;

14 (3) enhance security through improved response
15 to security related emergencies, and improved trans-
16 portation security systems; and

17 (4) facilitate the integration of intelligent infra-
18 structure, vehicle, and control technologies.

19 (c) FEDERAL SHARE.—The Federal share of the cost
20 of operational tests and demonstrations under subsection
21 (a) shall not exceed 80 percent.

22 **SEC. 5506. USE OF FUNDS.**

23 (a) OUTREACH AND PUBLIC RELATIONS LIMITA-
24 TION.—

1 (1) **IN GENERAL.**—For each fiscal year, not
2 more than \$5,000,000 of the funds made available
3 to carry out this subtitle shall be used for intelligent
4 transportation system outreach, public relations, dis-
5 plays, scholarships, tours, and brochures.

6 (2) **APPLICABILITY.**—Paragraph (1) shall not
7 apply to intelligent transportation system training or
8 the publication or distribution of research findings,
9 technical guidance, or similar documents.

10 (b) **INFRASTRUCTURE DEVELOPMENT.**—Funds made
11 available to carry out this subtitle for operational tests—

12 (1) shall be used primarily for the development
13 of intelligent transportation system infrastructure;
14 and

15 (2) to the maximum extent practicable, shall
16 not be used for the construction of physical highway
17 and transit infrastructure unless the construction is
18 incidental and critically necessary to the implemen-
19 tation of an intelligent transportation system
20 project.

21 **SEC. 5507. DEFINITIONS.**

22 In this subtitle, the following definitions apply:

23 (1) **INCIDENT.**— In this section, the term “inci-
24 dent” means a crash, a natural disaster, work zone
25 activity, special event, or other emergency road user

1 occurrence that adversely affects or impedes the nor-
2 mal flow of traffic.

3 (2) INTELLIGENT TRANSPORTATION INFRA-
4 STRUCTURE.—The term “intelligent transportation
5 infrastructure” means fully integrated public sector
6 intelligent transportation system components, as de-
7 fined by the Secretary.

8 (3) INTELLIGENT TRANSPORTATION SYSTEM.—
9 The term “intelligent transportation system” means
10 electronics, communications, or information proc-
11 essing used singly or in combination to improve the
12 efficiency or safety of a surface transportation sys-
13 tem.

14 (4) NATIONAL ARCHITECTURE.—The term “na-
15 tional architecture” means the common framework
16 for interoperability that defines—

17 (A) the functions associated with intel-
18 ligent transportation system user services;

19 (B) the physical entities or subsystems
20 within which the functions reside;

21 (C) the data interfaces and information
22 flows between physical subsystems; and

23 (D) the communications requirements as-
24 sociated with the information flows.

1 (5) PROJECT.—The term “project” means a
2 undertaking to research, develop, or operationally
3 test intelligent transportation systems or any other
4 undertaking eligible for assistance under this sub-
5 title.

6 (6) STANDARD.—The term “standard” means a
7 document that—

8 (A) contains technical specifications or
9 other precise criteria for intelligent transpor-
10 tation systems that are to be used consistently
11 as rules, guidelines, or definitions of character-
12 istics so as to ensure that materials, products,
13 processes, and services are fit for their pur-
14 poses; and

15 (B) may support the national architecture
16 and promote—

17 (i) the widespread use and adoption of
18 intelligent transportation system tech-
19 nology as a component of the surface
20 transportation systems of the United
21 States; and

22 (ii) interoperability among intelligent
23 transportation system technologies imple-
24 mented throughout the States.

1 (7) **STATE.**—The term “State” has the mean-
 2 ing given the term under section 101 of title 23,
 3 United States Code.

4 (8) **TRANSPORTATION SYSTEMS MANAGEMENT**
 5 **AND OPERATIONS.**—The term “transportation sys-
 6 tems management and operations” has the meaning
 7 given the term under section 101(a) of title 23,
 8 United States Code, as amended by section 1701 of
 9 this Act.

10 **SEC. 5508. REPEAL.**

11 The Transportation Equity Act for the 21st Century
 12 is amended by striking subtitle C of title V.

13 **TITLE VI—TRANSPORTATION**
 14 **PLANNING; INTERMODAL FA-**
 15 **CILITIES**

16 **SEC. 6001. TRANSPORTATION PLANNING.**

17 (a) **IN GENERAL.**—Subtitle III of title 49, United
 18 States Code, is amended by adding the following after
 19 chapter 51:

20 **“CHAPTER 52—TRANSPORTATION PLANNING**

“Sec.

“5201. Policy.

“5202. Definitions.

“5203. Metropolitan transportation planning.

“5204. Statewide transportation planning.

21 **“§ 5201. Policy**

22 “(a) It is in the national interest to—

1 “(1) encourage and promote the safe and effi-
2 cient management, operation, and development of
3 surface transportation systems that will serve the
4 mobility needs of people and freight and foster eco-
5 nomic growth and development within and between
6 States and urbanized areas, while minimizing trans-
7 portation-related fuel consumption and air and water
8 pollution through metropolitan and statewide trans-
9 portation planning processes identified in this chap-
10 ter;

11 “(2) encourage the continued improvement and
12 evolution of the metropolitan and statewide trans-
13 portation planning processes by metropolitan plan-
14 ning organizations, State Departments of Transpor-
15 tation, and public transit operators through the use
16 of performance-based approaches in the development
17 of transportation plans and investments as guided
18 by the planning factors identified in subsection
19 5203(f) and 5204(d) of this chapter; and

20 “(3) encourage private enterprise participation
21 in projects and transportation services.

22 “(b) The provisions of sections 5203–5204 of this
23 chapter shall be jointly administered by the Federal High-
24 way and Federal Transit Administrators.

1 **“§ 5202. Definitions**

2 “(a) Unless otherwise specified in subsection (b), the
3 definitions in section 101(a) of title 23 and section 5302
4 of this title are applicable to this chapter.

5 “(b) As used in this chapter—

6 “(1) CONSULTATION.—The term ‘consultation’
7 means that one party confers with another identified
8 party in accordance with an established process and,
9 prior to taking action(s), considers that party’s
10 views and periodically informs that party about ac-
11 tion(s) taken.

12 “(2) METROPOLITAN PLANNING AREA.—The
13 term ‘metropolitan planning area’ means the geo-
14 graphic area determined by agreement between the
15 metropolitan planning organization and the Gov-
16 ernor as defined in section 5203(e) of this title.

17 “(3) METROPOLITAN PLANNING ORGANIZATION
18 (MPO).—The term ‘metropolitan planning organiza-
19 tion’ means the Policy Board of the organization
20 created as a result of the designation process defined
21 in section 5203(b) of this title.

22 “(4) NON-METROPOLITAN AREA.—The term
23 ‘non-metropolitan area’ means the geographic area
24 outside designated metropolitan planning areas.

25 “(5) NON-METROPOLITAN LOCAL OFFICIAL.—
26 The term ‘non-metropolitan local official’ means

1 elected and appointed officials of general purpose
 2 local government, in non-metropolitan areas, with ju-
 3 risdiction/responsibility for transportation.

4 “(6) URBANIZED AREA.—The term ‘urbanized
 5 area’ means a geographic area with a population of
 6 50,000 or more, as designated by the Bureau of the
 7 Census.

8 “(7) STATE.—The term ‘State’ means a State
 9 of the United States, the District of Columbia, and
 10 Puerto Rico.

11 **“§ 5203. Metropolitan transportation planning**

12 “(a) GENERAL REQUIREMENTS.—

13 “(1) DEVELOPMENT OF PLANS.—To accomplish
 14 the objectives stated in section 5201, metropolitan
 15 planning organizations designated under subsection
 16 (b) of this section, in cooperation with the State and
 17 public transportation operators, shall develop trans-
 18 portation plans for metropolitan planning areas of
 19 the State.

20 “(2) CONTENTS.—The plans for each metro-
 21 politan area shall provide for the development and
 22 integrated management and operation of transpor-
 23 tation systems and facilities (including pedestrian
 24 walkways and bicycle transportation facilities) that
 25 will function as an intermodal transportation system

1 for the metropolitan planning area and as an inte-
2 gral part of an intermodal transportation system for
3 the State and the United States.

4 “(3) PROCESS OF DEVELOPMENT.—The process
5 for developing the plans shall provide for consider-
6 ation of all modes of transportation and shall be
7 continuing, cooperative, and comprehensive to the
8 degree appropriate, based on the complexity of the
9 transportation problems to be addressed.

10 “(4) PLANNING AND PROJECT DEVELOP-
11 MENT.—The metropolitan planning organization, the
12 State Department of Transportation, and the appro-
13 priate public transportation provider shall agree
14 upon the approaches that will be used to evaluate al-
15 ternatives and identify transportation improvements
16 that address the most complex problems and press-
17 ing transportation needs in the metropolitan area.

18 “(b) DESIGNATION OF METROPOLITAN PLANNING
19 ORGANIZATIONS.—

20 “(1) IN GENERAL.—To carry out the transpor-
21 tation planning process required by this section, a
22 metropolitan planning organization (MPO) shall be
23 designated for each urbanized area with a population
24 of more than 50,000 individuals—

1 “(A) by agreement between the Governor
2 and units of general purpose local government
3 that together represent at least 75 percent of
4 the affected population (including the largest
5 incorporated city (based on population) as
6 named by the Bureau of the Census); or

7 “(B) in accordance with procedures estab-
8 lished by applicable State or local law.

9 “(2) STRUCTURE.—Each metropolitan planning
10 organization that serves an area identified as a
11 transportation management area, when designated
12 or redesignated under this subsection, shall consist
13 of—

14 “(A) local elected officials;

15 “(B) officials of public agencies that ad-
16 minister or operate major modes of transpor-
17 tation in the metropolitan area; and

18 “(C) appropriate State officials.

19 “(3) LIMITATION ON STATUTORY CONSTRUC-
20 TION.—Nothing in this subsection shall be construed
21 to interfere with the authority, under any State law
22 in effect on December 18, 1991, of a public agency
23 with multimodal transportation responsibilities to—

1 “(A) develop plans and programs for adop-
2 tion by a metropolitan planning organization;
3 and

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

7 “(4) CONTINUING DESIGNATION.—A designa-
8 tion of a metropolitan planning organization under
9 this subsection or any other provision of law shall
10 remain in effect until the metropolitan planning or-
11 ganization is redesignated under paragraph (5).

12 “(5) REDESIGNATION PROCEDURES.—A metro-
13 politan planning organization may be redesignated
14 by agreement between the Governor and units of
15 general purpose local government that together rep-
16 resent at least 75 percent of the existing planning
17 area population (including the largest incorporated
18 city (based on population) as named by the Bureau
19 of the Census) as appropriate to carry out this sec-
20 tion.

21 “(6) DESIGNATION OF MORE THAN 1 METRO-
22 POLITAN PLANNING ORGANIZATION.—More than 1
23 metropolitan planning organization may be des-
24 ignated within an existing metropolitan planning
25 area only if the Governor and the existing metropoli-

1 tan planning organization determine that the size
 2 and complexity of the existing metropolitan planning
 3 area make designation of more than 1 metropolitan
 4 planning organization for the area appropriate.

5 “(e) METROPOLITAN PLANNING AREA BOUND-
 6 ARIES.—

7 “(1) IN GENERAL.—For the purposes of this
 8 section, the boundaries of a metropolitan planning
 9 area shall be determined by agreement between the
 10 metropolitan planning organization and the Gov-
 11 ernor.

12 “(2) INCLUDED AREA.—Each metropolitan
 13 planning area—

14 “(A) shall encompass at least the existing
 15 urbanized area and the contiguous area ex-
 16 pected to become urbanized within a 20-year
 17 forecast period for the transportation plan; and

18 “(B) may encompass the entire metropoli-
 19 tan statistical area or consolidated metropolitan
 20 statistical area, as defined by the Office of
 21 Management and Budget.

22 “(3) IDENTIFICATION OF NEW URBANIZED
 23 AREAS WITHIN EXISTING PLANNING AREA BOUND-
 24 ARIES.—The designation by the Bureau of the Cen-
 25 sus of new urbanized areas within an existing metro-

1 metropolitan planning area shall not require the redesi-
2 nation of the existing metropolitan planning organi-
3 zation.

4 “(4) EXISTING METROPOLITAN PLANNING
5 AREAS IN NONATTAINMENT.—Notwithstanding para-
6 graph (2), in the case of an urbanized area des-
7 ignated as a nonattainment area for ozone or carbon
8 monoxide under the Clean Air Act (42 U.S.C. 7401
9 et seq.), the boundaries of the metropolitan planning
10 area in existence as of the date of enactment of this
11 paragraph shall be retained, except that the bound-
12 aries may be adjusted by agreement of the Governor
13 and affected metropolitan planning organizations in
14 the manner described in subsection (c)(5).

15 “(5) NEW METROPOLITAN PLANNING AREAS IN
16 NONATTAINMENT.—In the case of an urbanized area
17 designated after the date of enactment of this para-
18 graph in a nonattainment area for ozone or carbon
19 monoxide, the boundaries of the metropolitan plan-
20 ning area—

21 “(A) shall be established in the manner de-
22 scribed in subsection (b)(1);

23 “(B) shall encompass the areas described
24 in paragraph (c)(2)(A);

1 “(C) may encompass the areas described in
2 paragraph (e)(2)(B); and

3 “(D) may address any nonattainment iden-
4 tified under the Clean Air Act (42 U.S.C. 7401
5 et seq.) for ozone or carbon monoxide.

6 “(d) COORDINATION IN MULTISTATE AREAS.—

7 “(1) IN GENERAL.—The Secretary shall encour-
8 age each Governor with responsibility for a portion
9 of a multistate metropolitan area and the appro-
10 priate metropolitan planning organizations to pro-
11 vide coordinated transportation planning for the en-
12 tire metropolitan area.

13 “(2) INTERSTATE COMPACTS.—The consent of
14 Congress is granted to any 2 or more States—

15 “(A) to enter into agreements or compacts,
16 not in conflict with any law of the United
17 States, for cooperative efforts and mutual as-
18 sistance in support of activities authorized
19 under this section as the activities pertain to
20 interstate areas and localities within the States;
21 and

22 “(B) to establish such agencies, joint or
23 otherwise, as the States may determine desir-
24 able for making the agreements and compacts
25 effective.

1 “(3) LAKE TAHOE REGION.—

2 “(A) DEFINITION.—In this paragraph, the
3 term ‘Lake Tahoe region’ has the meaning
4 given the term ‘region’ in subdivision (a) of ar-
5 ticle II of the Tahoe Regional Planning Com-
6 pact, as set forth in the first section of Public
7 Law 96-551 (94 Stat. 3234).

8 “(B) TRANSPORTATION PLANNING PROC-
9 ESS.—The Secretary shall—

10 “(i) establish with the Federal land
11 management agencies that have jurisdic-
12 tion over land in the Lake Tahoe region a
13 transportation planning process for the re-
14 gion; and

15 “(ii) coordinate the transportation
16 planning process with the planning process
17 required of State and local governments
18 under this section and section 5204.

19 “(C) INTERSTATE COMPACT.—

20 “(i) IN GENERAL.—Subject to clause
21 (ii), notwithstanding subsection (b), to
22 carry out the transportation planning proc-
23 ess required by this section, the consent of
24 Congress is granted to the States of Cali-
25 fornia and Nevada to designate a metro-

1 metropolitan planning organization for the Lake
2 Tahoe region, by agreement between the
3 Governors of the States of California and
4 Nevada and units of general purpose local
5 government that together represent at
6 least 75 percent of the affected population
7 (including the central city or cities (as de-
8 fined by the Bureau of the Census)), or in
9 accordance with procedures established by
10 applicable State or local law.

11 “(ii) INVOLVEMENT OF FEDERAL
12 LAND MANAGEMENT AGENCIES.—

13 “(I) REPRESENTATION.—The
14 policy board of a metropolitan plan-
15 ning organization designated under
16 clause (i) shall include a representa-
17 tive of each Federal land management
18 agency that has jurisdiction over land
19 in the Lake Tahoe region.

20 “(II) FUNDING.—In addition to
21 funds made available to the metropoli-
22 tan planning organization under other
23 provisions of title 23 and under chap-
24 ter 53 of this title, not more than 1
25 percent of the funds allocated under

1 section 202 of title 23 may be used to
2 carry out the transportation planning
3 process for the Lake Tahoe region
4 under this subparagraph.

5 “(D) ACTIVITIES.—Highway projects in-
6 cluded in transportation plans developed under
7 this paragraph—

8 “(i) shall be selected for funding in a
9 manner that facilitates the participation of
10 the Federal land management agencies
11 that have jurisdiction over land in the
12 Lake Tahoe region; and

13 “(ii) may, in accordance with chapter
14 2 of title 23, be funded using funds allo-
15 cated under section 202 of title 23.

16 “(e) COORDINATION OF MPOS.—

17 “(1) NONATTAINMENT AREAS.—If more than 1
18 metropolitan planning organization has authority
19 within a metropolitan area or an area which is des-
20 ignated as a nonattainment area for ozone or carbon
21 monoxide under the Clean Air Act, each metropoli-
22 tan planning organization shall consult with the
23 other metropolitan planning organizations des-
24 ignated for such area and the State in the coordina-
25 tion of plans required by this section.

1 “(2) TRANSPORTATION IMPROVEMENTS LO-
2 CATED IN MULTIPLE MPOS.—If a transportation im-
3 provement, funded from the highway trust fund, is
4 located within the boundaries of more than 1 metro-
5 politan planning area, the metropolitan planning or-
6 ganizations shall coordinate plans regarding the
7 transportation improvement.

8 “(3) INTERREGIONAL AND INTERSTATE
9 PROJECT IMPACTS.—Planning for NHS, commuter
10 rail projects or other projects with substantial im-
11 pacts outside a single metropolitan planning area or
12 State shall be coordinated directly with the affected,
13 contiguous MPOs and States.

14 “(4) COORDINATION WITH OTHER PLANNING
15 PROCESSES.—The Secretary shall encourage each
16 MPO to coordinate its planning process, to the max-
17 imum extent practicable, with those officials respon-
18 sible for other types of planning activities that are
19 affected by transportation, including State and local
20 planned growth, economic development, environ-
21 mental protection, airport operations, and freight.
22 The metropolitan planning process shall develop
23 transportation plans with due consideration of, and
24 in coordination with, other related planning activities
25 within the metropolitan area. This should include

1 the design and delivery of transportation services
2 within the metropolitan area that are provided by—

3 “(A) recipients of assistance under chapter
4 53 of this title;

5 “(B) governmental agencies and nonprofit
6 organizations (including representatives of the
7 agencies and organizations) that receive Federal
8 assistance from a source other than the Depart-
9 ment of Transportation to provide non-emer-
10 gency transportation services; and

11 “(C) recipients of assistance under section
12 204 of title 23.

13 “(f) SCOPE OF PLANNING PROCESS.—

14 “(1) IN GENERAL.—The goals and objectives
15 developed through the metropolitan planning process
16 for a metropolitan planning area under this section
17 shall address the following factors as they relate to
18 the performance of the metropolitan area transpor-
19 tation systems to—

20 “(A) support the economic vitality of the
21 metropolitan area, especially by enabling global
22 competitiveness, productivity, and efficiency, in-
23 cluding through services provided by public and
24 private operators;

1 “(B) increase the safety of the transpor-
2 tation system for motorized and nonmotorized
3 users;

4 “(C) increase the security of the transpor-
5 tation system for motorized and nonmotorized
6 users;

7 “(D) increase the accessibility and mobility
8 of people and for freight, including through
9 services provided by public and private opera-
10 tors;

11 “(E) protect and enhance the environment,
12 promote energy conservation, and promote con-
13 sistency between transportation improvements
14 and State and local planned growth and eco-
15 nomic development patterns;

16 “(F) enhance the integration and
17 connectivity of the transportation system,
18 across and between modes, for people and
19 freight, including through services provided by
20 public and private operators;

21 “(G) promote efficient system management
22 and operation; and

23 “(H) emphasize the preservation of the ex-
24 isting transportation system, including services
25 provided by public and private operators.

1 “(2) FAILURE TO CONSIDER FACTORS.—The
2 failure to consider any factor specified in paragraph
3 (1) shall not be reviewable by any court under title
4 23 or this title, subchapter H of chapter 5 of title
5 5, or chapter 7 of title 5 in any matter affecting a
6 transportation plan, a transportation improvement
7 plan, a project or strategy, or the certification of a
8 planning process.

9 “(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

10 “(1) IN GENERAL.—Each metropolitan plan-
11 ning organization shall prepare, and update at least
12 every five years a transportation plan for its metro-
13 politan planning area in accordance with the require-
14 ments of this subsection.

15 “(2) TRANSPORTATION PLAN.—A transpor-
16 tation plan under this section shall be in a form that
17 the Secretary determines to be appropriate and shall
18 contain, at a minimum, the following:

19 “(A) An identification of transportation fa-
20 cilities (including but not necessarily limited to
21 major roadways, transit, multimodal and inter-
22 modal facilities, and intermodal connectors)
23 that should function as an integrated metropoli-
24 tan transportation system, giving emphasis to
25 those facilities that serve important national

1 and regional transportation functions. In for-
2 mulating the transportation plan, the metropoli-
3 tan planning organization shall consider factors
4 described in subsection (f) as such factors re-
5 late to a 20-year forecast period.

6 “(B) A financial plan that demonstrates
7 how the adopted transportation plan can be im-
8 plemented, indicates resources from public and
9 private sources that are reasonably expected to
10 be made available to carry out the plan, and
11 recommends any additional financing strategies
12 for needed projects and programs. The financial
13 plan may include, for illustrative purposes, ad-
14 ditional projects that would be included in the
15 adopted transportation plan if reasonable addi-
16 tional resources beyond those identified in the
17 financial plan were available. However, no illus-
18 trative project may be advanced without an ac-
19 tion of the Secretary. For the purpose of devel-
20 oping the transportation plan, the metropolitan
21 planning organization, transit operator and
22 State shall cooperatively develop estimates of
23 funds that will be available to support plan im-
24 plementation.

1 “(C) Operational and management strate-
2 gies to improve the performance of existing
3 transportation facilities to relieve vehicular con-
4 gestion and maximize the safety and mobility of
5 people and goods.

6 “(D) Capital investment and other strate-
7 gies to preserve the existing metropolitan trans-
8 portation infrastructure and provide for
9 multimodal capacity increases based on regional
10 priorities and needs.

11 “(E) Proposed transportation and transit
12 enhancement activities.

13 “(3) COORDINATION WITH CLEAN AIR ACT
14 AGENCIES.—In metropolitan areas which are in
15 nonattainment for ozone or carbon monoxide
16 under the Clean Air Act, the metropolitan plan-
17 ning organization shall coordinate the develop-
18 ment of transportation plan with the process
19 for development of the transportation control
20 measures of the State implementation plan re-
21 quired by the Clean Air Act.

22 “(4) TRANSPORTATION CONFORMITY.—

23 “(A) For the purposes of Section 7506 of
24 title 42, United States Code, the transportation
25 plan shall be considered to be a transportation

1 plan or a portion of a transportation plan, de-
2 veloped pursuant to this section that extends
3 for the longest of the following periods—

4 “(i) the first 10-year period of any
5 such plan,

6 “(ii) the latest year in the area’s ap-
7 plicable implementation plan which con-
8 tains a motor vehicle emissions budget, or

9 “(iii) the completion date of a region-
10 ally significant project, if the project re-
11 quires approval before the subsequent con-
12 formity determination.

13 “(B) A regional motor vehicle emissions
14 analysis for the last year of the transportation
15 plan shall be developed for information pur-
16 poses only, if such year extends beyond the time
17 frame established by subparagraph (A). The re-
18 sults of the analysis shall be provided to in-
19 volved governors, the Administrator of the En-
20 vironmental Protection Agency, and the Sec-
21 retary of the Department of Transportation,
22 and should be considered by air quality and
23 transportation planning agencies in subsequent
24 updates of air quality and transportation plans.

1 The results of this analysis shall be made avail-
2 able to the public.

3 ~~“(5) PARTICIPATION BY INTERESTED PAR-~~
4 ~~TIES.—~~Before the approval of a transportation plan
5 by the Governor and metropolitan planning organi-
6 zation, each metropolitan planning organization shall
7 provide citizens, affected public agencies, representa-
8 tives of public transportation employees, freight
9 shippers, providers of freight transportation services,
10 private providers of transportation, representatives
11 of users of public transit, representatives of users of
12 pedestrian walkways and bicycle transportation fa-
13 cilities, and other interested parties with a reason-
14 able opportunity to comment on the transportation
15 plan, in a manner that the Secretary deems appro-
16 priate.

17 ~~“(6) APPROVAL OF TRANSPORTATION PLAN.—~~

18 ~~“(A) Each transportation plan prepared by~~
19 a metropolitan planning organization shall be—

20 ~~“(i) approved by the MPO, and~~

21 ~~“(ii) submitted to the Governor for~~
22 approval of the first five years of the plan.

23 ~~“(B) The projects listed in the first five~~
24 years of the plan may be selected for advance-
25 ment consistent with the project selection re-

1 requirements. Major amendments (addition, dele-
 2 tion, or concept and scope change of a region-
 3 ally significant project) to this list would re-
 4 quire appropriate public involvement, financial
 5 planning, transportation conformity analyses
 6 and a finding by the FHWA and FTA that the
 7 amended plan was produced in a manner con-
 8 sistent with this section.

9 “(7) INCLUDED PROJECTS.—

10 “(A) PROJECTS UNDER CHAPTER 1 OF
 11 TITLE 23 AND CHAPTER 53 OF TITLE 49.—A
 12 transportation plan developed under this section
 13 for a metropolitan area shall include the
 14 projects and strategies within the area that are
 15 proposed for funding under chapter 1 of title
 16 23 and chapter 53 of title 49.

17 “(B) PROJECTS UNDER CHAPTER 2 OF
 18 TITLE 23—REGIONALLY SIGNIFICANT
 19 PROJECTS.—Regionally significant projects pro-
 20 posed for funding under chapter 2 of title 23
 21 shall be identified individually in the metropoli-
 22 tan transportation plan.

23 “(C) OTHER PROJECTS.—Projects pro-
 24 posed for funding under chapter 2 of title 23
 25 that are not determined to be regionally signifi-

1 cant shall be grouped in 1 line item or identi-
 2 fied individually in the metropolitan transpor-
 3 tation plan.

4 ~~“(8) SELECTION OF PROJECTS.—~~

5 ~~“(A) IN GENERAL.—~~Except as otherwise
 6 provided in subsection (h)(4) the selection of
 7 federally funded projects in metropolitan plan-
 8 ning areas shall be carried out, from the ap-
 9 proved transportation plan—

10 ~~“(i) by—~~

11 ~~“(I) in the case of projects under~~
 12 chapter 1 of title 23, the State;

13 ~~“(II) in the case of projects~~
 14 under section 5307 of this title, the
 15 designated transit funding recipients;
 16 and

17 (III) in the case of projects under
 18 5308, 5310, 5311, and 5317, the
 19 State; and

20 ~~“(ii) in cooperation with the metro-~~
 21 politan planning organization.

22 ~~“(B) MODIFICATIONS TO PROJECT PRI-~~
 23 ORITY.—Notwithstanding any other provision of
 24 law, action by the Secretary shall not be re-
 25 quired to advance a project from the first five

1 years of the plan included in the approved
2 transportation plan in place of another project
3 in the same five-year period.

4 “(9) PUBLICATION.—

5 “(A) PUBLICATION OF TRANSPORTATION
6 PLAN.—A transportation plan involving federal
7 participation shall be published or otherwise
8 made readily available by the metropolitan plan-
9 ning organization for public review.

10 “(B) PUBLICATION OF ANNUAL LISTINGS
11 OF PROJECTS.—An annual listing of projects,
12 including investments in pedestrian walkways
13 and bicycle transportation facilities, for which
14 Federal funds have been obligated in the pre-
15 ceeding five years shall be published or otherwise
16 made available by the cooperative effort of the
17 State, transit operator and the metropolitan
18 planning organization for public review. The
19 listing shall be consistent with the funding cat-
20 egories identified in the first five years of the
21 transportation plan.

22 “(h) TRANSPORTATION MANAGEMENT AREAS.—

23 “(1) REQUIRED IDENTIFICATION.—The Sec-
24 retary shall identify as a transportation management
25 area each urbanized area (as defined by the Bureau

1 of the Census) with a population of over 200,000 in-
2 dividuals.

3 “(2) TRANSPORTATION PLANS.—In a metropoli-
4 tan planning area serving a transportation manage-
5 ment area, transportation plans shall be based on a
6 continuing and comprehensive transportation plan-
7 ning process carried out by the metropolitan plan-
8 ning organization in cooperation with the State and
9 transit operators.

10 “(3) CONGESTION MANAGEMENT SYSTEM.—
11 Within a metropolitan planning area serving a trans-
12 portation management area, the transportation plan-
13 ning process under this section shall address conges-
14 tion management through a process that provides
15 for effective management and operation, based on a
16 cooperatively developed and implemented metropoli-
17 tan-wide strategy, of new and existing transportation
18 facilities eligible for funding under title 23 and chap-
19 ter 53 of this title through the use of travel demand
20 reduction and operational management strategies.
21 The Secretary shall establish an appropriate phase-
22 in schedule for compliance with the requirements of
23 this section but no sooner than one-year after the
24 identification of a transportation management area.

25 “(4) SELECTION OF PROJECTS.—

1 “(A) IN GENERAL.—All federally funded
2 projects carried out within the boundaries of a
3 metropolitan planning area serving a transpor-
4 tation management area under title 23 (exclud-
5 ing projects carried out on the National High-
6 way System and projects carried out under the
7 bridge program or the Interstate maintenance
8 program) or under chapter 53 of this title shall
9 be selected for implementation from the ap-
10 proved transportation plan by the metropolitan
11 planning organization designated for the area in
12 consultation with the State and any affected
13 public transit operator.

14 “(B) NATIONAL HIGHWAY SYSTEM
15 PROJECTS.—Projects, carried out within the
16 boundaries of a metropolitan planning area
17 serving a transportation management area, on
18 the National Highway System and projects ear-
19 ried out within such boundaries under the
20 bridge program or the Interstate maintenance
21 program under title 23 shall be selected for im-
22 plementation from the approved transportation
23 plan by the State in cooperation with the met-
24 ropolitan planning organization designated for
25 the area.

1 ~~“(5) CERTIFICATION.—~~

2 ~~“(A) IN GENERAL.—The Secretary shall—~~

3 ~~“(i) ensure that the metropolitan~~
4 ~~planning process of an MPO serving a~~
5 ~~transportation management area is being~~
6 ~~carried out in accordance with applicable~~
7 ~~provisions of Federal law; and~~

8 ~~“(ii) subject to subparagraph (B), cer-~~
9 ~~tify, not less often than once every 5 years~~
10 ~~that the requirements of this paragraph~~
11 ~~are met with respect to the metropolitan~~
12 ~~planning process.~~

13 ~~“(B) REQUIREMENTS FOR CERTIFI-~~
14 ~~CATION.—The Secretary may make the certifi-~~
15 ~~cation under subparagraph (A) if—~~

16 ~~“(i) the transportation planning proc-~~
17 ~~ess complies with the requirements of this~~
18 ~~section and other applicable requirements~~
19 ~~of Federal law; and~~

20 ~~“(ii) there is a transportation plan for~~
21 ~~the metropolitan planning area that has~~
22 ~~been approved by the metropolitan plan-~~
23 ~~ning organization and the Governor.~~

24 ~~“(C) EFFECT OF FAILURE TO CERTIFY.—~~

1 “(i) WITHHOLDING OF PROJECT
2 FUNDS.—If a metropolitan planning proe-
3 cess of an metropolitan planning organiza-
4 tion serving a TMA is not certified, the
5 Secretary may withhold a portion or all of
6 the funds available to metropolitan plan-
7 ning area of the metropolitan planning or-
8 ganization for projects funded under title
9 23 and chapter 53 of this title.

10 “(ii) RESTORATION OF WITHHELD
11 FUNDS.—The withheld funds shall be re-
12 stored to the metropolitan planning area at
13 such time as the metropolitan planning
14 process is certified by the Secretary.

15 “(D) REVIEW OF CERTIFICATION.—In
16 making certification determinations under this
17 paragraph, the Secretary shall provide for pub-
18 lic involvement appropriate to the metropolitan
19 area under review.

20 “(i) ABBREVIATED PLANS FOR CERTAIN AREAS.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 in the case of a metropolitan area not designated as
23 a transportation management area under this sec-
24 tion, the Secretary may provide for the development
25 of an abbreviated transportation plan for the metro-

1 metropolitan planning area that the Secretary determines
2 is appropriate to achieve the purposes of this sec-
3 tion, taking into account the complexity of transpor-
4 tation problems in the area.

5 “(2) NONATTAINMENT AREAS.—The Secretary
6 may not permit abbreviated plans for a metropolitan
7 area that is in nonattainment for ozone or carbon
8 monoxide under the Clean Air Act (42 U.S.C. 7401
9 et seq.).

10 “(j) ADDITIONAL REQUIREMENTS FOR CERTAIN
11 NONATTAINMENT AREAS.—

12 “(1) IN GENERAL.—Notwithstanding any other
13 provisions of title 23 or chapter 53 of this title, for
14 transportation management areas classified as non-
15 attainment for ozone or carbon monoxide pursuant
16 to the Clean Air Act, Federal funds may not be ad-
17 vanced in such area for any highway project that
18 will result in a significant increase in carrying ca-
19 pacity for single-occupant vehicles unless the project
20 is addressed through a congestion management pro-
21 cess.

22 “(2) APPLICABILITY.—This subsection applies
23 to a nonattainment area within the metropolitan
24 planning area boundaries determined under sub-
25 section (e).

1 “(k) LIMITATION ON STATUTORY CONSTRUCTION.—

2 Nothing in this section shall be construed to confer on
3 a metropolitan planning organization the authority to im-
4 pose legal requirements on any transportation facility,
5 provider, or project not eligible under title 23 or chapter
6 53 of this title.

7 “(l) FUNDING.—Funds set aside under section 104(f)
8 of title 23 or section 5305(h) of this title shall be available
9 to carry out this section.

10 “(m) CONTINUATION OF CURRENT REVIEW PRAC-
11 TICE.—Since plans described in this section are subject
12 to a reasonable opportunity for public comment, individual
13 projects included in plans are subject to review under the
14 National Environmental Policy Act of 1969 (42 U.S.C.
15 4321 et seq.), and decisions by the Secretary concerning
16 plans described in this section have not been reviewed
17 under such Act as of January 1, 1997, any decision by
18 the Secretary concerning a plan described in this section
19 shall not be considered to be a Federal action subject to
20 review under the National Environmental Policy Act of
21 1969 (42 U.S.C. 4321 et seq.).

22 “(n) RELATIONSHIP TO THE NEPA PROCESS.—

23 “(1) To expedite the planning and development
24 of transportation improvements in compliance with
25 this section and section 5204 and the National Envi-

1 ronmental Policy Act (42 U.S.C. 4321 et seq.); to
2 facilitate compliance with the Clean Water Act (33
3 U.S.C. 1251 et seq.) and other Federal environ-
4 mental laws; and to fulfill the directive in section
5 1308 of the Transportation Equity Act for the 21st
6 Century, Public Law 105–206, to integrate the
7 major investment study requirement into the trans-
8 portation planning and National Environmental Pol-
9 icy Act processes; the Secretary and heads of other
10 Federal agencies shall presume that the results of
11 studies developed as part of the planning process es-
12 tablish the basis for an environmental assessment or
13 impact statement, provided that such studies, pursu-
14 ant to the provisions of this section—

15 “(A) are consistent with subsection (a)(4)
16 of this section;

17 “(B) provided opportunities for citizens
18 and interested parties to participate during the
19 studies;

20 “(C) included consideration of an appro-
21 priate range of alternatives, such as alternative
22 modes, technologies, general alignments, and
23 policies; and

24 “(D) considered the planning factors of
25 subsection (f)(1).

1 “(2) The results of studies developed as part of
2 the planning process and that are presumed to es-
3 tablish the basis for an environmental assessment or
4 impact statement, as described in subsection (1) of
5 this section, include, but are not limited to—

6 “(A) the purpose and need;

7 “(B) the alternatives selected for evalua-
8 tion in an environmental assessment or impact
9 statement; and

10 “(C) an assessment of environmental im-
11 pacts related to development growth, including
12 indirect and cumulative effects, that is con-
13 sistent with local land use, growth management,
14 or development plans.

15 “(3) The results of studies developed during the
16 planning process may be appended to or incor-
17 porated by reference in and used to substantiate an
18 environmental assessment or impact statement.

19 **“§ 5204. Statewide transportation planning**

20 “(a) GENERAL REQUIREMENTS.—

21 “(1) DEVELOPMENT OF PLANS AND PRO-
22 GRAMS.—To accomplish the objectives stated in sec-
23 tion 5201, each State shall develop a statewide
24 transportation plan and a statewide Transportation

1 Improvement Program (STIP) for all areas of the
2 State subject to section 5203.

3 “(2) CONTENTS.—The statewide transportation
4 plan and the STIP developed for each State shall
5 provide for the development and integrated manage-
6 ment and operation of transportation systems and
7 facilities (including pedestrian walkways and bicycle
8 transportation facilities) that will function as an
9 intermodal transportation system for the State and
10 an integral part of an intermodal transportation sys-
11 tem for the State and an integral part of an inter-
12 modal transportation system for the United States.

13 “(3) PROCESS OF DEVELOPMENT.—The process
14 for developing the statewide plan and the STIP shall
15 provide for consideration of all modes of transpor-
16 tation and the policies stated in section 5201, and
17 shall be continuing, cooperative, and comprehensive
18 to the degree appropriate, based on the complexity
19 of the transportation problems to be addressed.

20 “(b) COORDINATION WITH METROPOLITAN PLAN-
21 NING; STATE IMPLEMENTATION PLAN.—A State shall—

22 “(1) coordinate planning carried out under this
23 section with the transportation planning activities
24 carried out under section 5203 of this title for met-
25 ropolitan areas of the State and with other related

1 Statewide planning activities such as trade and eco-
 2 nomic development and related multi-State planning
 3 efforts;

4 “(2) develop the transportation portion of the
 5 State implementation plan as required by the Clean
 6 Air Act (42 U.S.C. 7401 et seq.); and

7 “(3) participate in the integration of planning
 8 and environmental studies pursuant to section
 9 5203(n) of this chapter.

10 “(c) INTERSTATE AGREEMENTS.—The consent of
 11 Congress is granted to 2 or more States entering into
 12 agreements or compacts, not in conflict with any law of
 13 the United States, for cooperative efforts and mutual as-
 14 sistance in support of activities authorized under this sec-
 15 tion related to interstate areas and localities in the States
 16 and establishing authorities the States consider desirable
 17 for making the agreements and compacts effective.

18 “(d) SCOPE OF PLANNING PROCESS.—

19 “(1) IN GENERAL.—Each State shall carry out
 20 a statewide transportation planning process that
 21 provides for consideration of projects, strategies and
 22 implementing projects and services that will—

23 “(A) support the economic vitality of the
 24 United States, the States, non-metropolitan
 25 areas, and metropolitan areas, especially by en-

1 abling global competitiveness, productivity, and
2 efficiency;

3 “(B) increase the safety of the transpor-
4 tation system for motorized and non-motorized
5 users;

6 “(C) increase the security of the transpor-
7 tation system for motorized and nonmotorized
8 users;

9 “(D) increase the accessibility and mobility
10 of people and freight;

11 “(E) protect and enhance the environment,
12 promote energy conservation, promote consist-
13 ency between transportation improvements and
14 State and local planned growth and economic
15 development patterns, and improve the quality
16 of life;

17 “(F) enhance the integration and
18 connectivity of the transportation system,
19 across and between modes throughout the
20 State, for people and freight;

21 “(G) promote efficient system management
22 and operation; and

23 “(H) emphasize the preservation of the ex-
24 isting transportation system.

1 “(2) FAILURE TO CONSIDER FACTORS.—The
2 failure to consider any factor specified in paragraph
3 (1) of this subsection shall not be reviewable by any
4 court under title 23 or this title, subchapter H of
5 chapter 5 of title 5, or chapter 7 of title 5 in any
6 matter affecting a statewide transportation plan, the
7 STIP, a project or strategy, or the certification of
8 a planning process.

9 “(e) ADDITIONAL REQUIREMENTS.—In carrying out
10 planning under this section, each State shall consider, at
11 a minimum—

12 “(1) with respect to non-metropolitan areas, the
13 concerns of affected local officials with responsibility
14 for transportation;

15 “(2) the concerns of Indian tribal governments
16 and Federal land management agencies that have
17 jurisdiction over land within the boundaries of the
18 State; and

19 “(3) coordination of transportation plans, the
20 STIP, and planning activities with related planning
21 activities being carried out outside of metropolitan
22 planning areas and between States;

23 “(f) STATEWIDE TRANSPORTATION PLAN.—

24 “(1) DEVELOPMENT.—Each State shall develop
25 a statewide transportation plan, with a minimum

1 20-year forecast period, updated at least every five
2 years, for all areas of the State, that provides for
3 the development and implementation of the inter-
4 modal transportation system of the State.

5 “(2) CONSULTATION WITH GOVERNMENTS.—

6 “(A) METROPOLITAN AREAS.—The state-
7 wide transportation plan shall be developed for
8 each metropolitan area in the State in coopera-
9 tion with the metropolitan planning organiza-
10 tion designated for the metropolitan area under
11 section 5203.

12 “(B) NON-METROPOLITAN AREAS.—With
13 respect to non-metropolitan areas, the statewide
14 transportation plan shall be developed in con-
15 sultation with affected non-metropolitan offi-
16 cials with responsibility for transportation. The
17 Secretary shall not review or approve the con-
18 sultation process in each State.

19 “(C) INDIAN TRIBAL AREAS.—With respect
20 to each area of the State under the jurisdiction
21 of an Indian tribal government, the statewide
22 transportation plan shall be developed in con-
23 sultation with the tribal government and the
24 Secretary of the Interior.

1 “(3) PARTICIPATION BY INTERESTED PAR-
2 THES.—In developing the statewide transportation
3 plan, the State shall—

4 “(A) provide citizens, affected public agen-
5 cies, representatives of public transportation
6 employees, freight shippers, private providers of
7 transportation, representatives of users of pub-
8 lic transportation, representatives of users of
9 pedestrian walkways and bicycle transportation
10 facilities, providers of freight transportation
11 services, and other interested parties with a
12 reasonable opportunity to comment on the pro-
13 posed plan; and

14 “(B) identify transportation strategies nec-
15 essary to efficiently serve the mobility needs of
16 people.

17 “(4) FINANCIAL PLAN.—The statewide trans-
18 portation plan may include a financial plan that
19 demonstrates how the adopted statewide transpor-
20 tation plan can be implemented, indicates resources
21 from public and private sources that are reasonably
22 expected to be made available to carry out the plan,
23 and recommends any additional financing strategies
24 for needed projects and programs. The financial
25 plan may include, for illustrative purposes, addi-

1 tional projects that would be included in the adopted
 2 statewide transportation plan if reasonable addi-
 3 tional resources beyond those identified in the finan-
 4 cial plan were available.

5 “(5) SELECTION OF PROJECTS FROM ILLUS-
 6 TRATIVE LIST.—A State shall not be required to se-
 7 lect any project from the illustrative list of addi-
 8 tional projects included in the financial plan de-
 9 scribed in paragraph (4).

10 “(6) EXISTING SYSTEM.—The statewide trans-
 11 portation plan should include capital, operations and
 12 management strategies, investments, procedures,
 13 and other measures to ensure the preservation and
 14 most efficient use of the existing transportation sys-
 15 tem.

16 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT
 17 PROGRAM (STIP).—

18 “(1) DEVELOPMENT.—Each State shall develop
 19 a statewide transportation improvement program for
 20 all areas of the State.

21 “(2) CONSULTATION WITH GOVERNMENTS.—

22 “(A) METROPOLITAN AREAS.—With re-
 23 spect to each metropolitan area in the State,
 24 the program shall be developed in cooperation
 25 with the metropolitan planning organization

1 designated for the metropolitan area under sec-
2 tion 5203.

3 “(B) NON-METROPOLITAN AREAS.—With
4 respect to each non-metropolitan area in the
5 State, the program shall be developed in con-
6 sultation with affected non-metropolitan local
7 officials with responsibility for transportation.
8 The Secretary shall not review or approve the
9 specific consultation process in the State.

10 “(C) INDIAN TRIBAL AREAS.—With respect
11 to each area of the State under the jurisdiction
12 of an Indian tribal government, the program
13 shall be developed in consultation with the trib-
14 al Government and the Secretary of the Inte-
15 rior.

16 “(3) PARTICIPATION BY INTERESTED PAR-
17 TIES.—In developing the program, the State shall
18 provide citizens, affected public agencies, representa-
19 tives of public transportation employees, freight
20 shippers, private providers of transportation, pro-
21 viders of freight transportation services, representa-
22 tives of users of public transit, representatives of
23 users of pedestrian walkways and bicycle transpor-
24 tation facilities, and other interested parties with a

1 reasonable opportunity to comment on the proposed
2 program.

3 ~~“(4) INCLUDED PROJECTS.—~~

4 ~~“(A) IN GENERAL.—~~A transportation im-
5 provement program developed under this sub-
6 section for a state shall include federally sup-
7 ported surface transportation expenditures
8 within the boundaries of the State. The pro-
9 gram shall cover a minimum of five years, iden-
10 tify projects by year, be fiscally constrained by
11 year, and be updated at least every five years.
12 An annual listing of projects for which funds
13 have been obligated in the preceding five years
14 in each metropolitan planning area shall be
15 published or otherwise made available by the
16 cooperative effort of the State, transit operator,
17 and the metropolitan planning organization for
18 public review. Regionally significant projects
19 proposed for funding under chapter 2 of title
20 ~~23~~ shall be identified individually in the trans-
21 portation improvement program. Other projects
22 proposed for funding under chapter 2 of title
23 ~~23~~ that are not determined to be regionally sig-
24 nificant shall be grouped in 1 line item or iden-
25 tified individually. The listing shall be con-

1 sistent with the funding categories identified in
2 the first five years of each metropolitan trans-
3 portation plan.

4 “(B) CONSISTENCY WITH STATEWIDE
5 TRANSPORTATION PLAN.—Each project shall
6 be—

7 “(i) consistent with the statewide
8 transportation plan developed under this
9 section for the State;

10 “(ii) identical to the project or phase
11 of the project as described in each year of
12 the initial five years of an approved metro-
13 politan transportation plan; and

14 “(iii) in conformance with the applica-
15 ble State air quality implementation plan
16 developed under the Clean Air Act (42
17 U.S.C. 7401 et seq.); if the project is ear-
18 ried out in an area designated as non-
19 attainment for ozone or carbon monoxide
20 under that Act.

21 “(C) REQUIREMENT OF ANTICIPATED
22 FULL FUNDING.—The STIP shall include a
23 project, or an identified phase of a project, only
24 if full funding can reasonably be anticipated to

1 be available for the project within the time pe-
2 riod contemplated for completion of the project.

3 “(D) FINANCIAL PLAN.—The STIP may
4 include a financial plan that demonstrates how
5 the approved STIP can be implemented, indi-
6 cates resources from public and private sources
7 that are reasonably expected to be made avail-
8 able to carry out the STIP, and recommends
9 any additional financing strategies for needed
10 projects and programs. The financial plan may
11 include, for illustrative purposes, additional
12 projects that would be included in the adopted
13 transportation plan if reasonable additional re-
14 sources beyond those identified in the financial
15 plan were available.

16 “(E) SELECTION OF PROJECTS FROM IL-
17 LUSTRATIVE LIST.—

18 “(i) NO REQUIRED SELECTION.—Not-
19 withstanding subparagraph (D), a State
20 shall not be required to select any project
21 from the illustrative list of additional
22 projects included in the financial plan
23 under subparagraph (D).

24 “(ii) REQUIRED ACTION BY THE SEC-
25 RETARY.—Action by the Secretary shall be

1 required for a State to select any project
2 from the illustrative list of additional
3 projects included in the financial plan
4 under subparagraph (D) for inclusion in
5 an approved STIP.

6 “(F) PRIORITIES.—The STIP shall reflect
7 the priorities for programming and expendi-
8 tures of funds, including transportation and
9 transit enhancement activities, required by title
10 23 and chapter 53 of this title, and transpor-
11 tation control measures included in the State’s
12 air quality implementation plan.

13 “(5) PROJECT SELECTION FOR AREAS OF LESS
14 THAN 50,000 POPULATION.—Projects carried out in
15 areas with populations of less than 50,000 individ-
16 uals shall be selected, from the approved STIP (ex-
17 cluding projects carried out on the National High-
18 way System and projects carried out under the
19 bridge program or the interstate maintenance pro-
20 gram under title 23 or sections 5308, 5310, 5311,
21 and 5317 of this title), by the State in cooperation
22 with the affected non-metropolitan local officials
23 with responsibility for transportation. Projects ear-
24 ried out in areas with populations of less than
25 50,000 individuals on the National Highway System

1 or under the bridge program or the interstate main-
2 tenance program under title ~~23~~ or under sections
3 ~~5308, 5310, 5311, and 5317~~ of this title shall be se-
4 lected, from the approved statewide transportation
5 improvement program, by the State in consultation
6 with the affected local officials with responsibility for
7 transportation.

8 “(6) STIP APPROVAL.—A STIP developed
9 under this subsection shall be reviewed and based on
10 a current Planning Finding approved at least every
11 five years by the Secretary.

12 “(7) PLANNING FINDING.—A finding shall be
13 made by the Secretary at least every five years that
14 the transportation planning process(es) through
15 which statewide transportation plans and programs
16 are developed are consistent with this section and
17 section ~~5203~~.

18 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
19 Notwithstanding any other provision of law, action
20 by the Secretary shall not be required to advance a
21 project included in the approved STIP in place of
22 another project in the program.

23 “(h) FUNDING.—Funds set aside pursuant to section
24 ~~104(i)~~ of title ~~23~~ and ~~5305(h)~~ of this title shall be avail-
25 able to carry out this section.

1 “(i) TREATMENT OF CERTAIN STATE LAWS AS CON-
2 GESTION MANAGEMENT SYSTEMS.—For purposes of this
3 section and section 5203 of this title, State laws, rules
4 or regulations pertaining to congestion management sys-
5 tems or programs may constitute the congestion manage-
6 ment system under section 5203(h)(3) if the Secretary
7 finds that the State laws, rules or regulations are con-
8 sistent with, and fulfill the intent of, the purposes of sec-
9 tion 5203, as appropriate.

10 “(j) CONTINUATION OF CURRENT REVIEW PRAC-
11 TICE.—Since the statewide transportation plan and the
12 STIP described in this section are subject to a reasonable
13 opportunity for public comment, since individual projects
14 included in the statewide transportation plans and the
15 STIP are subject to review under the National Environ-
16 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and
17 since decisions by the Secretary concerning statewide
18 transportation plans or the STIP described in this section
19 have not been reviewed under such Act as of January 1,
20 1997, any decision by the Secretary concerning a metro-
21 politan or statewide transportation plan or the STIP de-
22 scribed in this section shall not be considered to be a Fed-
23 eral action subject to review under the National Environ-
24 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1 “(k) INTEGRATION OF PLANNING AND ENVIRON-
 2 MENTAL STUDIES.—Section 5203(n) of this chapter shall
 3 also apply to the planning process established under this
 4 section, except that the planning factors to be considered
 5 shall be those set forth in subsection (d) of this section.”.

6 (b) CONSISTENCY OF CONFORMITY TIMING WITH
 7 THE TRANSPORTATION PLAN.—Section 7506(e)(4) of title
 8 42, United States Code, is amended—

9 (1) in subparagraph (B)(ii) by striking “; but
 10 in no case shall such determinations for transpor-
 11 tation plans and programs be less frequent than
 12 every three years”, and inserting “but the frequency
 13 for making conformity determinations for transpor-
 14 tation plans must be consistent with subparagraph
 15 (E)”;

16 (2) by inserting after subparagraph (D) the fol-
 17 lowing:

18 “(E) The frequency for making conformity
 19 determinations on updated transportation plans
 20 shall be every five years, except when:

21 “(i) the metropolitan planning organi-
 22 zation chooses to update a transportation
 23 plan more frequently, or

24 “(ii) changes to the applicable imple-
 25 mentation plan trigger a new conformity

1 determination, as provided in regulations
 2 promulgated by the Administrator pursu-
 3 ant to subparagraph (A) above.”.

4 (e) CONFORMING CLARIFICATION.—Upon date of en-
 5 actment of this Act, the references to “program” and “im-
 6 provement program” in section 7506 of title 42, United
 7 States Code, shall refer to the transportation plan devel-
 8 oped pursuant to section 5203 of title 49, United States
 9 Code.

10 (d) STREAMLINED STATE CONFORMITY RULE RE-
 11 QUIREMENTS.—Section 7506(e)(4)(C) of title 42, United
 12 States Code, is amended to read as follows:

13 “(C) Such procedures shall also include a
 14 requirement that each State shall submit to the
 15 Administrator and the Secretary of Transpor-
 16 tation, within 24 months of such date of enact-
 17 ment, a revision to its implementation plan that
 18 includes criteria and procedures for consultation
 19 in accordance with the Administrator’s criteria
 20 and procedures for consultation required by
 21 subparagraph (B)(i) of this paragraph.”.

22 (e) CONFORMING AMENDMENTS.—(1) The table of
 23 chapters for title 49, United States Code, is amended by
 24 inserting the following after the item relating to chapter
 25 51:

“52. Transportation Planning 5201”.

1 “(2) encouraging the development of an inte-
2 grated system of public transportation information;
3 and

4 “(3) providing intercity bus intermodal pas-
5 senger facility grants.

6 **§ 5572. Definitions**

7 “~~In this subchapter—~~

8 “(1) ‘capital project’ means a project for—

9 “(A) acquiring, constructing, improving, or
10 renovating an intermodal facility that is related
11 physically and functionally to intercity bus serv-
12 ice and establishes or enhances coordination be-
13 tween intercity bus service and transportation,
14 including aviation, commuter rail, intercity rail,
15 public transportation, seaports, and the Na-
16 tional Highway System, such as physical infra-
17 structure associated with private bus operations
18 at existing and new intermodal facilities, includ-
19 ing special lanes, curb cuts, ticket kiosks and
20 counters, baggage and package express storage,
21 employee parking, office space, security, and
22 signage; and

23 “(B) establishing or enhancing coordina-
24 tion between intercity bus service and transpor-
25 tation, including aviation, commuter rail, inter-

1 city rail, public transportation, and the Na-
2 tional Highway System through an integrated
3 system of public transportation information.

4 “(2) ‘commuter service’ means service designed
5 primarily to provide daily work trips within the local
6 commuting area.

7 “(3) ‘intercity bus service’ means regularly
8 scheduled bus service for the general public which
9 operates with limited stops over fixed routes con-
10 necting two or more urban areas not in close prox-
11 imity, which has the capacity for transporting bag-
12 gage carried by passengers, and which makes mean-
13 ingful connections with scheduled intercity bus serv-
14 ice to more distant points, if such service is available
15 and may include package express service, if inci-
16 dental to passenger transportation, but does not in-
17 clude air, commuter, water or rail service.

18 “(4) ‘intermodal passenger facility’ means pas-
19 senger terminal that does, or can be modified to, ac-
20 commodate several modes of transportation and re-
21 lated facilities, including some or all of the following:
22 intercity rail, intercity bus, commuter rail, intra-city
23 rail transit and bus transportation, airport limousine
24 service and airline ticket offices, rent-a-car facilities,

1 taxi, private parking, and other transportation serv-
2 ices.

3 “(5) ‘local governmental authority’ includes—

4 “(A) a political subdivision of a State;

5 “(B) an authority of at least one State or
6 political subdivision of a State;

7 “(C) an Indian tribe; and

8 “(D) a public corporation, board, or com-
9 mission established under the laws of the State.

10 “(6) ‘owner or operator of a public transpor-
11 tation facility’ means an owner or operator of inter-
12 city-rail, intercity-bus, commuter-rail, commuter-bus,
13 rail-transit, bus-transit, or ferry services.

14 “(7) ‘recipient’ means a State or local govern-
15 mental authority or a nonprofit organization that re-
16 ceives a grant to carry out this section directly from
17 the Federal government.

18 “(8) ‘Secretary’ means the Secretary of Trans-
19 portation.

20 “(9) ‘state’ means a State of the United States,
21 the District of Columbia, Puerto Rico, the Northern
22 Mariana Islands, Guam, American Samoa, and the
23 Virgin Islands.

24 “(10) ‘urban area’ means an area that includes
25 a municipality or other built-up place that the Sec-

1 retary, after considering local patterns and trends of
2 urban growth, decides is appropriate for a local pub-
3 lic transportation system to serve individuals in the
4 locality.

5 **“§ 5573. Assurance of access to intermodal passenger**
6 **facilities**

7 “Intercity buses and other modes of transportation
8 shall, to the maximum extent practicable, have access to
9 publicly funded intermodal passenger facilities including,
10 but not limited to, those passenger facilities seeking fund-
11 ing under section 5574.

12 **“§ 5574. Intercity bus intermodal passenger facility**
13 **grants**

14 “(a) GENERAL AUTHORITY.—The Secretary of
15 Transportation may make grants under this section to re-
16 cipients in financing a capital project, as defined in section
17 5572 of this chapter, only if the Secretary finds that the
18 proposed project is justified and has adequate financial
19 commitment.

20 “(b) COMPETITIVE GRANT SELECTION.—The Sec-
21 retary shall conduct a national solicitation for applications
22 for grants under this section. Grantees shall be selected
23 on a competitive basis.

24 “(c) SHARE OF NET PROJECT COSTS.—

1 “(1) A grant shall not exceed 50 percent of the
2 net project cost, as determined by the Secretary.

3 “(2) The portion of the net costs of an eligible
4 project that is not funded under this section shall be
5 from an undistributed cash surplus, a replacement
6 or depreciation cash fund or reserve, or new capital
7 and may include up to 30 percent from amounts ap-
8 propriated to or made available to a department or
9 agency of the Federal government that are eligible
10 to be expended for transportation.

11 “(d) REGULATIONS.—The Secretary may issue regu-
12 lations necessary to carry out this section.

13 **“§ 5575. Funding**

14 “(a) MASS TRANSIT ACCOUNT.—

15 “(1) FUNDING.—To carry out this Subchapter,
16 there is authorized to be appropriated for each of
17 fiscal years 2005 through 2009 from the Mass Tran-
18 sit Account of the Highway Trust Fund the amounts
19 made available under section 5338(a)(2)(O) of this
20 title.

21 “(2) CONTRACTUAL OBLIGATIONS.—A grant
22 approved by the Secretary of Transportation that is
23 financed with amounts made available under sub-
24 section (a) of this section is a contractual obligation

1 of the United States Government to pay the Govern-
 2 ment's share of the cost of the project.

3 “(b) ~~HIGHWAY ACCOUNT.~~—

4 “(1) There is authorized to be appropriated
 5 from the Highway Trust Fund (other than the Mass
 6 Transit Account) to carry out this subchapter
 7 \$10,000,000 for each of fiscal years 2005 through
 8 2009.

9 “(2) The funding made available under para-
 10 graph (1) of this subsection shall be available for ob-
 11 ligation in the same manner as if such funds were
 12 apportioned under chapter 1 of title 23 and shall be
 13 subject to any obligation limitation imposed on
 14 funds for Federal-aid highways and highway safety
 15 construction programs.

16 “(c) ~~PERIOD OF AVAILABILITY.~~—Amounts made
 17 available by subsection (a) of this section shall remain
 18 available until expended.”.

19 (b) ~~CONFORMING AMENDMENT.~~—The table of con-
 20 tents for chapter 55 of title 49, United States Code, is
 21 amended by inserting the following at the end:

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

See:

“5571. Policy and Purposes:

“5572. Definitions:

“5573. Assurance of access to intermodal facilities:

“5574. Intercity bus intermodal facility grants:

“5575. Funding.”.

TITLE VII—MISCELLANEOUS

Subtitle A—Railroads

3 SEC. 7101. RAIL CORRIDOR PLANNING.

4 Section 26101(b)(1) of title 49, United States Code,
5 is amended in the first sentence thereof by adding “(1)”
6 after the word “determines” and by adding “or (2) that
7 it is necessary to help promote an effective and efficient
8 system of conventional speed intercity rail passenger oper-
9 ations” after the word “improvements”.

10 SEC. 7102. HIGH SPEED RAIL AUTHORIZATIONS.

11 Section 26104 of Title 49, United States Code, is re-
12 vised to read as follows:

13 “§ 26104. Authorization of appropriations

14 “(a) There are authorized to be appropriated to the
15 Secretary \$25,000,000 each year for fiscal years 2004
16 through 2009 for carrying out section 26101 (including
17 payment of administrative expenses related thereto).

18 “(b) There are authorized to be appropriated to the
19 Secretary \$25,000,000 each year for fiscal years 2004
20 through 2009 for carrying out section 26102 (including
21 payment of administrative expenses related thereto).”

22 “(c) Funds made available under this section shall
23 remain available until expended.”

1 **Subtitle B—Miscellaneous**
2 **Technical Corrections to Title 49**

3 **SEC. 7201. CORRECTION OF OBSOLETE REFERENCES TO**
4 **INTERSTATE COMMERCE COMMISSION.**

5 (a) Except as otherwise provided, a reference in this
6 section to an amendment to, or a repeal of, a section or
7 other provision is deemed to be a reference to a section
8 or other provision of title 49, United States Code.

9 (b)(1) Section 307 (Safety information and interven-
10 tion in Interstate Commerce Commission proceedings) is
11 repealed.

12 (2) The analysis of chapter 3 is amended by striking
13 the item designated “307”.

14 (c) Subsections (d)(1)(C) and (e) of section 333 (Re-
15 sponsibility for rail transportation unification and coordi-
16 nation projects) are amended by striking “Interstate Com-
17 merce Commission” and “Commission” each place the
18 words appear and substituting “Surface Transportation
19 Board” and “Board”, respectively.

20 (d) Section 10903(b)(2) is amended by striking
21 “24706(e) of this title” and substituting “24706(e) of this
22 title before May 31, 1998”.

23 (e) Section 13541(a) is amended by striking “finds
24 that” and all that follows, and substituting—“finds that

1 the exemption is in the public interest and that the appli-
 2 cation of that provision—

3 ~~“(1) is not necessary to carry out the transpor-~~
 4 ~~tation policy of section 13101; and~~

5 ~~“(2) is not needed to protect shippers from the~~
 6 ~~abuse of market power or that the transaction or~~
 7 ~~service is of limited scope.”.~~

8 ~~(f)(1) Section 14704 (Rights and remedies of persons~~
 9 ~~injured by carriers or brokers) is amended as follows:~~

10 ~~(A) In subsection (a) —~~

11 ~~(i) strike “IN GENERAL.—” and all that~~
 12 ~~follows through “injured” and substitute “EN-~~
 13 ~~FORCEMENT OF ORDER.—A person injured”;~~
 14 ~~and~~

15 ~~(ii) redesignate paragraph (2) as sub-~~
 16 ~~section (b)(2); and~~

17 ~~(B) In subsection (b), by striking “Liability and~~
 18 ~~damages” and all that follows through “A carrier”~~
 19 ~~and substitute “LIABILITY AND DAMAGES.—(1) A~~
 20 ~~carrier”.~~

21 ~~(2) Section 14705(e) is amended by striking~~
 22 ~~“14704(b)” and substituting “14704(b)(2)”.~~

23 ~~(g)(1) Subsection (e)(3) of section 24307 (Special~~
 24 ~~transportation) is amended by striking “Interstate Com-~~

1 merce Commission” and substituting “Surface Transpor-
2 tation Board”.

3 (2) Section 24308 (Use of facilities and providing
4 services to Amtrak) is amended by striking “Interstate
5 Commerce Commission” and “Commission” each place
6 the words appear and substituting “Surface Transpor-
7 tation Board” and “Board”, respectively.

8 (3) Section 24311 (Acquiring interests in property by
9 eminent domain) is amended by striking “Interstate Com-
10 merce Commission” and “Commission” each place the
11 words appear and substituting “Surface Transportation
12 Board” and “Board”, respectively.

13 (4) Section 24902 (Goals and requirements) is
14 amended by striking “Interstate Commerce Commission”
15 and “Commission” each place the words appear and sub-
16 stituting “Surface Transportation Board” and “Board”,
17 respectively.

18 (5) Section 24904 (General authority) is amended by
19 striking “Interstate Commerce Commission” and “Com-
20 mission” each place the words appear and substituting
21 “Surface Transportation Board” and “Board”, respec-
22 tively.

1 **Subtitle C—Hazardous Material**
2 **Transportation**

3 **SEC. 7301. DEFINITIONS.**

4 Section 5102 of title 49, United States Code, is
5 amended by revising paragraph (1) to read as follows:

6 “(1) ‘commerce’ means trade or transportation
7 in the jurisdiction of the United States

8 “(A) between a place in a State and a
9 place outside of the State;

10 “(B) that affects trade or transportation
11 between a place in a State and a place outside
12 of the State; or

13 “(C) on a United States-registered air-
14 craft.”

15 **SEC. 7302. REPRESENTATIONS AND TAMPERING WITH HAZ-**
16 **ARDOUS MATERIAL PACKAGING.**

17 Section 5103(b)(1) of title 49, United States Code,
18 is amended by revising subparagraph (A) to read as fol-
19 lows:

20 “(A) apply to a person that—

21 “(i) transports a hazardous material
22 in commerce;

23 “(ii) causes a hazardous material to
24 be transported in commerce;

1 “(iii) manufactures, designs, inspects,
2 tests, reconditions, marks, or repairs a
3 packaging or packaging component rep-
4 resented as qualified for use in trans-
5 porting hazardous material in commerce;

6 “(iv) prepares, accepts, or rejects haz-
7 ardous material for transportation in com-
8 merce;

9 “(v) is responsible for the safety of
10 transporting hazardous material in com-
11 merce;

12 “(vi) certifies compliance with any re-
13 quirement issued under this chapter;

14 “(vii) misrepresents whether it is en-
15 gaged in any of the above activities; or

16 “(viii) performs any other act or func-
17 tion relating to the transportation in com-
18 merce of a hazardous material; and”.

19 **SEC. 7303. HAZARDOUS MATERIAL TRANSPORTATION SAFE-**
20 **TY AND SECURITY.**

21 (a) **ENHANCED AUTHORITY TO DISCOVER HIDDEN**
22 **SHIPMENTS OF HAZARDOUS MATERIAL.**—Section 5121 of
23 title 49, United States Code, is amended by revising sub-
24 section (c) to read as follows:

1 “(e) INSPECTIONS AND INVESTIGATIONS.—(1) A des-
2 igned officer or employee of the Secretary may—

3 “(A) inspect and investigate, at a reason-
4 able time and in a reasonable way, records and
5 property related to a function described in sec-
6 tion 5103(b)(1) of this chapter;

7 “(B) except for the packaging immediately
8 adjacent to its hazardous material contents,
9 gain access to, open, and examine a package of-
10 fered for, or in, transportation when the officer
11 or employee has an objectively reasonable and
12 articulable belief that the package may contain
13 a hazardous material;

14 “(C) remove from transportation a pack-
15 age or related packages in a shipment offered
16 for or in transportation, and for which such of-
17 ficer or employee has an objectively reasonable
18 and articulable belief that the package or pack-
19 ages may pose an imminent hazard, and for
20 which the officer or employee contempora-
21 neously documents that belief in accordance
22 with procedures established by the Secretary;

23 “(D) gather information from the offeror,
24 carrier, packaging manufacturer or retester, or
25 other person responsible for the package or

1 packages, to ascertain the nature and hazards
2 of the contents of the package or packages;

3 “(E) as necessary, under terms and condi-
4 tions specified by the Secretary, order the offer-
5 or, carrier, packaging manufacturer or retester,
6 or other person responsible for the package or
7 packages to have the package or packages
8 transported to, opened and the contents exam-
9 ined and analyzed at a facility appropriate for
10 the conduct of this activity; and

11 “(F) when safety might otherwise be com-
12 promised, authorize properly qualified personnel
13 to assist in the activities conducted under this
14 subsection.

15 “(2) An officer or employee acting under this
16 subsection shall display proper credentials when re-
17 quested.

18 “(3) For instances when, as a result of the in-
19 spection or investigation, an imminent hazard is not
20 found to exist, the Secretary shall develop proce-
21 dures to assist in the safe resumption of transpor-
22 tation of the package or transport unit.”

23 (b) EMERGENCY AUTHORITY FOR HAZARDOUS MA-
24 TERIAL TRANSPORTATION.—Section 5121 is amended by
25 striking subsection (e), redesignating subsection (d) as

1 subsection (c), and adding a new subsection (d) to read
2 as follows:

3 “(d) EMERGENCY ORDERS.—

4 “(1) If, upon inspection, investigation, testing,
5 or research, the Secretary determines that either a
6 violation of a provision of this chapter or a regula-
7 tion issued under this chapter, or an unsafe condi-
8 tion or practice, constitutes or is causing an immi-
9 nent hazard, the Secretary may issue or impose
10 emergency restrictions, prohibitions, recalls, or out-
11 of-service orders, without notice or the opportunity
12 for a hearing, but only to the extent necessary to
13 abate the imminent hazard.

14 “(2) The Secretary’s action under paragraph
15 (1) of this subsection shall be in a written order de-
16 scribing the violation, condition or practice that is
17 causing the imminent hazard, and stating the re-
18 strictions, prohibitions, recalls, or out-of-service or-
19 ders issued or imposed. The order also shall describe
20 the standards and procedures for obtaining relief
21 from the emergency order.

22 “(3) After taking action under paragraph (1) of
23 this subsection, the Secretary shall provide an oppor-
24 tunity for review of that action under section 554 of

1 title 5, if a petition for review is filed within 20 cal-
2 endar days after issuance of the order.

3 “(4) If a petition for review is filed and the re-
4 view is not completed by the end of the 30-day pe-
5 riod beginning on the date the petition was filed, the
6 action will cease to be effective at the end of that
7 period unless the Secretary determines in writing
8 that the emergency situation still exists.

9 “(5) For purposes of this subsection, “out-of-
10 service order” means a mandate that an aircraft,
11 vessel, motor vehicle, train, railcar, locomotive, other
12 vehicle, transport unit, transport vehicle, freight con-
13 tainer, portable tank, or other package not be moved
14 until specified conditions have been met.”

15 (c) ~~SECURITY-SENSITIVE INFORMATION.~~—Section
16 5121 is revised by adding a new subsection (f) to read
17 as follows:

18 “(f) ~~SECURITY-SENSITIVE INFORMATION.~~—

19 “(1) If the Secretary determines that particular
20 information may reveal a vulnerability of a haz-
21 ardous material to attack during transportation in
22 commerce, or may facilitate the diversion of haz-
23 ardous material during transportation in commerce
24 for use in an attack on people or property, the infor-
25 mation may be disclosed only—

1 “(A) to an owner, custodian, offeror or
2 carrier of the hazardous material;

3 “(B) to an officer, employee or agent of a
4 Federal, State, or local government, including a
5 volunteer fire department, concerned with ear-
6 rying out transportation safety laws, protecting
7 hazardous material during the course of trans-
8 portation in commerce, protecting public safety,
9 or national security issues, or enforcing federal
10 laws designed to protect public health or the en-
11 vironment; or

12 “(C) in an administrative or judicial pro-
13 ceeding brought under this chapter, under other
14 federal law designed to protect public health or
15 the environment, or one that addresses terrorist
16 actions or threats of such actions.

17 “(2) The Secretary may make a determination
18 under subsection (1) of this section with respect to
19 a category of information by regulation.

20 “(3) A release of information pursuant to a de-
21 termination under subsection (1) of this section is
22 not a release to the public within the meaning of 5
23 U.S.C. 552.”.

1 (d) ENHANCEMENTS TO SECURITY RISK ASSESS-
2 MENT AND EMERGENCY PREPAREDNESS.—Section 5121
3 is amended by inserting the following after subsection (f):

4 “(g) AUTHORITY FOR GRANTS, COOPERATIVE
5 AGREEMENTS, AND OTHER TRANSACTIONS.—The Sec-
6 retary may enter into grants, cooperative agreements, and
7 other transactions with a person, agency or instrumen-
8 tality of the United States, a unit of State or local govern-
9 ment, an Indian tribe, a foreign government (in coordina-
10 tion with the Department of State), an educational institu-
11 tion, or other entity to expand the risk assessment and
12 emergency response capability with respect to hazardous
13 materials security issues and to carry out this chapter.”.

14 (e) CARGO INSPECTION PROGRAM.—The Secretary of
15 Transportation may randomly inspect cargo at U.S. Cus-
16 toms ports of entry in order to determine the extent to
17 which undeclared hazardous material is being offered for
18 transportation in commerce. Under this program, an offi-
19 cer or employee of the Secretary may open and inspect
20 any cargo shipment at a U.S. Customs port of entry if
21 that shipment has been randomly selected for inspection
22 by a Department supervisor who is not on site. The De-
23 partment of Transportation shall ensure that random in-
24 spections under this program are coordinated in advance
25 with the Department of Homeland Security and provide

1 for the effective handling and disposition of any violations
 2 found. The Secretary shall initiate such a program within
 3 one year after the date of enactment of this Act.”

4 **SEC. 7304. ADMINISTRATIVE AUTHORITY FOR TRANSPOR-**
 5 **TATION SERVICE AND INFRASTRUCTURE AS-**
 6 **SURANCE RESEARCH.**

7 Section 112 of title 49, United States Code, is
 8 amended by adding the following new subsection to the
 9 end:

10 “(f) ADMINISTRATIVE AUTHORITY.—

11 “(1) GRANTS, COOPERATIVE AGREEMENTS, AND
 12 OTHER TRANSACTIONS.—The Administrator may
 13 enter into grants, cooperative agreements, and other
 14 transactions with Federal or other public agencies
 15 (including State and local governments) and private
 16 organizations and other persons to conduct research
 17 into transportation service and infrastructure assur-
 18 ance and to carry out research activities of the Ad-
 19 ministration.

20 “(2) PROHIBITION ON CERTAIN DISCLO-
 21 SURES.—If the Administrator determines that par-
 22 ticular information developed in research sponsored
 23 by the Administration may reveal a systemic vulner-
 24 ability of transportation service or infrastructure,
 25 the information may be disclosed only to a person

1 responsible for the security of the transportation
 2 service or infrastructure or with protecting public
 3 safety or to an officer, employee, or agent of a Fed-
 4 eral, State or local government unit whose need for
 5 the information in the performance of duties is con-
 6 curred in by the Administrator. A release of infor-
 7 mation subject to a determination under this section
 8 is not a release to the public within the meaning of
 9 5 U.S.C. 552.”.

10 **SEC. 7305. POSTAL SERVICE CIVIL PENALTY AUTHORITY.**

11 (a) Section 3001 of title 39, United States Code, is
 12 amended by adding a new subsection (o) as follows:

13 “(o)(1) Except as permitted by law and Postal Serv-
 14 ice regulation, hazardous material is nonmailable.

15 “(2) For purposes of this section, the term ‘haz-
 16 ardous material’ means a substance or material the Sec-
 17 retary of Transportation designates under section 5103(a)
 18 of title 49.”.

19 (b) Chapter 30 of title 39, United States Code, is
 20 amended by adding a new section 3018 at the end as fol-
 21 lows:

22 **“Sec. 3018. Hazardous material; civil penalty**

23 “(a) REGULATIONS.—The Postal Service shall pre-
 24 scribe regulations for the safe transportation of hazardous
 25 material in the mail.

1 “(b) HAZARDOUS MATERIAL IN THE MAIL.—No per-
2 son may—

3 “(1) mail or cause to be mailed a hazardous
4 material that has been declared by statute or Postal
5 Service regulation to be nonmailable;

6 “(2) mail or cause to be mailed a hazardous
7 material in violation of any statute or Postal Service
8 regulation restricting the time, place, or manner in
9 which a hazardous material may be mailed; or

10 “(3) manufacture, distribute, or sell any con-
11 tainer, packaging kit, or similar device that—

12 “(A) is represented, marked, certified, or
13 sold by such person for use in the mailing of a
14 hazardous material; and

15 “(B) fails to conform with any statute or
16 Postal Service regulation setting forth stand-
17 ards for a container, packaging kit, or similar
18 device used for the mailing of a hazardous ma-
19 terial.

20 “(c) CIVIL PENALTY.—

21 “(1) A person that knowingly violates this sec-
22 tion or a regulation issued under this section is lia-
23 ble to the Postal Service for a civil penalty of at
24 least \$250 but not more than \$100,000 for each vio-

1 lation, and for any clean-up costs and damages. A
2 person acts knowingly when—

3 “(A) the person has actual knowledge of
4 the facts giving rise to the violation; or

5 “(B) a reasonable person acting in the cir-
6 cumstances and exercising reasonable care
7 would have that knowledge.

8 “(2) Knowledge by the person of the existence
9 of a statutory provision, or a regulation or require-
10 ment prescribed by the Postal Service is not an ele-
11 ment of an offense under this section.

12 “(3) A separate violation occurs for each day a
13 hazardous material, mailed or caused to be mailed in
14 noncompliance with this section or a regulation
15 issued under this section, is in the mail.

16 “(4) A separate violation occurs for each item
17 containing a hazardous material that is mailed or
18 caused to be mailed in noncompliance with this sec-
19 tion or a regulation issued under this section.

20 “(d) HEARING REQUIREMENT.—The Postal Service
21 may find that a person has violated this section or a regu-
22 lation issued under this section only after notice and an
23 opportunity for a hearing. Under this section, the Postal
24 Service shall impose a penalty and recover clean-up costs

1 and damages by giving the person written notice of the
2 amount of the penalty, clean-up costs, and damages.

3 “(e) PENALTY CONSIDERATIONS.—In determining
4 the amount of a civil penalty under this section, the Postal
5 Service shall consider—

6 “(1) the nature, circumstances, extent, and
7 gravity of the violation;

8 “(2) with respect to the person who committed
9 the violation, the degree of culpability, any history of
10 prior violations, the ability to pay, and any effect on
11 the ability to continue in business;

12 “(3) the impact on postal operations; and

13 “(4) other matters that justice requires.

14 “(f) CIVIL ACTIONS TO COLLECT.—

15 “(1) In accordance with section 409(d) of this
16 title, a civil action may be commenced in an appro-
17 priate district court of the United States to collect
18 a civil penalty, clean-up costs, or damages assessed
19 under this section. In such action, the validity,
20 amount, and appropriateness of the civil penalty,
21 clean-up costs, or damages shall not be subject to re-
22 view.

23 “(2) The Postal Service may compromise the
24 amount of a civil penalty, clean-up costs, or damages

1 assessed under this section before civil action is
2 taken to collect the penalty, costs, or damages.

3 “(g) CIVIL JUDICIAL PENALTIES.—At the request of
4 the Postal Service, the Attorney General may bring a civil
5 action in an appropriate district court of the United States
6 to enforce this chapter or a regulation prescribed or order
7 issued under this chapter. The court may award appro-
8 priate relief, including a temporary or permanent injunc-
9 tion, punitive damages, and assessment of civil penalties
10 considering the same penalty amounts and factors as pre-
11 scribed for the Postal Service in an administrative case
12 under this section.

13 “(h) DEPOSITING AMOUNTS COLLECTED.—Amounts
14 collected under this section shall be paid into the Postal
15 Service Fund established by section 2003 of this title.”.

16 “(e) CONFORMING AMENDMENT.—The chapter anal-
17 ysis for chapter 30 of title 39, United States Code, is
18 amended by adding the following:

“3018. Hazardous material; civil penalty.”.

19 **SEC. 7306. REGISTRATION.**

20 “(a) IN GENERAL.—Section 5108 of title 49, United
21 States Code, is amended—

22 (1) by striking “class A or B explosive” in sub-
23 section (a)(1)(B) and inserting “Division 1.1, 1.2, or
24 1.3 explosive material”; and

1 (2) by revising subsection (a)(2)(B) to read as
2 follows:

3 “(B) a person manufacturing, designing,
4 inspecting, testing, reconditioning, marking, or
5 repairing a packaging or packaging component
6 represented as qualified for use in transporting
7 a hazardous material in commerce.”

8 (b) CLARIFICATION OF TITLE 18 EXEMPTION.—See
9 tion 845(a)(1) of title 18, United States Code, is amended
10 to read as follows:

11 “(1) aspects of the transportation of explosive
12 materials via railroad, water, highway, or air that
13 pertain to safety, including security, and are regu-
14 lated by the Department of Transportation or the
15 Department of Homeland Security;”

16 **SEC. 7307. SHIPPING PAPER RETENTION.**

17 Section 5110 of title 49, United States Code, is
18 amended—

19 (1) in subsection (a), by striking “under sub-
20 section (b) of this section” and inserting “by regula-
21 tion”;

22 (2) by striking subsection (b) and redesignating
23 subsections (c)—(e) as subsections (b)—(d); and

24 (3) by revising the first sentence in subsection
25 (d), as redesignated, to read as follows: “The person

1 that provided the shipping paper and the carrier re-
2 quired to keep it under this section shall retain the
3 paper, or an electronic image of it, for a period of
4 3 years after the shipping paper was provided to the
5 carrier, to be accessible through their respective
6 principal places of business.”.

7 **SEC. 7308. PLANNING AND TRAINING GRANTS.**

8 (a) Section 5116 of title 49, United States Code, is
9 amended—

10 (1) in the second sentence of subsection (c), by
11 striking “of the State or tribe under subsections
12 (a)(2)(A) and (b)(2)(A)” and inserting “received by
13 the State or tribe under subsections (a)(1) and
14 (b)(1)”;

15 (2) revising subsection (f) to read as follows:

16 “(f) **MONITORING AND TECHNICAL ASSISTANCE.—**

17 The Secretary of Transportation shall monitor public-sec-
18 tor emergency response planning and training for an acci-
19 dent or incident involving hazardous material. Considering
20 the results of the monitoring, the Secretary shall provide
21 technical assistance to a State, political subdivision of a
22 State, or Indian tribe for carrying out emergency response
23 training and planning for an accident or incident involving
24 hazardous material and shall coordinate the assistance
25 using the existing coordinating mechanisms of the Na-

1 tional Response Team and, for radioactive material, the
2 Federal Radiological Preparedness Coordinating Com-
3 mittee.”;

4 (3) in subsection (g), by striking “Government
5 grant” and inserting “Federal financial assistance”;

6 (4) by revising subsection (i) to read as follows:

7 “(i) EMERGENCY PREPAREDNESS FUND.—The Sec-
8 retary of the Treasury shall establish an Emergency Pre-
9 paredness Fund account in the Treasury into which the
10 Secretary of the Treasury shall deposit amounts the Sec-
11 retary of Transportation transfers to the Secretary of the
12 Treasury under section 5108(g)(2)(C) of this title. With-
13 out further appropriation, amounts in the account are
14 available—

15 “(1) to make grants under this section;

16 “(2) to monitor and provide technical assistance
17 under subsection (f) of this section;

18 “(3) to publish and distribute the Emergency
19 Response Guidebook;

20 “(4) to pay administrative costs of carrying out
21 this section and sections 5108(g)(2) and 5115 of
22 this title, except that not more than 10 percent of
23 the amounts made available from the account in a
24 fiscal year to carry out these sections may be used
25 to pay those costs.”; and

1 “(5) by striking subsection (k).”.

2 (b) Chapter 51 is amended by—

3 (1) revising the section heading for section
4 5116 to read “Planning and training grants; emer-
5 gency preparedness fund”; and

6 (2) striking the item for section 5116 in the
7 analysis of the chapter and inserting “5116. Plan-
8 ning and training grants; emergency preparedness
9 fund.”.

10 **SEC. 7309. ENFORCEMENT.**

11 Section 5122 of title 49, United States Code, is
12 amended—

13 (1) in subsection (a), by revising the last sen-
14 tence to read as follows: “The court may award ap-
15 propriate relief, including a temporary or permanent
16 injunction, punitive damages, and assessment of civil
17 penalties considering the same penalty amounts and
18 factors as prescribed for the Secretary in an admin-
19 istrative case under section 5123 of this chapter.”;
20 and

21 (2) in subparagraph (b)(1)(B), by striking “or
22 ameliorate the” and inserting “or mitigate the”.

23 **SEC. 7310. PENALTIES.**

24 (a) Section 5123 of title 49, United States Code, is
25 amended—

1 (1) by revising subsection (a) to read as follows:

2 “~~(a)~~ PENALTY.—

3 “~~(1)~~ A person that knowingly violates this chap-
4 ter, or a regulation, order, special permit, or ap-
5 proval issued under this chapter, is liable to the
6 United States Government for a civil penalty of at
7 least \$250 but not more than \$100,000 for each vio-
8 lation.

9 “~~(2)~~ Knowledge by the person of the existence
10 of a statutory provision, or a regulation or require-
11 ment prescribed by the Secretary is not an element
12 of an offense under this section.

13 “~~(3)~~ A separate violation occurs for each day
14 the violation, committed by a person that transports
15 or causes to be transported hazardous material, con-
16 tinues”; and

17 (2) by redesignating subsections ~~(b)–(g)~~ as sub-
18 sections ~~(c)–(h)~~ and inserting a new subsection (b)
19 to read as follows:

20 “~~(b)~~ KNOWING VIOLATIONS.—In this section, a per-
21 son acts knowingly when—

22 “~~(1)~~ the person has actual knowledge of the
23 facts giving rise to the violation; or—

1 “(2) a reasonable person acting in the cir-
2 cumstances and exercising reasonable care would
3 have that knowledge.”;

4 (3) in subsection (e), as redesignated, by strik-
5 ing the first sentence and inserting the following:
6 “‘The Secretary of Transportation may find that a
7 person has violated this chapter, or a regulation,
8 order, special permit or approval issued under this
9 chapter, only after notice and an opportunity for a
10 hearing.’”;

11 (4) by revising subsection (e), as redesignated,
12 to read as follows:

13 “(e) CIVIL ACTIONS TO COLLECT.—The Attorney
14 General may bring a civil action in an appropriate district
15 court of the United States to collect a civil penalty under
16 this section and any accrued interest on that penalty cal-
17 culated in the manner described under section 2705 of
18 title 33. In such action, the validity, amount, and appro-
19 priateness of the civil penalty shall not be subject to re-
20 view.”.

21 (b) Section 5124 is revised to read as follows:

22 “§ 5124. Criminal penalty

23 “(a) GENERAL.—A person knowingly violating sec-
24 tion 5104(b) of this title or willfully or recklessly violating
25 this chapter or a regulation, order, special permit, or ap-

1 approval issued under this chapter, shall be fined under title
2 18, imprisoned for not more than 5 years, or both.

3 “(b) AGGRAVATED VIOLATIONS.—A person know-
4 ingly violating section 5104(b) of this chapter, or willfully
5 or recklessly violating this chapter or a regulation, order,
6 special permit, or approval issued under this chapter, and
7 thereby causing the release of a hazardous material, shall
8 be fined under title 18, imprisoned for not more than 20
9 years, or both.

10 “(c) KNOWING VIOLATIONS.—In this section, a per-
11 son acts knowingly when—

12 “(1) the person has actual knowledge of the
13 facts giving rise to the violation; or

14 “(2) a reasonable person acting in the cir-
15 cumstances and exercising reasonable care would
16 have that knowledge.

17 “(d) WILLFUL VIOLATIONS.—In this section, a per-
18 son acts willfully when—

19 “(1) the person has knowledge of the facts giv-
20 ing rise to the violation; and

21 “(2) the person has knowledge that the conduct
22 was unlawful.

23 “(e) RECKLESS VIOLATIONS.—In this section, a per-
24 son acts recklessly when the person displays a deliberate

1 indifference or conscious disregard for the consequences
2 of that person's conduct.

3 “(f) **KNOWLEDGE OF REQUIREMENTS.**—Knowledge
4 by a person of the existence of a statutory provision, or
5 a regulation or requirement prescribed by the Secretary,
6 is not an element of an offense under this section.

7 “(g) **SEPARATE VIOLATIONS.**—A separate violation
8 occurs for each day the violation, committed by a person
9 who transports hazardous material or who causes haz-
10 ardous material to be transported, continues.”.

11 (e) Section 46312 is amended—

12 (1) in subparagraph (a), by striking “under this
13 part” and inserting “under this part or under chap-
14 ter 51 of this title”; and

15 (2) in subparagraph (b), by striking “by the
16 Secretary” and inserting “by the Secretary under
17 this part or under chapter 51 of this title”.

18 (d) Section 3663, title 18 United States Code, is
19 amended in subparagraph (a)(1)(A) by striking “or sec-
20 tion 46312, 46502, or 46504 of title 49” and inserting
21 “or section 5124, 46312, 46502, or 46504 of title 49.”.

22 **SEC. 7311 EMERGENCY WAIVER OF PREEMPTION.**

23 “Section 5125 of title 49, United States Code, is
24 amended by adding new subsections (h), (i), and (j) to
25 read as follows:

1 “(h) EMERGENCY WAIVER OF PREEMPTION.—

2 “(1) The Secretary, upon a finding of good
3 cause, may waive preemption on an expedited basis
4 without notice and public procedure. Good cause ex-
5 ists when there is a possible threat that hazardous
6 material being transported in commerce may be used
7 in an attack on people or property, and notice and
8 public procedure are impracticable or contrary to the
9 public interest.

10 “(2) An emergency waiver of preemption shall
11 remain in effect for no more than 6 months unless,
12 prior to its expiration, the Secretary determines that
13 a possible threat that hazardous material being
14 transported in commerce may be used in an attack
15 on people or property continues to exist.

16 “(3) An action of the Secretary under para-
17 graphs (1) and (2) of this subsection shall be in
18 writing and shall describe the standards and proce-
19 dures for seeking reconsideration of the Secretary’s
20 action.

21 “(4) After taking action under paragraphs (1)
22 or (2) of this subsection, the Secretary shall provide
23 an opportunity for review of that action if a petition
24 for reconsideration is filed within 20 calendar days

1 after the Secretary issues or extends an emergency
2 waiver.

3 “(5) If a petition for reconsideration is filed
4 and the review is not completed by the end of the
5 30-day period beginning on the date the petition was
6 filed, the emergency waiver will cease to be effective
7 at the end of that period unless the Secretary deter-
8 mines, in writing, that a possible threat that haz-
9 ardous material being transported in commerce may
10 be used in an attack on people or property continues
11 to exist.

12 “(i) INDEPENDENT APPLICATION OF EACH STAND-
13 ARD.—Each preemption standard in subsections (b),
14 (c)(1), (d), and (e) of this section and in section 5119(b)
15 of this chapter is independent in its application to a re-
16 quirement of any State, political subdivision of a State,
17 or Indian tribe.

18 “(j) NONFEDERAL ENFORCEMENT STANDARDS.—
19 This section does not apply to procedure, penalty, or re-
20 quired mental state or other standard used by a State,
21 political subdivision of a State, or Indian tribe to enforce
22 a requirement applicable to transportation of a hazardous
23 material.”

1 **SEC. 7312. JUDICIAL REVIEW.**

2 Chapter 51 of title 49, United States Code, is amend-
3 ed by redesignating section 5127 as section 5128, and by
4 inserting after section 5126 the following new section:

5 **“§ 5127. Judicial review**

6 “(a) **FILING AND VENUE.**—Except as provided in
7 section 20114(e) of this title, a person suffering legal
8 wrong or adversely affected or aggrieved by a final action
9 of the Secretary of Transportation under this chapter may
10 petition for review of the final action in the United States
11 Court of Appeals for the District of Columbia or in the
12 court of appeals for the United States for the circuit in
13 which the person resides or has its principal place of busi-
14 ness. The petition must be filed not more than 60 days
15 after the Secretary’s action becomes final.

16 “(b) **JUDICIAL PROCEDURES.**—When a petition is
17 filed under subsection (a) of this section, the clerk of the
18 court immediately shall send a copy of the petition to the
19 Secretary. The Secretary shall file with the court a record
20 of any proceeding in which the final action was issued,
21 as provided in section 2112 of title 28.

22 “(c) **AUTHORITY OF COURT.**—The court has exclu-
23 sive jurisdiction, as provided in the Administrative Proce-
24 dure Act, 5 U.S.C. 551 et seq., to affirm or set aside any
25 part of the Secretary’s final action and may order the Sec-
26 retary to conduct further proceedings. Findings of fact by

1 the Secretary, if supported by substantial evidence, are
2 conclusive.

3 “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-
4 viewing a final action under this section, the court may
5 consider an objection to a final action of the Secretary
6 only if the objection was made in the course of a pro-
7 ceeding or review conducted by the Secretary or if there
8 was a reasonable ground for not making the objection in
9 the proceeding.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
11 ysis for chapter 51 is amended by striking the item related
12 to section 5127 and inserting the following:

“5127. Judicial review.

“5128. Authorization of appropriations.”.

13 **Subtitle D—Sanitary Food**
14 **Transportation**

15 **SEC. 7401. SHORT TITLE.**

16 This Subtitle may be cited as the “Sanitary Food
17 Transportation Act of 2003”.

18 **SEC. 7402. RESPONSIBILITIES OF THE SECRETARY OF**
19 **HEALTH AND HUMAN SERVICES.**

20 (a) UNSANITARY TRANSPORT DEEMED ADULTERA-
21 TION.—Section 402 of the Federal Food, Drug, and Cos-
22 metic Act (21 U.S.C. 342) is amended by adding at the
23 end the following new subsection:

1 “(i) If it is transported under conditions that are not
2 in compliance with the sanitary transportation practices
3 prescribed by the Secretary under section 416.”.

4 (b) **SANITARY TRANSPORTATION REQUIREMENTS.**—
5 Chapter IV of the Federal Food, Drug, and Cosmetic Act
6 (21 U.S.C. 341 et seq.) is amended by adding at the end
7 the following new section:

8 **“§ 416. Sanitary transportation of food**

9 “(a) **SANITARY TRANSPORTATION PRACTICES.**—The
10 Secretary shall establish by regulation sanitary transpor-
11 tation practices which shippers, carriers, receivers, and
12 other persons engaged in the transportation of food shall
13 be required to follow to ensure that the food is not trans-
14 ported under conditions that may render it adulterated,
15 including such practices as the Secretary may find appro-
16 priate relating to—

17 “(1) sanitation;

18 “(2) packaging, isolation, and other protective
19 measures;

20 “(3) limitations on the use of vehicles;

21 “(4) information to be disclosed—

22 “(A) to a carrier by a person arranging for
23 the transport of food, and

24 “(B) to a manufacturer or other persons
25 arranging for the transport of food by a carrier

1 or other person furnishing a tank or bulk vehi-
2 cle for the transport of food; and

3 ~~“(5) recordkeeping.~~

4 ~~“(b) LIST OF UNACCEPTABLE NONFOOD PROD-~~
5 ~~UCTS.—The Secretary, by publication in the Federal Reg-~~
6 ~~ister, may establish and periodically amend—~~

7 ~~“(1) a list of nonfood products that the Sec-~~
8 ~~retary determines may, if shipped in a tank or bulk~~
9 ~~vehicle, render adulterated food transported subse-~~
10 ~~quently in such vehicle; and~~

11 ~~“(2) a list of nonfood products that the Sec-~~
12 ~~retary determines may, if shipped in a motor or rail~~
13 ~~vehicle (other than a tank or bulk vehicle), render~~
14 ~~adulterated food transported simultaneously or sub-~~
15 ~~sequently in such vehicle.~~

16 ~~“(c) WAIVER AUTHORITY.—~~

17 ~~“(1) IN GENERAL.—The Secretary may waive~~
18 ~~all or part of this section, or any requirement under~~
19 ~~this section, with respect to any class of persons, of~~
20 ~~vehicles, of food, or of nonfood products, if the Sec-~~
21 ~~retary determines that such waiver—~~

22 ~~“(A) will not result in the transportation~~
23 ~~of food under conditions that would be unsafe~~
24 ~~for human or animal health; and~~

1 “(B) will not be contrary to the public in-
2 terest or this Act.

3 “(2) PUBLICATION.—The Secretary shall pub-
4 lish in the Federal Register any waiver and the rea-
5 sons for the waiver.

6 “(d) PREEMPTION.—

7 “(1) IN GENERAL.—No State or political sub-
8 division of a State may directly or indirectly estab-
9 lish or continue in effect, as to any food in interstate
10 commerce, any authority or requirement concerning
11 that transportation of food that is not identical to
12 the requirement of this section.

13 “(2) EFFECTIVE DATE.—The provisions of this
14 subsection apply only with respect to transportation
15 occurring on or after the effective date of regulations
16 prescribed under subsection (a).

17 “(e) ASSISTANCE OF OTHER AGENCIES.—The Sec-
18 retary of Transportation, the Secretary of Agriculture, the
19 Administrator of the Environmental Protection Agency,
20 and the heads of other Federal agencies, as appropriate,
21 shall provide assistance upon request, to the extent re-
22 sources are available, to the Secretary of Health and
23 Human Services for the purposes of carrying out this sec-
24 tion.

25 “(f) DEFINITIONS.—For purposes of the section:

1 “(1) The term ‘transportation’ means any
2 movement of property in commerce by motor vehicle
3 or rail vehicle.

4 “(2) The term ‘tank or bulk vehicle’ includes
5 any vehicle in which food is shipped in bulk and in
6 which the food comes directly into contact with the
7 vehicle, including tank trucks, hopper trucks, rail
8 tank cars, hopper cars, cargo tanks, portable tanks,
9 freight containers, or hopper bins.”.

10 (c) INSPECTION OF TRANSPORTATION RECORDS.—

11 (1) REQUIREMENT.—Chapter VII of the Fed-
12 eral Food, Drug, and Cosmetic Act (21 U.S.C. 371
13 et seq.) is amended by inserting after section 703
14 the following new section:

15 **“§ 703A. Food transportation records**

16 “Shippers, carriers by motor vehicle or rail vehicle,
17 and other persons subject to section 416 shall, upon re-
18 quest of an officer or employee duly designated by the Sec-
19 retary, permit such officer or employee, at reasonable
20 times, to have access to and to copy all records that the
21 Secretary requires them to make or retain under section
22 416(a)(5) of this Act.”.

23 (2) CONFORMING AMENDMENT.—Section 703
24 of the Act (21 U.S.C. 373) is amended by striking
25 “in the usual course of business as carriers.” and in-

1 serting “in the usual course of business as carriers,
2 unless otherwise explicitly provided.”.

3 (d) PROHIBITED ACTS.—

4 (1) RECORDS INSPECTION.—Section 301(e) of
5 the Federal Food, Drug, and Cosmetic Act (21
6 U.S.C. 331(e)) is amended—

7 (A) by striking “or 703” and inserting “,
8 703, or 703A”; and

9 (B) by inserting “416,” before “504”.

10 (2) UNSAFE FOOD TRANSPORTATION.—Section

11 301 of the Act (21 U.S.C. 331) is further amended

12 by adding at the end the following new subsection:

13 “(gg) The failure, by a shipper, carrier, receiver, or

14 any other person engaged in the transportation of food,

15 to comply with the sanitary transportation practices pre-

16 scribed by the Secretary under section 416.”.

17 **SEC. 7403. DEPARTMENT OF TRANSPORTATION REQUIRE-**

18 **MENTS.**

19 Chapter 57 of title 49, relating to sanitary food trans-

20 portation is revised to read as follows:

21 **“CHAPTER 57—SANITARY FOOD**

22 **TRANSPORTATION**

“Sec.

“5701. Food transportation safety inspections:

23 **“§ 5701. Food transportation safety inspections**

24 “**(a) INSPECTION PROCEDURES.—**

1 “(1) The Secretary of Transportation, in con-
2 sultation with the Secretaries of Health and Human
3 Services and Agriculture, shall establish procedures
4 to be used in performing transportation safety in-
5 spections for the purpose of identifying suspected in-
6 cidents of contamination or adulteration of food that
7 may violate regulations issued under section 416 of
8 title 21, United States Code, and of meat and poul-
9 try products subject to detention under section 402
10 of the Federal Meat Inspection Act (21 U.S.C. 672)
11 and section 19 of the Poultry Products Inspection
12 Act (21 U.S.C. 467a), and shall train personnel of
13 the Department of Transportation in the appro-
14 priate use of such procedures.

15 “(2) The procedures established under para-
16 graph (1) of this subsection shall apply, at a min-
17 imum, to the Department of Transportation per-
18 sonnel who perform commercial motor vehicle and
19 railroad safety inspections.

20 “(b) NOTIFICATION OF SECRETARIES OF HEALTH
21 AND HUMAN SERVICES AND AGRICULTURE.—The Sec-
22 retary of Transportation shall promptly notify the Sec-
23 retary of Health and Human Services or the Secretary of
24 Agriculture, as applicable, of any instances of potential

1 food contamination or adulteration of a food identified
 2 during transportation safety inspections.

3 “(e) USE OF STATE EMPLOYEES.—The means by
 4 which the Secretary of Transportation carries out sub-
 5 section (b) of this section may include inspections con-
 6 ducted by State employees using funds authorized to be
 7 appropriated under sections 31102 through 31104 of this
 8 title.”.

9 **SEC. 7404. EFFECTIVE DATE OF THE SUBTITLE.**

10 Unless otherwise specified, the provisions of this title
 11 are effective October 1, 2003.

12 **Subtitle E—Sport Fishing and**
 13 **Boating Safety**

14 **SEC. 7501. SPORT FISH RESTORATION ACCOUNT AMEND-**
 15 **MENTS.**

16 (a) IN GENERAL.—Section 4 of the Act entitled “An
 17 Act to provide that the United States shall aid the States
 18 in fish restoration and management projects, and for other
 19 purposes” (August 9, 1950)(16 U.S.C. 777c) is amend-
 20 ed—

21 (1) in subsection (b);

22 (A) by striking “2003” each place it ap-
 23 pears and inserting “2009”; and

1 (B) by striking “Secretary of Transpor-
 2 tation” each place it appears and inserting
 3 “Secretary of Homeland Security”; and
 4 (2) in subsection (c)(5), by striking “fiscal year
 5 2003” and inserting “fiscal years 2003 through
 6 2009”.

7 (b) CLEAN MARINA INITIATIVES.—To further en-
 8 hance the natural environment, Federal agencies admin-
 9 istering programs funded under the Aquatic Resources
 10 Trust Fund should promote, to the extent practicable,
 11 “Clean Marina Initiatives” in each of the following pro-
 12 grams:

- 13 (1) Clean Vessel Act “Pumpout” Program.
 14 (2) Boating Infrastructure Grant Program.
 15 (3) National Outreach and Communications
 16 Program.
 17 (4) Recreational Boating Access Facilities.

18 **TITLE VIII—TRANSPORTATION**
 19 **DISCRETIONARY SPENDING**
 20 **GUARANTEE AND BUDGET**
 21 **OFFSETS**

22 **SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.**

23 (a) DEFINITION OF HIGHWAY CATEGORY AND MASS
 24 TRANSIT CATEGORY.—

1 (1) Section 250(e)(4)(B) of the Balanced Budget
2 et and Emergency Deficit Control Act of 1985 is
3 amended by—

4 (A) striking “Transportation Equity Act
5 for the 21st Century” and inserting “Safe, Ac-
6 countable, Flexible, and Efficient Transpor-
7 tation Equity Act of 2003”; and

8 (B) adding after item (iv) the following
9 new clauses:

10 “(v) ~~69-8158-0-7-401~~ (Motor Car-
11 rier Safety Grants).

12 “(vi) ~~69-8159-0-7-401~~ (Motor Car-
13 rier Safety Operations and Programs).”.

14 (2) Section 250(e)(4)(C) of the Balanced Budget
15 et and Emergency Deficit Control Act of 1985 is
16 amended to read as follows:

17 “(C) The term ‘mass transit category’ re-
18 fers to the following budget accounts or por-
19 tions thereof that are subject to the obligation
20 limitations on contract authority provided in the
21 Safe, Accountable, Flexible, and Efficient
22 Transportation Equity Act of 2003 or for which
23 appropriations are provided pursuant to author-
24 izations contained in that Act:

- 1 “(i) ~~69-1120-0-1-401~~ (Administra-
- 2 tive Expenses).
- 3 “(ii) ~~69-1134-0-1-401~~ (Capital In-
- 4 vestment Grants).
- 5 “(iii) ~~69-8191-0-7-401~~ (Discre-
- 6 tionary Grants).
- 7 “(iv) ~~69-1129-0-1-401~~ (Formula
- 8 Grants).
- 9 “(v) ~~69-8303-0-7-401~~ (Formula
- 10 Grants and Research).
- 11 “(vi) ~~69-1127-0-1-401~~ (Interstate
- 12 Transfer Grants—Transit).
- 13 “(vii) ~~69-1125-0-1-401~~ (Job Access
- 14 and Reverse Commute).
- 15 “(viii) ~~69-1122-0-1-401~~ (Miscella-
- 16 neous Expired Accounts).
- 17 “(ix) ~~69-1139-0-1-401~~ (Major Cap-
- 18 ital Investment Grants).
- 19 “(x) ~~69-1121-0-1-401~~ (Research,
- 20 Training and Human Resources).
- 21 “(xi) ~~69-8350-0-7-401~~ (Trust Fund
- 22 Share of Expenses).
- 23 “(xii) ~~69-1137-0-1-401~~ (Transit
- 24 Planning and Research).

1 “(xiii) ~~69-1136-0-1-401~~ (University
2 Transportation Research).”

3 “(xiv) ~~69-1128-0-1-401~~ (Washington
4 Metropolitan Area Transit Authority).”.

5 (b) CONTINUATION OF SEPARATE CATEGORIES.—

6 Section 251(e) of the Balanced Budget and Emergency
7 Deficit Control Act of 1985 is amended by adding at the
8 end the following new paragraphs:

9 “(8) with respect to fiscal year 2004—

10 “(A) for the highway category:
11 \$29,990,000,000 in outlays; and

12 “(B) for the mass transit category:
13 \$6,909,000,000 in outlays.

14 “(9) with respect to fiscal year 2005—

15 “(A) for the highway category:
16 \$30,589,000,000 in outlays; and

17 “(B) for the mass transit category:
18 \$6,462,000,000 in outlays.

19 “(10) with respect to fiscal year 2006—

20 “(A) for the highway category:
21 \$31,249,000,000 in outlays; and

22 “(B) for the mass transit category:
23 \$6,070,000,000 in outlays.

24 “(11) with respect to fiscal year 2007—

1 “(A) for the highway category:
2 \$32,402,000,000 in outlays; and

3 “(B) for the mass transit category:
4 \$5,843,000,000 in outlays.

5 “(12) with respect to fiscal year 2008—

6 “(A) for the highway category:
7 \$33,358,000,000 in outlays; and

8 “(B) for the mass transit category:
9 \$6,374,000,000 in outlays.

10 “(13) with respect to fiscal year 2009—

11 “(A) for the highway category:
12 \$34,109,000,000 in outlays; and

13 “(B) for the mass transit category:
14 \$6,470,000,000 in outlays.”.

15 (c) HIGHWAY FUNDING REVENUE ALIGNMENT.—

16 Section 251(b)(1)(B) of the Balanced Budget and Emer-
17 gency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B))
18 is amended—

19 (1) in clause (i),

20 (A) by inserting “for fiscal year 2006,
21 2007, 2008, or 2009” after “submits the budg-
22 et”;

23 (B) by inserting “the obligation limitation
24 and outlay limit for” after “adjustments to”;

1 (C) by striking “provided in clause
2 (ii)(I)(cc).” and substituting “follows:”;

3 (D) by inserting the following at the end:

4 “(I) OMB shall calculate the
5 change in the obligation limitation for
6 the highway category for the budget
7 year by taking the actual level of
8 highway receipts for the year before
9 the current year and subtracting the
10 sum of the estimated level of highway
11 receipts in clause (iii) plus any
12 amount previously calculated under
13 clause (ii) for that year.

14 “(II) OMB shall take the amount
15 calculated under subclause (I) and
16 add that amount to the obligation lim-
17 itation set forth in section 8102(a) of
18 the Safe, Accountable, Flexible, and
19 Efficient Transportation Equity Act
20 of 2003 for the highway category for
21 the budget year, and calculate the
22 outlay change resulting from that
23 change in obligations relative to that
24 amount for the budget year and each
25 outyear using current estimates. After

1 making the calculation under the pre-
2 ceeding sentence, OMB shall adjust the
3 obligation limitation set forth in that
4 section for the budget year by adding
5 the amount calculated under sub-
6 clause (I).”;

7 (2) by striking clause (ii) and substituting the
8 following:

9 “(ii) When the President submits the
10 supplementary budget estimates for fiscal
11 year 2006, 2007, 2008, or 2009, under
12 section 1106 of title 31, United States
13 Code, OMB’s Mid-Session Review shall in-
14 clude adjustments to the obligation limita-
15 tion and outlay limit for the highway cat-
16 egory for the budget year and each outyear
17 as follows:

18 “(I) OMB shall take the current
19 estimate of highway receipts for the
20 current year and subtract the esti-
21 mated level of highway receipts in
22 clause (iii) for that year.

23 “(II) OMB shall take the amount
24 calculated under subclause (I) and
25 add that amount to the amount of ob-

1 ligations set forth in section 8102 of
2 the Safe, Accountable, Flexible, and
3 Efficient Transportation Equity Act
4 of 2003 for the highway category for
5 the budget year, and calculate the
6 outlay change resulting from that
7 change in obligations relative to that
8 amount for the budget year and each
9 outyear using current estimates. After
10 making the calculation under the pre-
11 ceding sentence, OMB shall adjust the
12 amount of obligations set forth in that
13 section for the budget year by adding
14 the amount calculated under sub-
15 clause (I).”;

16 (3) by inserting the following at the end:

17 “(iii) The estimated level of highway
18 receipts for the purposes of this subpara-
19 graph are—

20 “(I) for fiscal year 2004,
21 \$30,119,000,000;

22 “(II) for fiscal year 2005,
23 \$31,109,000,000;

24 “(III) for fiscal year 2006,
25 \$32,191,000,000;

1 “(IV) for fiscal year 2007,
2 \$33,146,000,000;

3 “(V) for fiscal year 2008,
4 \$34,018,000,000; and

5 “(VI) for fiscal year 2009,
6 \$34,844,000,000.

7 “(iv) In this subparagraph, the term
8 “highway receipts” means the govern-
9 mental receipts credited to the highway ac-
10 count of the Highway Trust Fund.”.

11 (d) TRANSIT FUNDING REVENUE ALIGNMENT.—See
12 tion 251(b)(1)(C) of the Balanced Budget and Emergency
13 Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(C)) is
14 amended to read as follows:

15 “(C) ADJUSTMENT TO ALIGN MASS TRAN-
16 SIT SPENDING WITH REVENUES.—

17 “(i) When the President submits the
18 budget for fiscal year 2006, 2007, 2008, or
19 2009, under section 1105 of title 31,
20 United States Code, OMB shall calculate
21 and the budget shall include adjustments
22 to the obligation limitation and outlay limit
23 for the mass transit category for the budg-
24 et year and each outyear as follows:

1 “(I) OMB shall calculate the
2 change in the obligation limitation for
3 the mass transit category for the
4 budget year by taking the actual level
5 of mass transit receipts for the year
6 before the current year and subtract
7 the sum of the estimated level of mass
8 transit receipts in clause (iii) plus any
9 amount previously calculated under
10 clause (ii) for that year.

11 “(II) OMB shall take the amount
12 calculated under subclause (I) and
13 add that amount to the amount of ob-
14 ligation limitation set forth in section
15 8102 of the Safe, Accountable, Flexi-
16 ble, and Efficient Transportation Eq-
17 uity Act of 2003 for the mass transit
18 category for the budget year, and cal-
19 culate the outlay change resulting
20 from that change in obligations rel-
21 ative to that amount for the budget
22 year and each outyear using current
23 estimates. After making the calcula-
24 tion under the preceding sentence,
25 OMB shall adjust the obligation limi-

1 tation set forth in that section for the
2 budget year by adding the amount
3 calculated under subclause (I).

4 “(ii) When the President submits the
5 supplementary budget estimates for fiscal
6 year 2006, 2007, 2008, or 2009, under
7 section 1106 of title 31, United States
8 Code, OMB’s Mid-Session Review shall in-
9 clude adjustments to the obligation limita-
10 tion and outlay limit for the mass transit
11 category for the budget year and each out-
12 year as follows:

13 “(I) OMB shall take the current
14 estimate of mass transit receipts for
15 the current year and subtract the esti-
16 mated level of mass transit receipts in
17 clause (iii) for that year.

18 “(II) OMB shall take the amount
19 calculated under subclause (I) and
20 add that amount to the obligation lim-
21 itation set forth in section 8102 of the
22 Safe, Accountable, Flexible, and Effi-
23 cient Transportation Equity Act of
24 2003 for the mass transit category for
25 the budget year, and calculate the

1 outlay change resulting from that
2 change in obligations relative to that
3 amount for the budget year and each
4 outyear using current estimates. After
5 making the calculation under the pre-
6 ceeding sentence, OMB shall adjust the
7 obligation limitation set forth in that
8 section for the budget year by adding
9 the amount calculated under sub-
10 clause (I).

11 “(iii) The estimated level of mass
12 transit receipts for the purposes of this
13 subparagraph are—

14 “(I) for fiscal year 2004,
15 \$4,793,000,000;

16 “(II) for fiscal year 2005,
17 \$4,926,000,000;

18 “(III) for fiscal year 2006,
19 \$5,050,000,000;

20 “(IV) for fiscal year 2007,
21 \$5,164,000,000;

22 “(V) for fiscal year 2008,
23 \$5,270,000,000; and

24 “(VI) for fiscal year 2009,
25 \$5,377,000,000.

1 “(iv) In this subparagraph, the term
2 “mass transit receipts” means the govern-
3 mental receipts credited to the Mass Tran-
4 sit Account of the Highway Trust Fund.”.

5 (e) *ADDITIONAL ADJUSTMENTS.*—Section 251(b)(1)
6 of the Balanced Budget and Emergency Deficit Control
7 Act of 1985 (2 U.S.C. 901(b)(1)) is further amended—

8 (1) by redesignating subparagraphs (D) and
9 (E) as subparagraphs (E) and (F), respectively;

10 (2) in subparagraph (E)(i) as redesignated—

11 (A) by striking “1999” and substituting
12 “2005;

13 (B) by striking “2000” and substituting
14 “2006”;

15 (C) by striking “2003” and substituting
16 “2009; and

17 (D) by striking “section 8103 of the
18 Transportation Equity Act for the 21st Cen-
19 tury” and substituting “section 8102 of the
20 Safe, Accountable, Flexible, and Efficient
21 Transportation Equity Act of 2003”;

22 (3) in subparagraph (E)(ii) as redesignated—

23 (A) by striking “2000, 2001, 2002, or
24 2003” and substituting “2006, 2007, 2008,
25 and 2009; and

1 (B) by striking “by subparagraphs (B) and
2 (C)” and substituting “made by subparagraphs
3 (B), (C), and (D)”;

4 (4) in subparagraph (F) as redesignated, by
5 striking “(B) and (C)” and substituting “(B), (C),
6 and (D)”;

7 (5) by inserting the following after subpara-
8 graph (C):

9 “(D) In addition to the adjustments re-
10 quired by subparagraphs (B) and (C), when the
11 President submits the budget for fiscal year
12 2006, 2007, 2008, or 2009, under section 1105
13 of title 31, United States Code, OMB shall cal-
14 culate and the budget shall include for the
15 budget year and each outyear an adjustment to
16 the limits on outlays for the highway category
17 and the mass transit category equal to—

18 “(i) the outlays for the applicable cat-
19 egory calculated assuming obligation levels
20 consistent with the estimates prepared pur-
21 suant to subparagraph (E), as adjusted,
22 using current technical assumptions; minus

23 “(ii) the outlays for the applicable cat-
24 egory set forth in the subparagraph (E) es-
25 timates, as adjusted.”.

1 (f) **ENFORCEMENT OF GUARANTEE.**—Rule XXI of
 2 the Rules of the House of Representatives is amended by
 3 striking “section 8103 of the Transportation Equity Act
 4 for the 21st Century” in clause 3 and substituting “sec-
 5 tion 8102 of the Safe, Accountable, Flexible, and Efficient
 6 Transportation Equity Act of 2003”.

7 **SEC. 8102. LEVEL OF OBLIGATION LIMITATIONS.**

8 (a) **HIGHWAY CATEGORY.**—For the purposes of sec-
 9 tion 251(b) of the Balanced Budget and Emergency Def-
 10 icit Control Act of 1985, the level of obligation limitations
 11 for the highway category is—

- 12 (1) for fiscal year 2004, \$30,280,000,000;
- 13 (2) for fiscal year 2005, \$31,270,000,000;
- 14 (3) for fiscal year 2006, \$32,352,000,000;
- 15 (4) for fiscal year 2007, \$33,307,000,000;
- 16 (5) for fiscal year 2008, \$34,179,000,000; and
- 17 (6) for fiscal year 2009, \$35,005,000,000.

18 (b) **MASS TRANSIT CATEGORY.**—

19 (1) For the purposes of section 251(b) of the
 20 Balanced Budget and Emergency Deficit Control
 21 Act of 1985, the level of obligation limitations for
 22 the mass transit category is—

- 23 (A) for fiscal year 2004, \$5,936,000,000;
- 24 (B) for fiscal year 2005, \$6,054,720,000;
- 25 (C) for fiscal year 2006, \$6,180,659,000;

1 (D) for fiscal year 2007, \$6,319,723,000;

2 (E) for fiscal year 2008, \$6,475,820,000;

3 and

4 (F) for fiscal year 2009, \$6,633,183,000.

5 (2) For purposes of this subsection, the term
6 “obligation limitations” means the sum of budget
7 authority and obligation limitations.

8 **SEC. 8103. EFFECTIVENESS OF TITLE.**

9 This title, and the amendments made by this title,
10 become effective on the day that section 251 of the Bal-
11 anced Budget and Emergency Deficit Control Act of 1985
12 comes into effect after the enactment of this Act.

13 **TITLE IX—AMENDMENTS OF IN-**
14 **TERNAL REVENUE CODE OF**
15 **1986**

16 **SEC. 9001. SHORT TITLE; AMENDMENT OF 1986 CODE.**

17 (a) **SHORT TITLE.**—This title may be cited as the
18 “Surface Transportation Revenue Act of 2004”.

19 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
20 wise expressly provided, whenever in this title an amend-
21 ment or repeal is expressed in terms of an amendment
22 to, or repeal of, a section or other provision, the reference
23 shall be considered to be made to a section or other provi-
24 sion of the Internal Revenue Code of 1986.

1 **SEC. 9002. EXTENSION OF HIGHWAY-RELATED TAXES AND**
2 **TRUSTFUND.**

3 (a) ~~EXTENSION OF TAXES.—~~

4 (1) ~~IN GENERAL.—~~The following provisions are
5 each amended by striking “2005” each place it ap-
6 pears and inserting “2011”:

7 (A) Section 4041(a)(1)(C)(iii)(I) (relating
8 to rate of tax on certain buses).

9 (B) Section 4041(a)(2)(B) (relating to rate
10 of tax on special motor fuels).

11 (C) Section 4041(m)(1)(A) (relating to
12 certain alcohol fuels).

13 (D) Section 4051(e) (relating to termi-
14 nation of tax on heavy trucks and trailers).

15 (E) Section 4071(d) (relating to termi-
16 nation of tax on tires).

17 (F) Section 4081(d)(1) (relating to termi-
18 nation of tax on gasoline, diesel fuel, and ker-
19 osene).

20 (G) Section 4481(e) (relating to period tax
21 in effect).

22 (H) Section 4482(e)(4) (relating to taxable
23 period).

24 (I) Section 4482(d) (relating to special
25 rule for taxable period in which termination
26 date occurs).

1 (2) FLOOR STOCKS REFUNDS.—Section
2 6412(a)(1) (relating to floor stocks refunds) is
3 amended—

4 (A) by striking “2005” each place it ap-
5 pears and inserting “2011”, and

6 (B) by striking “2006” each place it ap-
7 pears and inserting “2012”.

8 (b) EXTENSION OF CERTAIN EXEMPTIONS.—The fol-
9 lowing provisions are each amended by striking “2005”
10 and inserting “2011”:

11 (1) Section 4221(a) (relating to certain tax-free
12 sales):

13 (2) Section 4483(g) (relating to termination of
14 exemptions for highway use tax):

15 (c) EXTENSION OF DEPOSITS INTO, AND CERTAIN
16 TRANSFERS FROM, TRUST FUND.—Subsections (b),
17 (e)(2), and (e)(3) of section 9503 (relating to the Highway
18 Trust Fund) are amended—

19 (1) by striking “2005” each place it appears
20 and inserting “2011”, and

21 (2) by striking “2006” each place it appears
22 and inserting “2012”.

23 (d) EXTENSION AND EXPANSION OF EXPENDITURES
24 FROM TRUST FUND.—

1 (1) HIGHWAY ACCOUNT.—Section 9503 is
2 amended by striking subsection (e)(1) and inserting
3 the following:

4 “(1) FEDERAL-AID HIGHWAY AND SAFETY PRO-
5 GRAMS.—Except as provided in subsection (e),
6 amounts in the Highway Trust Fund shall be avail-
7 able, as provided by appropriation Acts, for making
8 expenditures authorized by law to be paid out of the
9 Highway Trust Fund before October 1, 2011, to
10 meet those obligations of the United States here-
11 tofore or hereafter incurred under the following
12 Acts, as in effect on the date of enactment of the
13 last Act listed:

14 “(A) The Highway Revenue Act of 1956.

15 “(B) The Surface Transportation Assist-
16 ance Act of 1982.

17 “(C) The Surface Transportation and Uni-
18 form Relocation Assistance Act of 1987.

19 “(D) The Intermodal Surface Transpor-
20 tation Efficiency Act of 1991.

21 “(E) The Transportation Equity Act for
22 the 21st Century.

23 “(F) The Motor Carrier Safety Improve-
24 ment Act of 1999.

1 “(G) The Safe, Accountable, Flexible, and
2 Efficient Transportation Equity Act of 2003.”.

3 ~~(2) MASS TRANSIT ACCOUNT.—Section~~
4 ~~9503(c)(3) is amended to read as follows:~~

5 ~~“(3) EXPENDITURES FROM ACCOUNT.—~~
6 ~~Amounts in the Mass Transit Account shall be avail-~~
7 ~~able, as provided by appropriation Acts, for making~~
8 ~~capital or capital-related expenditures before October~~
9 ~~1, 2011 (including capital expenditures for new~~
10 ~~projects) in accordance with the following Acts and~~
11 ~~provisions of law, as in effect on the date of enact-~~
12 ~~ment of the last Act listed:~~

13 ~~“(A) Section 5338(a)(1) or (b)(1) of title~~
14 ~~49.~~

15 ~~“(B) The Intermodal Surface Transpor-~~
16 ~~tation Efficiency Act of 1991.~~

17 ~~“(C) The Transportation Equity Act for~~
18 ~~the 21st Century.~~

19 ~~“(D) The Safe, Accountable, Flexible, and~~
20 ~~Efficient Transportation Equity Act of 2003.”.~~

21 **SEC. 9003. EXTENSION OF TAX BENEFITS FOR ALCOHOL**
22 **FUELS.**

23 ~~(a) EXTENSION OF TAX BENEFITS.—~~

1 (1) ~~EXTENSION.~~—The following provisions are
2 each amended by striking “2007” each place it ap-
3 pears and inserting “2014”:

4 (A) Section 4041(b)(2)(C)(ii) and (D) (re-
5 lating to termination of reduction in tax for
6 qualified methanol and ethanol fuel):

7 (B) Section 4041(k)(3) (relating to termi-
8 nation of rates relating to fuels containing alco-
9 hol):

10 (C) Section 4081(c)(8) (relating to termi-
11 nation of special rate for taxable fuels mixed
12 with alcohol):

13 (D) Section 4091(c)(5) (relating to termi-
14 nation of reduced rate of tax for aviation fuel
15 in alcohol mixture, etc.):

16 (E) Section 40(h) (relating to termination
17 of credit for ethanol blenders):

18 (2) ~~EXTENSION OF REFUND AUTHORITY.~~—
19 Paragraph (4) of section 6427(f) (relating to refund
20 for gasoline, diesel fuel, and aviation fuel used to
21 produce certain alcohol fuels), as amended by the
22 Taxpayer Relief Act of 1997, is amended by striking
23 “2007” and inserting “2012”.

24 (3) ~~CREDIT FOR ALCOHOL USED AS A FUEL.~~—
25 Paragraph (1) of section 40(e) (relating to termi-

1 nation of credit for alcohol used as a fuel) is amend-
2 ed—

3 (A) by striking “December 31, 2007” in
4 subparagraph (A) and inserting “December 31,
5 2014”, and

6 (B) by striking “January 1, 2008” and in-
7 serting “January 1, 2015”.

8 (4) TARIFF SCHEDULE.—Headings 9901.00.50
9 and 9901.00.52 of the Harmonized Tariff Schedule
10 of the United States (19 U.S.C. 3007) are each
11 amended in the effective period column by striking
12 “10/1/2007” each place it appears and inserting
13 “10/1/2014”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) AMOUNT OF REDUCED CREDIT FOR ETH-
16 ANOL BLENDERS.—The table in paragraph (2) of
17 40(h) is amended by striking “2005, 2006, or 2007”
18 and inserting “2005 through 2014”.

19 (2) APPLICABLE BLENDER RATE FOR EXEMPT-
20 ED QUALIFIED METHANOL AND ETHANOL FUEL.—
21 Section 4041(b)(2)(C) is amended by striking
22 “2001” and inserting “2008”.

1 **SEC. 9004. PRIVATE ACTIVITY BONDS FOR SURFACE TRANS-**
 2 **PORTATION INFRASTRUCTURE.**

3 (a) **EXEMPT FACILITY BONDS.**—Section 142 is
 4 amended—

5 (1) in subsection (a) by—

6 (A) striking “or” at the end of paragraph
 7 (12);

8 (B) striking the period at the end of para-
 9 graph (13) and inserting a comma; and

10 (C) adding after paragraph (13) the fol-
 11 lowing new paragraphs:

12 “(14) highway facilities; or

13 “(15) surface freight transfer facilities.”; and

14 (2) by adding new subsections (l), (m), and (n)
 15 at the end, as follows:

16 “(l) **HIGHWAY FACILITIES.**—For purposes of sub-
 17 section (a)(14), the term ‘highway facilities’ means—

18 “(1) a surface transportation project eligible for
 19 Federal assistance under title 23, United States
 20 Code (as in effect on the date of enactment of this
 21 subsection); or

22 “(2) a project for an international bridge or
 23 tunnel for which an international entity authorized
 24 under Federal or State law is responsible.

25 “(m) **SURFACE FREIGHT TRANSFER FACILITIES.**—

26 For purposes of subsection (a)(15), the term “surface

1 freight transfer facilities” means facilities for the transfer
 2 of freight from truck to rail or rail to truck (including
 3 any temporary storage facilities directly related to such
 4 transfers).

5 “(n) AGGREGATE FACE AMOUNT OF TAX-EXEMPT
 6 FINANCING FOR HIGHWAY FACILITIES AND SURFACE
 7 FREIGHT TRANSFER FACILITIES.

8 “(1) IN GENERAL.—The aggregate face amount
 9 of bonds issued pursuant to subsections (a)(14) (re-
 10 lating to highway facilities) and (a)(15) (relating to
 11 surface freight transfer facilities) shall not exceed
 12 \$15,000,000,000, determined without regard to any
 13 bond the proceeds of which are used exclusively to
 14 refund a bond issued pursuant to either of such sub-
 15 sections (or a bond which is a part of a series of
 16 refundings of a bond so issued) if the amount of the
 17 refunding bond does not exceed the outstanding
 18 amount of the refunded bond.

19 “(2) ALLOCATION.—The Secretary of Trans-
 20 portation shall allocate the amount described in
 21 paragraph (1) among eligible projects satisfying the
 22 requirements of subsection (a)(14) or (a)(15).”.

23 (b) VOLUME CAP, EXCEPTION FOR CERTAIN
 24 BONDS.—Section 146(g) is amended in paragraph (3),
 25 by—

1 (1) striking “(12), or (13)” and inserting
2 “(12), (13), (14), or (15)”; and

3 (2) striking “and qualified public educational
4 facilities” and inserting “qualified public educational
5 facilities, highway facilities, and surface freight
6 transfer facilities”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to bonds issued after the date of
9 the enactment of this Act.

10 **SEC. 9005. ALL ALCOHOL FUEL TAXES TRANSFERRED TO**
11 **HIGHWAY TRUST FUND.**

12 (a) IN GENERAL.—Section 9503(b)(4) (relating to
13 certain taxes not transferred to Highway Trust Fund) is
14 amended—

15 (1) by adding “or” at the end of subparagraph
16 (C);

17 (2) in subparagraph (D)(iii), by striking “,
18 and” after “2005” and inserting a period; and

19 (3) by striking subparagraphs (E) and (F).

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxes imposed after September
22 30, 2003.

1 **SEC. 9006. TRANSFER FROM HIGHWAY TRUST FUND TO**
2 **BOAT SAFETY ACCOUNT.**

3 (a) **IN GENERAL.**—Section 9503(c)(4)(A) is amended
4 by striking “2005” and inserting “2011”.

5 (b) **CONFORMING AMENDMENTS TO LAND AND**
6 **WATER CONSERVATION FUND.**—Section 201(b) of the
7 Land and Water Conservation Fund Act of 1965 (16
8 U.S.C. 4601–11(b)) is amended—

9 (1) by striking “2003” and inserting “2009”,
10 and

11 (2) by striking “2004” each place it appears
12 and inserting “2010”.

13 (c) **TECHNICAL CORRECTION TO HOMELAND SECUR-**
14 **ITY ACT.**—Section 1511(e)(2) of the Homeland Security
15 Act of 2002 (Public Law No. 107–296) is amended by
16 striking “and to any funds provided to the Coast Guard
17 from the Aquatic Resources Trust Fund of the Highway
18 Trust Fund for boating safety programs”, and inserting
19 “and any funds provided to the Coast Guard from the
20 Highway Trust Fund and transferred into the Boat Safety
21 Account of the Aquatic Resources Trust Fund for boating
22 safety programs.”.

23 (d) **EXPENDITURES FROM BOAT SAFETY AC-**
24 **COUNT.**—Section 9504(c) is amended by striking “2003”
25 and inserting “2009”.

1 **SEC. 9007. EXTENSION OF SMALL-ENGINE FUEL TAXES**
 2 **TRANSFERRED TO SPORT FISH RESTORA-**
 3 **TION ACCOUNT.**

4 Section 9503(e)(5)(A) is amended by striking the
 5 year “2005” and inserting “2011”.

6 **SEC. 9008. TECHNICAL CORRECTION.**

7 The last sentence of paragraph (2) of section 9504(b)
 8 is amended by striking “subparagraph (B)”, and inserting
 9 “subparagraph (C)”.

10 **SEC. 9009. TRANSFER BY REGISTERED PIPELINE, VESSEL,**
 11 **OR BARGE REQUIRED FOR FUEL TAX EXEMP-**
 12 **TION OF BULK TRANSFERS TO REGISTERED**
 13 **TERMINALS OR REFINERIES; DISPLAY OF**
 14 **REGISTRATION REQUIREMENT.**

15 (a) **IN GENERAL.**—Section 4081(a)(1)(B) (relating
 16 to exemption for bulk transfers to registered terminals or
 17 refineries) is amended by inserting “, bulk carrier,” after
 18 “the taxable fuel”.

19 (b) **CIVIL PENALTY FOR CARRYING TAXABLE FUELS**
 20 **BY NONREGISTERED PIPELINES OR VESSELS.**—

21 (1) **IN GENERAL.**—Part H of subchapter B of
 22 chapter 68 (relating to assessable penalties) is
 23 amended by adding at the end the following new sec-
 24 tion:

1 **“§ 6717. Failure to register under section 4101**

2 “(a) **FAILURE TO REGISTER.**—Any person who fails
3 to register with the Secretary as required by regulations
4 under section 4101 shall pay a penalty of \$1,000 for each
5 day during the period of such failure in which such person
6 engages in an activity for which registration is required.

7 “(b) **JOINT AND SEVERAL LIABILITY.**—

8 “(1) **IN GENERAL.**—If a penalty is imposed
9 under this section on any business entity, each offi-
10 cer, employee, or agent of such entity or other con-
11 tracting party who willfully participated in any act
12 giving rise to such penalty shall be jointly and sever-
13 ally liable with such entity for such penalty.

14 “(2) **AFFILIATED GROUPS.**—If a business entity
15 described in paragraph (1) is part of an affiliated
16 group (as defined in section 1504(a)), the parent
17 corporation of such entity shall be jointly and sever-
18 ally liable with such entity for the penalty imposed
19 under this section.”.

20 “(2) **CONFORMING AMENDMENT.**—The table of
21 sections for part II of subchapter B of chapter 68
22 is amended by adding at the end the following new
23 item:

“6717. Failure to register under section 4101.”.

24 “(c) **DISPLAY OF REGISTRATION.**—

1 (1) IN GENERAL.—Section 4101 (relating to
2 registration and bond) is amended by adding at the
3 end the following new subsection:

4 “(e) DISPLAY OF REGISTRATION.—Every vessel oper-
5 ator required by the Secretary to register under this sec-
6 tion with respect to the tax imposed by section 4081 shall
7 display proof of such registration in such manner as the
8 Secretary may prescribe.”.

9 (2) CIVIL PENALTY FOR FAILURE TO DISPLAY
10 REGISTRATION.—

11 (A) IN GENERAL.—Part H of subchapter
12 B of chapter 68 (relating to assessable pen-
13 alties) is amended by adding at the end the fol-
14 lowing new section:

15 **“§ 6718. Failure to display proof of registration by**
16 **vessels or barges**

17 “(a) FAILURE TO DISPLAY PROOF OF REGISTRA-
18 TION.—Every vessel operator who fails to display proof of
19 registration when required to do so pursuant to section
20 4101(e) shall pay a penalty of \$500 for each such failure.
21 With respect to any vessel, only one penalty shall be im-
22 posed by this section during any calendar month.

23 “(b) MULTIPLE VIOLATIONS.—In determining the
24 penalty under subsection (a) on any person or operator,
25 subsection (a) shall be applied by increasing the amount

1 imposed in subsection (a) by the product of such amount
 2 and the number of prior penalties (if any) imposed by this
 3 section on such person (or a related person or any prede-
 4 cessor of such person or related person).”.

5 (B) CONFORMING AMENDMENT.—The
 6 table of sections for part II of subchapter B of
 7 chapter 68 is amended by adding at the end the
 8 following new item:

“6718. Failure to display proof of registration by vessels or barges.”.

9 (d) EFFECTIVE DATE.—The amendments made by
 10 this section shall take effect 90 days after the date of en-
 11 actment of this Act.

12 **SEC. 9010. RETURNS FILED ELECTRONICALLY.**

13 (a) INFORMATION REPORTING.—Section 4101(d)
 14 (relating to information reporting) is amended to read as
 15 follows:

16 “(d) INFORMATION REPORTING.—

17 “(1) The Secretary may require—

18 “(A) information reporting by any person
 19 registered under this section, and

20 “(B) information reporting by such other
 21 persons as the Secretary deems necessary to
 22 carry out this part.

23 “(2) Information reporting required by the Sec-
 24 retary under paragraph (1) of this subsection shall

1 be by electronic format for any person having at
2 least 25 reportable transactions in a month.”.

3 (b) USE TAX ON CERTAIN VEHICLES.—Section
4 4481(b) is amended by adding the following new sentence
5 at the end: “Any return of tax imposed by this section
6 reporting at least 25 vehicles shall be filed by electronic
7 format.”.

8 (c) ELECTRONIC FORMAT.—The Secretary of the
9 Treasury shall describe the electronic formats for filing
10 under subsections (a) and (b) not later than 90 days after
11 the date of the enactment of this Act.

12 (d) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to returns due after the date
14 the Secretary of the Treasury describes the electronic for-
15 mat for filing under subsection (a) and the amendment
16 made by subsection (b) shall apply to returns due after
17 the date the Secretary of the Treasury describes the elec-
18 tronic format for filing under subsection (b).

19 **SEC. 9011. CIVIL PENALTY FOR REFUSAL OF ENTRY.**

20 (a) Section 4083(e)(3) is amended by adding at the
21 end a new sentence as follows: “For purposes of this sub-
22 section, the penalty provided by section 7342 shall be
23 treated as an assessable penalty and assessed in accord-
24 ance with section 6671.”.

1 (b) EFFECTIVE DATE.— The amendments made by
 2 this section shall take effect 90 days after the date of en-
 3 actment of this Act.

4 **SEC. 9012. REQUIREMENT OF TAX PAYMENT DECAL; ELIMI-**
 5 **NATION OF INSTALLMENT PAYMENTS OF**
 6 **HIGHWAY USE TAX.**

7 (a) DISPLAY OF PROOF OF PAYMENT OF TAX.—Sec-
 8 tion 4481(b) (relating to imposition of tax on use of cer-
 9 tain highway motor vehicles) is amended by adding a sen-
 10 tence at the end as follows: “Every person, agency, or in-
 11 strumentality who has paid the tax imposed by this section
 12 shall display proof of such payment in a manner as the
 13 Secretary may prescribe.”.

14 (b) CIVIL PENALTY FOR FAILURE TO DISPLAY
 15 PROOF OF TAX PAYMENT DECAL.—

16 (1) IN GENERAL.—Part II of subchapter B of
 17 chapter 68 (relating to assessable penalties) is
 18 amended by adding at the end the following new sec-
 19 tion:

20 **“§ 6719. Failure to display proof of tax payment decal**

21 **“(a) IMPOSITION OF PENALTY.—**Each person, agen-
 22 **cy, or instrumentality who fails to display proof of pay-**
 23 **ment of tax when required to do so pursuant to the last**
 24 **sentence of section 4481(b) (relating to the display of**
 25 **proof of payment of tax) shall pay a penalty of \$50. With**

1 respect to any vehicle, only one penalty shall be imposed
 2 by this section during any calendar month.

3 “(b) MULTIPLE VIOLATIONS.—In determining the
 4 penalty under subsection (a) on any person, agency, or
 5 instrumentality, subsection (a) shall be applied by increas-
 6 ing the amount imposed in subsection (a) by the product
 7 of such amount and the number of prior penalties (if any)
 8 imposed by this section on such person, agency, or instru-
 9 mentality.”.

10 (2) CONFORMING AMENDMENT.—The table of
 11 sections for part II of subchapter B of chapter 68
 12 is amended by adding at the end the following new
 13 item:

“6719. Failure to display proof of tax payment decal.”.

14 (c) ELIMINATION OF PRIVILEGE TO PAY HIGHWAY
 15 USE TAX IN INSTALLMENTS.—

16 (1) REPEAL.—Section 6156 (relating to the
 17 privilege to pay in installments the tax imposed
 18 under section 4481 of such Code on use of highway
 19 motor vehicles) is repealed.

20 (2) CONFORMING AMENDMENT.—The table of
 21 sections for subchapter A of chapter 62 is amended
 22 by striking the item relating to section 6156.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable periods beginning after
 25 the date of the enactment of this Act.

1 **SEC. 9013. ADDITIONAL RULES REGARDING INSPECTIONS**
2 **OF RECORDS.**

3 (a) **PROVISION OF COPIES OF RECORDS.**—Section
4 4102 (relating to inspection of records by local officers)
5 is amended by inserting “, and copies shall be furnished
6 upon request of,” after “inspection by”.

7 (b) **INSPECTION BY OTHER ENFORCEMENT AGEN-**
8 **CIES.**—Section 4102 of the Internal Revenue Code of
9 1986, as amended by subsection (a), is amended by insert-
10 ing “; such records and information on returns required
11 to be filed with respect to taxes under section 4481 shall
12 be open to inspection by officers of any State agency
13 charged with the registration and licensing of vehicles de-
14 scribed in such section and officers of any other Federal
15 or State agency charged with the enforcement of Federal
16 or State law regarding taxable fuels or criminal activities
17 regarding taxable fuels” after “section 4083”.

18 (c) **EFFECTIVE DATE.**—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act.

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

22 (a) **SHORT TITLE.**—*This Act may be cited as the*
23 *“Safe, Accountable, Flexible, and Efficient Transportation*
24 *Equity Act of 2003”.*

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

- Sec. 1. Short title; table of contents.*
Sec. 2. General definitions.
Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

- Sec. 1101. Authorization of appropriations.*
Sec. 1102. Obligation ceiling.
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- Sec. 1616. Transition to new air quality standards.*
- Sec. 1617. Reduced barriers to air quality improvements.*
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- Sec. 1619. Conforming amendments.*
- Sec. 1620. Highway stormwater discharge mitigation program.*

Subtitle G—Operations

- Sec. 1701. Transportation systems management and operations.*
- Sec. 1702. Real-time system management information program.*

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- Sec. 1801. Future Interstate System routes.*
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- Sec. 1803. Design-build contracting.*
- Sec. 1804. Program efficiencies—finance.*
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- Sec. 1806. Federal lands highways program.*
- Sec. 1807. Emergency relief.*
- Sec. 1808. Highway bridge program.*
- Sec. 1809. Appalachian development highway system.*
- Sec. 1810. Multistate corridor program.*
- Sec. 1811. Border planning, operations, technology, and capacity program.*
- Sec. 1812. Puerto Rico highway program.*
- Sec. 1813. National historic covered bridge preservation.*

- Sec. 1814. Transportation and community and system preservation pilot program.*
- Sec. 1815. Tribal-State road maintenance agreements.*
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- Sec. 1819. Donations and credits.*
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- Sec. 1901. Repeal or update of obsolete text.*
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TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

- Sec. 2001. Authorization of appropriations.*
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Subtitle B—Research and Technology

- Sec. 2101. Research and technology program.*
- Sec. 2102. Study of data collection and statistical analysis efforts.*
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Subtitle C—Intelligent Transportation System Research

- Sec. 2201. Intelligent transportation system research and technical assistance program.*

TITLE III—INTERMODAL PASSENGER FACILITIES

- Sec. 3002. Intermodal passenger facilities.*

**TITLE IV—FEDERAL AID IN SPORT FISH RESTORATION ACT
AMENDMENTS**

- Sec. 4001. Amendment of Federal Aid in Fish Restoration Act.*
- Sec. 4002. Authorization of appropriations.*
- Sec. 4003. Division of annual appropriations.*
- Sec. 4004. Maintenance of projects.*
- Sec. 4005. Boating infrastructure.*
- Sec. 4006. Requirements and restrictions concerning use of amounts for expenses for administration.*
- Sec. 4007. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, and Virgin Islands.*
- Sec. 4008. Multistate conservation grant program.*

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

2 *In this Act:*

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

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

7 **SEC. 3. DEFINITIONS FOR TITLE 23.**

8 *Section 101 of title 23, United States Code, is amended*
9 *by striking subsection (a) and inserting the following:*

10 *“(a) DEFINITIONS.—In this title:*

11 *“(1) APPORTIONMENT.—The term ‘apportion-*
12 *ment’ includes an unexpended apportionment made*
13 *under a law enacted before the date of enactment of*
14 *the Safe, Accountable, Flexible, and Efficient Trans-*
15 *portation Equity Act of 2003.*

16 *“(2) CARPOOL PROJECT.—*

17 *“(A) IN GENERAL.—The term ‘carpool*
18 *project’ means any project to encourage the use*
19 *of carpools and vanpools.*

20 *“(B) INCLUSIONS.—The term ‘carpool*
21 *project’ includes a project—*

22 *“(i) to provide carpooling opportuni-*
23 *ties to the elderly and individuals with dis-*
24 *abilities;*

1 “(ii) to develop and implement a sys-
2 tem for locating potential riders and in-
3 forming the riders of carpool opportunities;

4 “(iii) to acquire vehicles for carpool
5 use;

6 “(iv) to designate highway lanes as
7 preferential carpool highway lanes;

8 “(v) to provide carpool-related traffic
9 control devices; and

10 “(vi) to designate facilities for use for
11 preferential parking for carpools.

12 “(3) CONSTRUCTION.—

13 “(A) *IN GENERAL.*—The term ‘construction’
14 means the supervision, inspection, and actual
15 building of, and incurring of all costs incidental
16 to the construction or reconstruction of a high-
17 way, including bond costs and other costs relat-
18 ing to the issuance in accordance with section
19 122 of bonds or other debt financing instruments
20 and costs incurred by the State in performing
21 Federal-aid project related audits that directly
22 benefit the Federal-aid highway program.

23 “(B) *INCLUSIONS.*—The term ‘construction’
24 includes—

- 1 “(i) locating, surveying, and mapping
2 (including the establishment of temporary
3 and permanent geodetic markers in accord-
4 ance with specifications of the National
5 Oceanic and Atmospheric Administration);
- 6 “(ii) resurfacing, restoration, and re-
7 habilitation;
- 8 “(iii) acquisition of rights-of-way;
- 9 “(iv) relocation assistance, acquisition
10 of replacement housing sites, and acquisi-
11 tion and rehabilitation, relocation, and con-
12 struction of replacement housing;
- 13 “(v) elimination of hazards of railway
14 grade crossings;
- 15 “(vi) elimination of roadside obstacles;
- 16 “(vii) improvements that directly fa-
17 cilitate and control traffic flow, such as—
- 18 “(I) grade separation of intersec-
19 tions;
- 20 “(II) widening of lanes;
- 21 “(III) channelization of traffic;
- 22 “(IV) traffic control systems; and
- 23 “(V) passenger loading and un-
24 loading areas;

1 “(viii) capital improvements that di-
2 rectly facilitate an effective vehicle weight
3 enforcement program, such as—

4 “(I) scales (fixed and portable);

5 “(II) scale pits;

6 “(III) scale installation; and

7 “(IV) scale houses;

8 “(ix) improvements directly relating to
9 securing transportation infrastructures for
10 detection, preparedness, response, and recov-
11 ery;

12 “(x) operating costs relating to traffic
13 monitoring, management, and control;

14 “(xi) operational movements; and

15 “(xii) transportation system manage-
16 ment and operations.

17 “(4) COUNTY.—The term ‘county’ includes—

18 “(A) a corresponding unit of government
19 under any other name in a State that does not
20 have county organizations; and

21 “(B) in those States in which the county
22 government does not have jurisdiction over high-
23 ways, any local government unit vested with ju-
24 risdiction over local highways.

25 “(5) FEDERAL-AID HIGHWAY.—

1 “(A) *IN GENERAL.*—*The term ‘Federal-aid*
2 *highway’ means a highway eligible for assistance*
3 *under this chapter.*

4 “(B) *EXCLUSIONS.*—*The term ‘Federal-aid*
5 *highway’ does not include a highway classified*
6 *as a local road or rural minor collector.*

7 “(6) *FEDERAL-AID SYSTEM.*—*The term ‘Federal-*
8 *aid system’ means any of the Federal-aid highway*
9 *systems described in section 103.*

10 “(7) *FEDERAL LANDS HIGHWAY.*—*The term*
11 *‘Federal lands highway’ means—*

12 “(A) *a forest highway;*

13 “(B) *a recreation road;*

14 “(C) *a public Forest Service road;*

15 “(D) *a park road;*

16 “(E) *a parkway;*

17 “(F) *a refuge road;*

18 “(G) *an Indian reservation road that is a*
19 *public road; and*

20 “(H) *a public lands highway.*

21 “(8) *FOREST HIGHWAY.*—*The term ‘forest high-*
22 *way’ means a forest road that is—*

23 “(A) *under the jurisdiction of, and main-*
24 *tained by, a public authority; and*

25 “(B) *is open to public travel.*

1 “(9) *FOREST ROAD OR TRAIL.*—

2 “(A) *IN GENERAL.*—*The term ‘forest road or*
3 *trail’ means a road or trail wholly or partly*
4 *within, or adjacent to, and serving National*
5 *Forest System land that is necessary for the pro-*
6 *tection, administration, use, and development of*
7 *the resources of that land.*

8 “(B) *INCLUSIONS.*—*The term ‘forest road or*
9 *trail’ includes—*

10 “(i) *a classified forest road;*

11 “(ii) *an unclassified forest road;*

12 “(iii) *a temporary forest road; and*

13 “(iv) *a public forest service road.*

14 “(10) *FREIGHT TRANSPORTATION GATEWAY.*—

15 “(A) *IN GENERAL.*—*The term ‘freight trans-*
16 *portation gateway’ means a nationally or re-*
17 *gionally significant transportation port of entry*
18 *or hub for domestic and global trade or military*
19 *mobilization.*

20 “(B) *INCLUSIONS.*—*The term ‘freight trans-*
21 *portation gateway’ includes freight intermodal*
22 *and Strategic Highway Network connections that*
23 *provide access to and from a port or hub de-*
24 *scribed in subparagraph (A).*

1 “(11) *HIGHWAY*.—The term ‘highway’ in-
2 cludes—

3 “(A) a road, street, and parkway;

4 “(B) a right-of-way, bridge, railroad-high-
5 way crossing, tunnel, drainage structure, sign,
6 guardrail, and protective structure, in connec-
7 tion with a highway; and

8 “(C) a portion of any interstate or inter-
9 national bridge or tunnel (including the ap-
10 proaches to the interstate or international bridge
11 or tunnel, and such transportation facilities as
12 may be required by the United States Customs
13 Service and the Bureau of Citizenship and Im-
14 migration Services in connection with the oper-
15 ation of an international bridge or tunnel), the
16 cost of which is assumed by a State transpor-
17 tation department.

18 “(12) *HIGHWAY SAFETY IMPROVEMENT*
19 *PROJECT*.—The term ‘highway safety improvement
20 project’ means a project that meets the requirements
21 of section 148.

22 “(13) *INDIAN RESERVATION ROAD*.—

23 “(A) *IN GENERAL*.—The term ‘Indian res-
24 ervation road’ means a public road that is lo-
25 cated within or provides access to an area de-

1 *scribed in subparagraph (B) on which or in*
2 *which reside Indians or Alaskan Natives that, as*
3 *determined by the Secretary of the Interior, are*
4 *eligible for services generally available to Indians*
5 *under Federal laws specifically applicable to In-*
6 *dians.*

7 “(B) *AREAS.*—*The areas referred to in sub-*
8 *paragraph (A) are—*

9 “(i) *an Indian reservation;*

10 “(ii) *Indian trust land or restricted*
11 *Indian land that is not subject to fee title*
12 *alienation without the approval of the Fed-*
13 *eral Government; and*

14 “(iii) *an Indian or Alaska Native vil-*
15 *lage, group, or community.*

16 “(14) *INTERSTATE SYSTEM.*—*The term ‘Inter-*
17 *state System’ means the Dwight D. Eisenhower Na-*
18 *tional System of Interstate and Defense Highways de-*
19 *scribed in section 103(c).*

20 “(15) *MAINTENANCE.*—

21 “(A) *IN GENERAL.*—*The term ‘maintenance’*
22 *means the preservation of a highway.*

23 “(B) *INCLUSIONS.*—*The term ‘maintenance’*
24 *includes the preservation of—*

1 “(i) *the surface, shoulders, roadsides,*
2 *and structures of a highway; and*

3 “(ii) *such traffic-control devices as are*
4 *necessary for safe, secure, and efficient use*
5 *of a highway.*

6 “(16) *MAINTENANCE AREA.—The term ‘mainte-*
7 *nance area’ means an area that was designated as a*
8 *nonattainment area, but was later redesignated by the*
9 *Administrator of the Environmental Protection Agen-*
10 *cy as an attainment area, under section 107(d) of the*
11 *Clean Air Act (42 U.S.C. 7407(d)).*

12 “(17) *NATIONAL FOREST SYSTEM ROAD OR*
13 *TRAIL.—The term ‘National Forest System road or*
14 *trail’ means a forest road or trail that is under the*
15 *jurisdiction of the Forest Service.*

16 “(18) *NATIONAL HIGHWAY SYSTEM.—The term*
17 *‘National Highway System’ means the Federal-aid*
18 *highway system described in section 103(b).*

19 “(19) *OPERATING COSTS FOR TRAFFIC MONI-*
20 *TORING, MANAGEMENT, AND CONTROL.—The term ‘op-*
21 *erating costs for traffic monitoring, management, and*
22 *control’ includes—*

23 “(A) *labor costs;*

24 “(B) *administrative costs;*

25 “(C) *costs of utilities and rent;*

1 “(D) costs incurred by transportation agen-
 2 cies for technology to monitor critical transpor-
 3 tation infrastructure for security purposes; and

4 “(E) other costs associated with transpor-
 5 tation systems management and operations and
 6 the continuous operation of traffic control, such
 7 as—

8 “(i) an integrated traffic control sys-
 9 tem;

10 “(ii) an incident management pro-
 11 gram; and

12 “(iii) a traffic control center.

13 “(20) OPERATIONAL IMPROVEMENT.—

14 “(A) IN GENERAL.—The term ‘operational
 15 improvement’ means—

16 “(i) a capital improvement for instal-
 17 lation or implementation of—

18 “(I) a transportation system
 19 management and operations program;

20 “(II) traffic and transportation
 21 security surveillance and control equip-
 22 ment;

23 “(III) a computerized signal sys-
 24 tem;

1 “(IV) a motorist information sys-
2 tem;

3 “(V) an integrated traffic control
4 system;

5 “(VI) an incident management
6 program;

7 “(VII) equipment and programs
8 for transportation response to man-
9 made and natural disasters; or

10 “(VIII) a transportation demand
11 management facility, strategy, or pro-
12 gram; and

13 “(ii) such other capital improvements
14 to a public road as the Secretary may des-
15 ignate by regulation.

16 “(B) EXCLUSIONS.—The term ‘operational
17 improvement’ does not include—

18 “(i) a resurfacing, restorative, or reha-
19 bilitative improvement;

20 “(ii) construction of an additional
21 lane, interchange, or grade separation; or

22 “(iii) construction of a new facility on
23 a new location.

24 “(21) PARK ROAD.—The term ‘park road’ means
25 a public road (including a bridge built primarily for

1 *pedestrian use, but with capacity for use by emer-*
2 *gency vehicles) that is located within, or provides ac-*
3 *cess to, an area in the National Park System with*
4 *title and maintenance responsibilities vested in the*
5 *United States.*

6 “(22) *PARKWAY.*—*The term ‘parkway’ means a*
7 *parkway authorized by an Act of Congress on land to*
8 *which title is vested in the United States.*

9 “(23) *PROJECT.*—*The term ‘project’ means—*

10 “(A)(i) *an undertaking to construct a par-*
11 *ticular portion of a highway; or*

12 “(ii) *if the context so implies, a particular*
13 *portion of a highway so constructed; and*

14 “(B) *any other undertaking eligible for as-*
15 *sistance under this title.*

16 “(24) *PROJECT AGREEMENT.*—*The term ‘project*
17 *agreement’ means the formal instrument to be exe-*
18 *cuted by the Secretary and a State transportation de-*
19 *partment under section 106.*

20 “(25) *PUBLIC AUTHORITY.*—*The term ‘public au-*
21 *thority’ means a Federal, State, county, town, or*
22 *township, Indian tribe, municipal or other local gov-*
23 *ernment or instrumentality with authority to finance,*
24 *build, operate, or maintain toll or toll-free facilities.*

1 “(26) *PUBLIC FOREST SERVICE ROAD*.—*The term*
2 ‘*public Forest Service road*’ *means a classified forest*
3 *road—*

4 “(A) *that is open to public travel;*

5 “(B) *for which title and maintenance re-*
6 *sponsibility is vested in the Federal Government;*
7 *and*

8 “(C) *that has been designated a public road*
9 *by the Forest Service.*

10 “(27) *PUBLIC LANDS DEVELOPMENT ROADS AND*
11 *TRAILS*.—*The term ‘public lands development roads*
12 *and trails’ means roads and trails that the Secretary*
13 *of the Interior determines are of primary importance*
14 *for the development, protection, administration, and*
15 *use of public lands and resources under the control of*
16 *the Secretary of the Interior.*

17 “(28) *PUBLIC LANDS HIGHWAY*.—*The term ‘pub-*
18 *lic lands highway’ means—*

19 “(A) *a forest road that is—*

20 “(i) *under the jurisdiction of, and*
21 *maintained by, a public authority; and*

22 “(ii) *open to public travel; and*

23 “(B) *any highway through unappropriated*
24 *or unreserved public land, nontaxable Indian*
25 *land, or any other Federal reservation (including*

1 *a main highway through such land or reserva-*
2 *tion that is on the Federal-aid system) that is—*

3 “(i) *under the jurisdiction of, and*
4 *maintained by, a public authority; and*

5 “(ii) *open to public travel.*

6 “(29) *PUBLIC ROAD.—The term ‘public road’*
7 *means any road or street that is—*

8 “(A) *under the jurisdiction of, and main-*
9 *tained by, a public authority; and*

10 “(B) *open to public travel.*

11 “(30) *RECREATIONAL ROAD.—The term ‘rec-*
12 *reational road’ means a public road—*

13 “(A) *that provides access to a museum, lake,*
14 *reservoir, visitors center, gateway to a major*
15 *wilderness area, public use area, or recreational*
16 *or historic site; and*

17 “(B) *for which title is vested in the Federal*
18 *Government.*

19 “(31) *REFUGE ROAD.—The term ‘refuge road’*
20 *means a public road—*

21 “(A) *that provides access to or within a*
22 *unit of the National Wildlife Refuge System or*
23 *a national fish hatchery; and*

1 “(B) for which title and maintenance re-
2 sponsibility is vested in the United States Gov-
3 ernment.

4 “(32) *RURAL AREA*.—The term ‘rural area’
5 means an area of a State that is not included in an
6 urban area.

7 “(33) *SECRETARY*.—The term ‘Secretary’ means
8 the Secretary of Transportation.

9 “(34) *STATE*.—The term ‘State’ means—

10 “(A) a State;

11 “(B) the District of Columbia; and

12 “(C) the Commonwealth of Puerto Rico.

13 “(35) *STATE FUNDS*.—The term ‘State funds’ in-
14 cludes funds that are—

15 “(A) raised under the authority of the State
16 (or any political or other subdivision of a State);
17 and

18 “(B) made available for expenditure under
19 the direct control of the State transportation de-
20 partment.

21 “(36) *STATE TRANSPORTATION DEPARTMENT*.—
22 The term ‘State transportation department’ means
23 the department, agency, commission, board, or official
24 of any State charged by the laws of the State with the
25 responsibility for highway construction.

1 “(37) *TERRITORIAL HIGHWAY SYSTEM.*—The
2 term ‘territorial highway system’ means the system of
3 arterial highways, collector roads, and necessary
4 interisland connectors in American Samoa, the Com-
5 monwealth of the Northern Mariana Islands, Guam,
6 and the United States Virgin Islands that have been
7 designated by the appropriate Governor or chief exec-
8 utive officer of a territory, and approved by the Sec-
9 retary, in accordance with section 215.

10 “(38) *TRANSPORTATION ENHANCEMENT ACTIV-*
11 *ITY.*—The term ‘transportation enhancement activity’
12 means, with respect to any project or the area to be
13 served by the project, any of the following activities
14 as the activities relate to surface transportation:

15 “(A) *Provision of facilities for pedestrians*
16 *and bicycles.*

17 “(B) *Provision of safety and educational*
18 *activities for pedestrians and bicyclists.*

19 “(C) *Acquisition of scenic easements and*
20 *scenic or historic sites (including historic battle-*
21 *fields).*

22 “(D) *Conduct of scenic or historic highway*
23 *programs (including the provision of tourist and*
24 *welcome center facilities).*

1 “(E) *Landscaping and other scenic beautifi-*
2 *cation.*

3 “(F) *Historic preservation.*

4 “(G) *Rehabilitation and operation of his-*
5 *toric transportation buildings, structures, or fa-*
6 *cilities (including historic railroad facilities and*
7 *canals).*

8 “(H) *Preservation of abandoned railway*
9 *corridors (including the conversion and use of*
10 *the corridors for pedestrian or bicycle trails).*

11 “(I) *Control and removal of outdoor adver-*
12 *tising.*

13 “(J) *Archaeological planning and research.*

14 “(K) *Environmental mitigation—*

15 “(i) *to address water pollution due to*
16 *highway runoff; or*

17 “(ii) *reduce vehicle-caused wildlife*
18 *mortality while maintaining habitat*
19 *connectivity.*

20 “(L) *Establishment of transportation muse-*
21 *ums.*

22 “(39) *TRANSPORTATION SYSTEMS MANAGEMENT*
23 *AND OPERATIONS.—*

24 “(A) *IN GENERAL.—The term ‘transpor-*
25 *tation systems management and operations’*

1 *means an integrated program to optimize the*
2 *performance of existing infrastructure through*
3 *the implementation of multimodal and inter-*
4 *modal, cross-jurisdictional systems, services, and*
5 *projects designed to preserve capacity and im-*
6 *prove security, safety, and reliability of the*
7 *transportation system.*

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

11 “(i) *regional operations collaboration*
12 *and coordination activities between trans-*
13 *portation and public safety agencies; and*

14 “(ii) *improvements to the transpor-*
15 *tation system such as traffic detection and*
16 *surveillance, arterial management, freeway*
17 *management, demand management, work*
18 *zone management, emergency management,*
19 *electronic toll collection, automated enforce-*
20 *ment, traffic incident management, road-*
21 *way weather management, traveler infor-*
22 *mation services, commercial vehicle oper-*
23 *ations, traffic control, freight management,*
24 *and coordination of highway, rail, transit,*
25 *bicycle, and pedestrian operations.*

1 “(40) *URBAN AREA*.—The term ‘urban area’
2 *means—*

3 “(A) *an urbanized area (or, in the case of*
4 *an urbanized area encompassing more than 1*
5 *State, the portion of the urbanized area in each*
6 *State); and*

7 “(B) *an urban place designated by the Bu-*
8 *reau of the Census that—*

9 “(i) *has a population of 5,000 or more;*

10 “(ii) *is not located within any urban-*
11 *ized area; and*

12 “(iii) *is located within boundaries*
13 *that—*

14 “(I) *are fixed cooperatively by re-*
15 *sponsible State and local officials, sub-*
16 *ject to approval by the Secretary; and*

17 “(II) *encompass, at a minimum,*
18 *the entire urban place designated by*
19 *the Bureau of the Census (except in the*
20 *case of cities in the State of Maine and*
21 *in the State of New Hampshire).*

22 “(41) *URBANIZED AREA*.—The term ‘urbanized
23 *area’ means an area that—*

24 “(A) *has a population of 50,000 or more;*

1 “(B) is designated by the Bureau of the
2 Census; and

3 “(C) is located within boundaries that—
4 “(i) are fixed cooperatively by respon-
5 sible State and local officials, subject to ap-
6 proval by the Secretary; and

7 “(ii) encompass, at a minimum, the
8 entire urbanized area within a State as des-
9 ignated by the Bureau of the Census.”.

10 **TITLE I—FEDERAL-AID**
11 **HIGHWAYS**
12 **Subtitle A—Funding**

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

14 *The following sums are authorized to be appropriated*
15 *out of the Highway Trust Fund (other than the Mass Tran-*
16 *sit Account):*

17 (1) *INTERSTATE MAINTENANCE PROGRAM.—For*
18 *the Interstate maintenance program under section*
19 *119 of title 23, United States Code—*

20 (A) *\$5,500,000,000 for fiscal year 2004;*

21 (B) *\$6,300,000,000 for fiscal year 2005; and*

22 (C) *\$6,550,000,000 for each of fiscal years*
23 *2006 through 2009.*

1 (2) *NATIONAL HIGHWAY SYSTEM.*—*For the Na-*
2 *tional Highway System under section 103 of that*
3 *title—*

4 (A) *\$6,650,000,000 for fiscal year 2004;*

5 (B) *\$7,650,000,000 for fiscal year 2005; and*

6 (C) *\$7,950,000,000 for each of fiscal years*
7 *2006 through 2009.*

8 (3) *BRIDGE PROGRAM.*—*For the bridge program*
9 *under section 144 of that title—*

10 (A) *\$4,700,000,000 for fiscal year 2004;*

11 (B) *\$5,400,000,000 for fiscal year 2005; and*

12 (C) *\$5,600,000,000 for each of fiscal years*
13 *2006 through 2009.*

14 (4) *SURFACE TRANSPORTATION PROGRAM.*—*For*
15 *the surface transportation program under section 133*
16 *of that title—*

17 (A) *\$6,950,000,000 for fiscal year 2004;*

18 (B) *\$7,950,000,000 for fiscal year 2005; and*

19 (C) *\$8,250,000,000 for each of fiscal years*
20 *2006 through 2009.*

21 (5) *CONGESTION MITIGATION AND AIR QUALITY*
22 *IMPROVEMENT PROGRAM.*—*For the congestion mitiga-*
23 *tion and air quality improvement program under sec-*
24 *tion 149 of that title—*

25 (A) *\$1,900,000,000 for fiscal year 2004;*

1 (B) \$2,150,000,000 for fiscal year 2005; and

2 (C) \$2,225,000,000 for each of fiscal years

3 2006 through 2009.

4 (6) *HIGHWAY SAFETY IMPROVEMENT PRO-*
5 *GRAM.*—For the highway safety improvement pro-
6 gram under section 148 of that title—

7 (A) \$1,200,000,000 for fiscal year 2004;

8 (B) \$1,300,000,000 for fiscal year 2005; and

9 (C) \$1,350,000,000 for each of fiscal years

10 2006 through 2009.

11 (7) *APPALACHIAN DEVELOPMENT HIGHWAY SYS-*
12 *TEM PROGRAM.*—For the Appalachian development
13 highway system program under section 170 of that
14 title, \$590,000,000 for each of fiscal years 2004
15 through 2009.

16 (8) *RECREATIONAL TRAILS PROGRAM.*—For the
17 recreational trails program under section 206 of that
18 title, \$60,000,000 for each of fiscal years 2004
19 through 2009.

20 (9) *FEDERAL LANDS HIGHWAYS PROGRAM.*—

21 (A) *INDIAN RESERVATION ROADS.*—For In-
22 dian reservation roads under section 204 of that
23 title—

24 (i) \$300,000,000 for fiscal year 2004;

25 (ii) \$325,000,000 for fiscal year 2005;

1 (iii) \$350,000,000 for fiscal year 2006;

2 (iv) \$375,000,000 for fiscal year 2007;

3 (v) \$400,000,000 for fiscal year 2008;

4 and

5 (vi) \$425,000,000 for fiscal year 2009.

6 (B) *RECREATION ROADS.*—For recreation
7 roads under section 204 of that title, \$50,000,000
8 for each of fiscal years 2004 through 2009.

9 (C) *PARK ROADS AND PARKWAYS.*—For
10 park roads and parkways under section 204 of
11 that title—

12 (i) \$300,000,000 for fiscal year 2004;

13 (ii) \$310,000,000 for fiscal year 2005;

14 and

15 (iii) \$320,000,000 for each of fiscal
16 years 2006 through 2009.

17 (D) *REFUGE ROADS.*—For refuge roads
18 under section 204 of that title, \$30,000,000 for
19 each of fiscal years 2004 through 2009.

20 (E) *PUBLIC LANDS HIGHWAYS.*—For Fed-
21 eral lands highways under section 204 of that
22 title, \$300,000,000 for each of fiscal years 2004
23 through 2009.

1 (F) *SAFETY*.—For safety under section 204
2 of that title, \$40,000,000 for each of fiscal years
3 2004 through 2009.

4 (10) *MULTISTATE CORRIDOR PROGRAM*.—For the
5 multistate corridor program under section 171 of that
6 title—

7 (A) \$112,500,000 for fiscal year 2004;

8 (B) \$135,000,000 for fiscal year 2005;

9 (C) \$157,500,000 for fiscal year 2006;

10 (D) \$180,000,000 for fiscal year 2007;

11 (E) \$202,500,000 for fiscal year 2008; and

12 (F) \$225,000,000 for fiscal year 2009.

13 (11) *BORDER PLANNING, OPERATIONS, AND*
14 *TECHNOLOGY PROGRAM*.—For the border planning,
15 operations, and technology program under section 172
16 of that title—

17 (A) \$112,500,000 for fiscal year 2004;

18 (B) \$135,000,000 for fiscal year 2005;

19 (C) \$157,500,000 for fiscal year 2006;

20 (D) \$180,000,000 for fiscal year 2007;

21 (E) \$202,500,000 for fiscal year 2008; and

22 (F) \$225,000,000 for fiscal year 2009.

23 (12) *NATIONAL SCENIC BYWAYS PROGRAM*.—For
24 the national scenic byways program under section
25 162 of that title—

- 1 (A) \$34,000,000 for fiscal year 2004;
2 (B) \$35,000,000 for fiscal year 2005;
3 (C) \$36,000,000 for fiscal year 2006;
4 (D) \$37,000,000 for fiscal year 2007; and
5 (E) \$39,000,000 for each of fiscal years
6 2008 and 2009.

7 (13) *INFRASTRUCTURE PERFORMANCE AND MAIN-*
8 *TENANCE PROGRAM.*—For carrying out the infrastruc-
9 *ture performance and maintenance program under*
10 *section 139 of that title—*

- 11 (A) \$2,500,000,000 for each of fiscal years
12 2004 through 2006;
13 (B) \$2,000,000,000 for each of fiscal years
14 2007 and 2008; and
15 (C) \$500,000,000 for fiscal year 2009.

16 (14) *CONSTRUCTION OF FERRY BOATS AND*
17 *FERRY TERMINAL FACILITIES.*—For construction of
18 *ferry boats and ferry terminal facilities under section*
19 *147 of that title, \$38,000,000 for each of fiscal years*
20 *2004 through 2009.*

21 (15) *COMMONWEALTH OF PUERTO RICO HIGH-*
22 *WAY PROGRAM.*—For the Commonwealth of Puerto
23 *Rico highway program under section 173 of that*
24 *title—*

- 25 (A) \$140,000,000 for fiscal year 2004;

- 1 (B) \$145,000,000 for fiscal year 2005;
 2 (C) \$149,000,000 for fiscal year 2006;
 3 (D) \$154,000,000 for fiscal year 2007;
 4 (E) \$160,000,000 for fiscal year 2008; and
 5 (F) \$163,000,000 for fiscal year 2009.

6 **SEC. 1102. OBLIGATION CEILING.**

7 **[RESERVED]**

8 **SEC. 1103. APPORTIONMENTS.**

9 (a) *ADMINISTRATIVE EXPENSES.*—

10 (1) *IN GENERAL.*—Section 104 of title 23,
 11 *United States Code, is amended by striking subsection*
 12 *(a) and inserting the following:*

13 “(a) *ADMINISTRATIVE EXPENSES.*—

14 “(1) *IN GENERAL.*—There are authorized to be
 15 *appropriated from the Highway Trust Fund (other*
 16 *than the Mass Transit Account) to be made available*
 17 *to the Secretary of Transportation for administrative*
 18 *expenses of the Federal Highway Administration—*

19 “(A) \$450,000,000 for fiscal year 2004;

20 “(B) \$465,000,000 for fiscal year 2005;

21 “(C) \$480,000,000 for fiscal year 2006;

22 “(D) \$495,000,000 for fiscal year 2007;

23 “(E) \$510,000,000 for fiscal year 2008; and

24 “(F) \$525,000,000 for fiscal year 2009.

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

3 “(A) *to administer the provisions of law to*
4 *be financed from appropriations for the Federal-*
5 *aid highway program and programs authorized*
6 *under chapter 2; and*

7 “(B) *to make transfers of such sums as the*
8 *Secretary determines to be appropriate to the*
9 *Appalachian Regional Commission for adminis-*
10 *trative activities associated with the Appa-*
11 *lachian development highway system.*

12 “(3) *AVAILABILITY.*—*The funds made available*
13 *under paragraph (1) shall remain available until ex-*
14 *pended.”.*

15 (2) *CONFORMING AMENDMENTS.*—*Section 104 of*
16 *title 23, United States Code, is amended—*

17 (A) *in the matter preceding paragraph (1)*
18 *of subsection (b), by striking “the deduction au-*
19 *thorized by subsection (a) and”;*

20 (B) *in the first sentence of subsection (e)(1),*
21 *by striking “, and also” and all that follows*
22 *through “this section”;* and

23 (C) *in subsection (i), by striking “deducted”*
24 *and inserting “made available”.*

1 (b) *METROPOLITAN PLANNING.*—Section 104(f) of title
2 23, *United States Code*, is amended—

3 (1) *by striking paragraph (1) and inserting the*
4 *following:*

5 “(1) *SET-ASIDE.*—On October 1 of each fiscal
6 *year, the Secretary shall set aside 1.5 percent of the*
7 *funds authorized to be appropriated for expenditure*
8 *upon programs authorized under this title to carry*
9 *out the requirements of section 134.”;*

10 (2) *in paragraph (2), by striking “per centum”*
11 *and inserting “percent”;*

12 (3) *in paragraph (3)—*

13 (A) *by striking “The funds” and inserting*
14 *the following:*

15 “(A) *IN GENERAL.*—*The funds”;* and

16 (B) *by striking “These funds” and all that*
17 *follows and inserting the following:*

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

23 (4) *by adding at the end the following:*

24 “(6) *FEDERAL SHARE.*—*Funds apportioned to a*
25 *State under this subsection shall be matched in ac-*

1 *cordance with section 120(b) unless the Secretary de-*
2 *termines that the interests of the Federal-aid highway*
3 *program would be best served without the match.”.*

4 *(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title*
5 *23, United States Code, is amended by striking “1998*
6 *through 2002” and inserting “2004 through 2009”.*

7 **SEC. 1104. MINIMUM GUARANTEE.**

8 *Section 105 of title 23, United States Code, is amended*
9 *by striking subsections (a) through (f) and inserting the fol-*
10 *lowing:*

11 *“(a) GENERAL RULE.—For each of fiscal years 2004*
12 *through 2009, the Secretary shall ensure that the percentage*
13 *of apportionments of each State is sufficient to ensure that,*
14 *based on the percentage of tax payments attributable to*
15 *highway users in each State paid into the Highway Trust*
16 *Fund (other than the Mass Transit Account) in the latest*
17 *fiscal year for which data are available, no State’s percent-*
18 *age return from the Highway Trust Fund is less than 90.5*
19 *percent.*

20 *“(b) APPORTIONMENTS—In making an apportionment*
21 *described in subsection (a) for a fiscal year, the Secretary*
22 *shall ensure that the rate of return of each State from the*
23 *Highway Trust Fund includes the total apportionments*
24 *made for the fiscal year for—*

1 “(1) the Interstate maintenance program under
2 section 119;

3 “(2) the National Highway System under section
4 103;

5 “(3) the bridge program under section 144;

6 “(4) the surface transportation program under
7 section 133;

8 “(5) the congestion mitigation and air quality
9 improvement program under section 149;

10 “(6) the highway safety improvement program
11 under section 148;

12 “(7) the Appalachian development highway sys-
13 tem program under section 170;

14 “(8) the recreational trails program under sec-
15 tion 206;

16 “(9) the infrastructure performance and mainte-
17 nance program under section 139;

18 “(10) the metropolitan planning program under
19 section 104(f);

20 “(11) the equity bonus program under this sec-
21 tion;

22 “(12) the high priority projects program under
23 section 1601 of the Transportation Equity Act for the
24 21st Century (112 Stat. 255);

1 “(13) the safe routes to school program under
2 section 150; and

3 “(14) the railway-highway crossings under sec-
4 tion 130.”.

5 **SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

6 Section 110 of title 23, United States Code, is amend-
7 ed—

8 (1) in subsection (a)—

9 (A) in paragraphs (1) and (2), by striking
10 “2000” each place it appears and inserting
11 “2006”; and

12 (B) in paragraph (2)—

13 (i) by striking “the succeeding” and
14 inserting “that”; and

15 (ii) by striking “and the motor carrier
16 safety grant program”;

17 (2) in subsection (b)(1), by striking subpara-
18 graph (A) and inserting the following:

19 “(A) the sums authorized to be appropriated
20 from the Highway Trust Fund (other than the
21 Mass Transit Account) for each of the Federal-
22 aid highway and highway safety construction
23 programs (other than the equity bonus program)
24 and for which funds are allocated from the High-
25 way Trust Fund by the Secretary under this title

1 *and the Safe, Accountable, Flexible, and Effi-*
 2 *cient Transportation Equity Act of 2003; bears*
 3 *to”;*

4 (3) *in subsection (c), by inserting “the highway*
 5 *safety improvement program,” after “the surface*
 6 *transportation program,”; and*

7 (4) *by striking subsections (e), (f), and (g).*

8 ***Subtitle B—New Programs***

9 ***SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTEN-*** 10 ***NANCE PROGRAM.***

11 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
 12 *23, United States Code, is amended by inserting after sec-*
 13 *tion 138 the following:*

14 ***“§ 139. Infrastructure performance and maintenance*** 15 ***program***

16 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
 17 *and implement an infrastructure performance and mainte-*
 18 *nance program in accordance with this section.*

19 “(b) *ELIGIBLE PROJECTS.*—

20 “(1) *IN GENERAL.*—*A State may obligate funds*
 21 *allocated to the State under this section only for*
 22 *projects eligible under the Interstate maintenance pro-*
 23 *gram under section 119, the National Highway Sys-*
 24 *tem program under section 103, the surface transpor-*
 25 *tation program under section 133, the highway safety*

1 *improvement program under section 148, the highway*
2 *bridge replacement and rehabilitation program under*
3 *section 144, and the congestion mitigation and air*
4 *quality improvement program under section 149 that*
5 *will—*

6 “(A) *preserve, maintain, or otherwise ex-*
7 *tend, in a cost-effective manner, the useful life of*
8 *existing highway infrastructure elements; or*

9 “(B) *provide operational improvements (in-*
10 *cluding traffic management and intelligent*
11 *transportation system strategies and limited ca-*
12 *capacity enhancements) at points of recurring*
13 *highway congestion.*

14 “(2) *SET-ASIDE.—Notwithstanding any other*
15 *provision of law, of the amounts made available*
16 *under section 1101(a)(14) of the Safe, Accountable,*
17 *Flexible, and Efficient Transportation Equity Act of*
18 *2003, \$439,000,000 shall be available for obligation to*
19 *carry out this section without further appropriation.*

20 “(c) *PERIOD OF AVAILABILITY.—*

21 “(1) *OBLIGATION WITHIN 180 DAYS.—*

22 “(A) *IN GENERAL.—Funds allocated to a*
23 *State under this section shall be obligated by the*
24 *State not later than 180 days after the date of*
25 *apportionment.*

1 “(B) *UNOBLIGATED FUNDS.*—*Any amounts*
 2 *that remain unobligated at the end of that pe-*
 3 *riod shall be allocated in accordance with sub-*
 4 *section (d).*

5 “(2) *OBLIGATION BY END OF FISCAL YEAR.*—

6 “(A) *IN GENERAL.*—*All funds allocated or*
 7 *reallocated under this section shall remain avail-*
 8 *able for obligation until the last day of the fiscal*
 9 *year for which the funds are apportioned.*

10 “(B) *UNOBLIGATED FUNDS.*—*Any amounts*
 11 *allocated that remain unobligated at the end of*
 12 *the fiscal year shall lapse.*

13 “(d) *REDISTRIBUTION OF ALLOCATED FUNDS AND OB-*
 14 *LIGATION AUTHORITY.*—

15 “(1) *IN GENERAL.*—*On the date that is 180 days*
 16 *after the date of allocation, or as soon thereafter as*
 17 *practicable, for each fiscal year, the Secretary shall—*

18 “(A) *withdraw—*

19 “(i) *any funds allocated to a State*
 20 *under this section that remain unobligated;*
 21 *and*

22 “(ii) *an equal amount of obligation*
 23 *authority provided for the use of the funds*
 24 *in accordance with section 1101(a)(14) of*
 25 *the Safe, Accountable, Flexible, and Effi-*

1 *cient Transportation Equity Act of 2003;*

2 *and*

3 *“(B) reallocate the funds and redistribute*

4 *the obligation authority to those States that—*

5 *“(i) have fully obligated all amounts*

6 *allocated under this section for the fiscal*

7 *year; and*

8 *“(ii) demonstrate that the State is able*

9 *to obligate additional amounts for projects*

10 *eligible under this section before the end of*

11 *the fiscal year.*

12 *“(2) EQUITY BONUS.—The calculation and dis-*

13 *tribution of funds under section 105 shall be adjusted*

14 *as a result of the allocation of funds under this sub-*

15 *section.*

16 *“(e) FEDERAL SHARE PAYABLE.—The Federal share*

17 *payable for a project funded under this section shall be de-*

18 *termined in accordance with section 120.”.*

19 *(b) CONFORMING AMENDMENT.—The analysis for*

20 *chapter 1 of title 23, United States Code, is amended by*

21 *adding after the item relating to section 138 the following:*

“139. Infrastructure performance and maintenance program.”.

22 **SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYS-**

23 **TEM.**

24 *(a) DECLARATION OF POLICY.—Section 101 of title 23,*

25 *United States Code, is amended—*

1 (1) *by striking “(b) It is hereby declared to be”*
2 *and inserting the following:*

3 “(b) *DECLARATION OF POLICY.—*

4 “(1) *ACCELERATION OF CONSTRUCTION OF FED-*
5 *ERAL-AID HIGHWAY SYSTEMS.—Congress declares that*
6 *it is”;*

7 (2) *in the second paragraph, by striking “It is*
8 *hereby declared” and inserting the following:*

9 “(2) *COMPLETION OF INTERSTATE SYSTEM.—*
10 *Congress declares”;* and

11 (3) *by striking the last paragraph and inserting*
12 *the following:*

13 “(3) *TRANSPORTATION NEEDS OF 21ST CEN-*
14 *TURY.—Congress declares that—*

15 “(A) *it is in the national interest to pre-*
16 *serve and enhance the surface transportation sys-*
17 *tem to meet the needs of the United States for the*
18 *21st Century;*

19 “(B) *the current urban and long distance*
20 *personal travel and freight movement demands*
21 *have surpassed the original forecasts and travel*
22 *demand patterns are expected to change;*

23 “(C) *continued planning for and investment*
24 *in surface transportation is critical to ensure the*

1 *surface transportation system adequately meets*
2 *the changing travel demands of the future;*

3 *“(D) among the foremost needs that the sur-*
4 *face transportation system must meet to provide*
5 *for a strong and vigorous national economy are*
6 *safe, efficient, and reliable—*

7 *“(i) national and interregional per-*
8 *sonal mobility (including personal mobility*
9 *in rural and urban areas) and reduced con-*
10 *gestion;*

11 *“(ii) flow of interstate and inter-*
12 *national commerce and freight transpor-*
13 *tation; and*

14 *“(iii) travel movements essential for*
15 *national security;*

16 *“(E) special emphasis should be devoted to*
17 *providing safe and efficient access for the type*
18 *and size of commercial and military vehicles*
19 *that access designated National Highway System*
20 *intermodal freight terminals;*

21 *“(F) it is in the national interest to seek*
22 *ways to eliminate barriers to transportation in-*
23 *vestment created by the current modal structure*
24 *of transportation financing;*

1 “(G) the connection between land use and
2 infrastructure is significant;

3 “(H) transportation should play a signifi-
4 cant role in promoting economic growth, improv-
5 ing the environment, and sustaining the quality
6 of life; and

7 “(I) the Secretary should take appropriate
8 actions to preserve and enhance the Interstate
9 System to meet the needs of the 21st Century.”.

10 (b) NATIONAL SURFACE TRANSPORTATION SYSTEM

11 STUDY.—

12 (1) IN GENERAL.—The Secretary shall—

13 (A) conduct a complete investigation and
14 study of the current condition and future needs
15 of the surface transportation system of the
16 United States, including—

17 (i) the National Highway System;

18 (ii) the Interstate System;

19 (iii) the strategic highway network;

20 (iv) congressional high priority cor-
21 ridors;

22 (v) intermodal connectors;

23 (vi) freight facilities;

24 (vii) navigable waterways;

25 (viii) mass transportation;

1 *(ix) freight and intercity passenger*
2 *rail infrastructure and facilities; and*

3 *(x) surface access to airports; and*

4 *(B) develop a conceptual plan, with alter-*
5 *native approaches, for the future to ensure that*
6 *the surface transportation system will continue*
7 *to serve the needs of the United States, including*
8 *specific recommendations regarding design and*
9 *operational standards, Federal policies, and leg-*
10 *islative changes.*

11 *(2) SPECIFIC ISSUES.—In conducting the inves-*
12 *tigation and study, the Secretary shall specifically*
13 *address—*

14 *(A) the current condition and performance*
15 *of the Interstate System (including the physical*
16 *condition of bridges and pavements and oper-*
17 *ational characteristics and performance), relying*
18 *primarily on existing data sources;*

19 *(B) the future of the Interstate System,*
20 *based on a range of legislative and policy ap-*
21 *proaches for 15-, 30-, and 50-year time periods;*

22 *(C) the expected demographics and business*
23 *uses that impact the surface transportation sys-*
24 *tem;*

1 (D) the expected use of the surface transpor-
2 tation system, including the effects of changing
3 vehicle types, modes of transportation, fleet size
4 and weights, and traffic volumes;

5 (E) desirable design policies and standards
6 for future improvements of the surface transpor-
7 tation system, including additional access
8 points;

9 (F) the identification of urban, rural, na-
10 tional, and interregional needs for the surface
11 transportation system;

12 (G) the potential for expansion, upgrades,
13 or other changes to the surface transportation
14 system, including—

15 (i) deployment of advanced materials
16 and intelligent technologies;

17 (ii) critical multistate, urban, and
18 rural corridors needing capacity, safety,
19 and operational enhancements;

20 (iii) improvements to intermodal link-
21 ages;

22 (iv) security and military deployment
23 enhancements;

24 (v) strategies to enhance asset preserva-
25 tion; and

1 (vi) implementation strategies;

2 (H) the improvement of emergency pre-
3 paredness and evacuation using the surface
4 transportation system, including—

5 (i) examination of the potential use of
6 all modes of the surface transportation sys-
7 tem in the safe and efficient evacuation of
8 citizens during times of emergency;

9 (ii) identification of the location of
10 critical bottlenecks; and

11 (iii) development of strategies to im-
12 prove system redundancy, especially in
13 areas with a high potential for terrorist at-
14 tacks;

15 (I) alternatives for addressing environ-
16 mental concerns in recommended alternatives;

17 (J) the evaluation and assessment of the
18 current and future capabilities for conducting
19 system-wide real-time performance data collec-
20 tion and analysis, traffic monitoring, and sys-
21 tem operations and management; and

22 (K) a range of policy and legislative alter-
23 natives for addressing future needs for the sur-
24 face transportation system, including funding
25 needs and potential approaches to provide funds.

1 (3) *TECHNICAL ADVISORY COMMITTEE.*—*The*
2 *Secretary shall establish a technical advisory com-*
3 *mittee, in a manner consistent with the Federal Advi-*
4 *sory Committee Act (5 U.S.C. App.), to collect and*
5 *evaluate technical input from—*

6 *(A) the Department of Defense;*

7 *(B) appropriate Federal, State, and local*
8 *officials with responsibility for transportation;*

9 *(C) appropriate State and local elected offi-*
10 *cials;*

11 *(D) transportation and trade associations;*

12 *(E) emergency management officials;*

13 *(F) freight providers;*

14 *(G) the general public; and*

15 *(H) other entities and persons determined*
16 *appropriate by the Secretary to ensure a diverse*
17 *range of views.*

18 (4) *REPORT.*—*Not later than 4 years after the*
19 *date of enactment of this Act, the Secretary shall sub-*
20 *mit to the Committee on Environment and Public*
21 *Works of the Senate and the Committee on Transpor-*
22 *tation and Infrastructure of the House of Representa-*
23 *tives, and make readily available to the public, a re-*
24 *port on the results of the investigation and study con-*
25 *ducted under this subsection.*

1 **SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS;**
 2 **FREIGHT INTERMODAL CONNECTIONS.**

3 (a) *FREIGHT TRANSPORTATION GATEWAYS.*—Chapter
 4 3 of title 23, United States Code, is amended by adding
 5 at the end the following:

6 **“§ 325. Freight transportation gateways**

7 “(a) *IN GENERAL.*—

8 “(1) *ESTABLISHMENT.*—The Secretary shall es-
 9 tablish a freight transportation gateways program to
 10 improve productivity, security, and safety of freight
 11 transportation gateways, while mitigating congestion
 12 and community impacts in the area of the gateways.

13 “(2) *PURPOSES.*—The purposes of the freight
 14 transportation gateways program shall be—

15 “(A) to facilitate and support multimodal
 16 freight transportation initiatives at the State
 17 and local levels in order to improve freight
 18 transportation gateways and mitigate the im-
 19 pact of congestion on the environment in the
 20 area of the gateways;

21 “(B) to provide capital funding to address
 22 infrastructure and freight operational needs at
 23 freight transportation gateways;

24 “(C) to encourage adoption of new financ-
 25 ing strategies to leverage State, local, and pri-

1 *vate investment in freight transportation gate-*
 2 *ways;*

3 “(D) *to facilitate access to intermodal*
 4 *freight transfer facilities; and*

5 “(E) *to increase economic efficiency by fa-*
 6 *cilitating the movement of goods.*

7 “(b) *STATE RESPONSIBILITIES.—*

8 “(1) *PROJECT DEVELOPMENT PROCESS.—Each*
 9 *State, in coordination with metropolitan planning*
 10 *organizations, shall ensure that intermodal freight*
 11 *transportation, trade facilitation, and economic devel-*
 12 *opment needs are adequately considered and fully in-*
 13 *tegrated into the project development process, includ-*
 14 *ing transportation planning through final design and*
 15 *construction of freight-related transportation projects.*

16 “(2) *FREIGHT TRANSPORTATION COORDI-*
 17 *NATOR.—*

18 “(A) *IN GENERAL.—Each State shall des-*
 19 *ignate a freight transportation coordinator.*

20 “(B) *DUTIES.—The coordinator shall—*

21 “(i) *foster public and private sector*
 22 *collaboration needed to implement complex*
 23 *solutions to freight transportation and*
 24 *freight transportation gateway problems,*
 25 *including—*

1 “(I) coordination of metropolitan
2 and statewide transportation activities
3 with trade and economic interests;

4 “(II) coordination with other
5 States, agencies, and organizations to
6 find regional solutions to freight trans-
7 portation problems; and

8 “(III) coordination with local of-
9 ficials of the Department of Defense
10 and the Department of Homeland Se-
11 curity, and with other organizations,
12 to develop regional solutions to mili-
13 tary and homeland security transpor-
14 tation needs; and

15 “(ii) promote programs that build pro-
16 fessional capacity to better plan, coordinate,
17 integrate, and understand freight transpor-
18 tation needs for the State.

19 “(c) *INNOVATIVE FINANCE STRATEGIES.*—

20 “(1) *IN GENERAL.*—States and localities are en-
21 couraged to adopt innovative financing strategies for
22 freight transportation gateway improvements, includ-
23 ing—

24 “(A) new user fees;

1 “(B) modifications to existing user fees, in-
2 cluding trade facilitation charges;

3 “(C) revenue options that incorporate pri-
4 vate sector investment; and

5 “(D) a blending of Federal-aid and innova-
6 tive finance programs.

7 “(2) *TECHNICAL ASSISTANCE.*—The Secretary
8 shall provide technical assistance to States and local-
9 ities with respect to the strategies.

10 “(d) *INTERMODAL FREIGHT TRANSPORTATION*
11 *PROJECTS.*—

12 “(1) *USE OF SURFACE TRANSPORTATION PRO-*
13 *GRAM FUNDS.*—A State may obligate funds appor-
14 *tioned to the State under section 104(b)(3) for pub-*
15 *licly-owned intermodal freight transportation projects*
16 *that provide community and highway benefits by ad-*
17 *dressing economic, congestion, system reliability, secu-*
18 *rity, safety, or environmental issues associated with*
19 *freight transportation gateways.*

20 “(2) *ELIGIBLE PROJECTS.*—A project eligible for
21 *funding under this section—*

22 “(A) may include publicly-owned inter-
23 *modal freight transfer facilities, access to the fa-*
24 *ilities, and operational improvements for the fa-*
25 *ilities (including capital investment for intel-*

1 *ligent transportation systems), except that*
 2 *projects located within the boundaries of port*
 3 *terminals shall only include the surface trans-*
 4 *portation infrastructure modifications necessary*
 5 *to facilitate direct intermodal interchange, trans-*
 6 *fer, and access into and out of the port; and*

7 *“(B) may involve the combining of private*
 8 *and public funds.”.*

9 *(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PRO-*
 10 *GRAM FUNDS.—Section 133(b) of title 23, United States*
 11 *Code, is amended by inserting after paragraph (11) the fol-*
 12 *lowing:*

13 *“(12) Intermodal freight transportation projects*
 14 *in accordance with section 325(d)(2).”.*

15 *(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—*
 16 *Section 103(b) of title 23, United States Code, is amended*
 17 *by adding at the end the following:*

18 *“(7) FREIGHT INTERMODAL CONNECTIONS TO*
 19 *THE NHS.—*

20 *“(A) FUNDING SET-ASIDE.—Of the funds*
 21 *apportioned to a State for each fiscal year under*
 22 *section 104(b)(1), an amount determined in ac-*
 23 *cordance with subparagraph (B) shall only be*
 24 *available to the State to be obligated for projects*
 25 *on—*

1 “(i) *National Highway System routes*
2 *connecting to intermodal freight terminals*
3 *identified according to criteria specified in*
4 *the report to Congress entitled ‘Pulling To-*
5 *gether: The National Highway System and*
6 *its Connections to Major Intermodal Termi-*
7 *nals’ dated May 24, 1996, referred to in*
8 *paragraph (1), and any modifications to*
9 *the connections that are consistent with*
10 *paragraph (4);*

11 “(ii) *strategic highway network con-*
12 *nectors to strategic military deployment*
13 *ports; and*

14 “(iii) *projects to eliminate railroad*
15 *crossings or make railroad crossing im-*
16 *provements.*

17 “(B) *DETERMINATION OF AMOUNT.—The*
18 *amount of funds for each State for a fiscal year*
19 *that shall be set aside under subparagraph (A)*
20 *shall be equal to the greater of—*

21 “(i) *the product obtained by multi-*
22 *plying—*

23 “(I) *the total amount of funds ap-*
24 *portioned to the State under section*
25 *104(b)(1); by*

1 “(II) the percentage of miles that
2 routes specified in subparagraph (A)
3 constitute of the total miles on the Na-
4 tional Highway System in the State;
5 or

6 “(ii) 2 percent of the annual appor-
7 tionment to the State of funds under
8 104(b)(1).

9 “(C) EXEMPTION FROM SET-ASIDE.—For
10 any fiscal year, a State may obligate the funds
11 otherwise set aside by this paragraph for any
12 project that is eligible under paragraph (6) and
13 is located in the State on a segment of the Na-
14 tional Highway System specified in paragraph
15 (2), if the State certifies and the Secretary con-
16 curs that—

17 “(i) the designated National Highway
18 System intermodal connectors described in
19 subparagraph (A) are in good condition
20 and provide an adequate level of service for
21 military vehicle and civilian commercial
22 vehicle use; and

23 “(ii) significant needs on the des-
24 ignated National Highway System inter-

1 modal connectors are being met or do not
2 exist.”.

3 (d) *FEDERAL SHARE PAYABLE.*—Section 120 of title
4 23, United States Code, is amended by adding at the end
5 the following:

6 “(m) *INCREASED FEDERAL SHARE FOR CONNEC-*
7 *TORS.*—In the case of a project to support a National High-
8 way System intermodal freight connection or strategic high-
9 way network connector to a strategic military deployment
10 port described in section 103(b)(7), the Federal share of the
11 total cost of the project shall be 90 percent.”.

12 (e) *LENGTH LIMITATIONS.*—Section 31111(e) of title
13 49, United States Code, is amended—

14 (1) by striking “The” and inserting the fol-
15 lowing:

16 “(1) *IN GENERAL.*—The”; and

17 (2) by adding at the end the following:

18 “(2) *LENGTH LIMITATIONS.*—In the interests of
19 economic competitiveness, security, and intermodal
20 connectivity, not later than 3 years after the date of
21 enactment of this paragraph, States shall update the
22 list of Federal-aid system highways to include—

23 “(A) strategic highway network connectors
24 to strategic military deployment ports; and

1 “(B) *National Highway System intermodal*
 2 *freight connections serving military and com-*
 3 *mercial truck traffic going to major intermodal*
 4 *terminals as described in section*
 5 *103(b)(7)(A)(i).”.*

6 (f) *CONFORMING AMENDMENT.*—*The analysis of chap-*
 7 *ter 3 of title 23, United States Code, is amended by adding*
 8 *at the end the following:*

 “325. *Freight transportation gateways.*”.

9 **SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY**
 10 **TERMINAL FACILITIES.**

11 (a) *IN GENERAL.*—*Section 147 of title 23, United*
 12 *States Code, is amended to read as follows:*

13 **“§ 147. Construction of ferry boats and ferry terminal**
 14 **facilities**

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

18 “(b) *FEDERAL SHARE.*—*The Federal share of the cost*
 19 *of construction of ferry boats and ferry terminals under this*
 20 *section shall be 80 percent.*

21 “(c) *SET ASIDE FOR PROJECTS ON NATIONAL HIGH-*
 22 *WAY SYSTEM.*—*Before any apportionment is made under*
 23 *section 104(b)(3), the Secretary shall set aside \$20,000,000*
 24 *for each of fiscal years 2004 through 2009, for obligation*
 25 *by the Secretary, for—*

1 “(1) *the construction or refurbishment of ferry*
2 *boats and ferry terminal facilities;*

3 “(2) *the acquisition of zero- or low-emission*
4 *ferry boats, or projects that advance the ship-building*
5 *capacities of the United States through the introduc-*
6 *tion of new technology; and*

7 “(3) *approaches to facilities described in para-*
8 *graph (1) located within marine highway systems*
9 *that are part of the National Highway System.*

10 “(d) *FUNDING.—There shall be made available to the*
11 *Secretary to carry out this section, out of the Highway*
12 *Trust Fund (other than the Mass Transit Account), for obli-*
13 *gation at the discretion of the Secretary and to remain*
14 *available until expended, \$38,000,000 for the period of fis-*
15 *cal years 2004 through 2009.”.*

16 (b) *CONFORMING AMENDMENTS.—*

17 (1) *The analysis for subchapter I of chapter 1 of*
18 *title 23, United States Code, is amended by striking*
19 *the item relating to section 147 and inserting the fol-*
20 *lowing:*

 “147. *Construction of ferry boats and ferry terminal facilities.”.*

21 (2) *Section 1064 of the Intermodal Surface*
22 *Transportation Efficiency Act of 1991 (105 Stat.*
23 *2005) is repealed.*

1 **SEC. 1205. DESIGNATION OF DANIEL PATRICK MOYNIHAN**
 2 **INTERSTATE HIGHWAY.**

3 (a) *DESIGNATION.*—*Interstate Highway 86 in the*
 4 *State of New York, extending from the Pennsylvania border*
 5 *near Lake Erie through Orange County, New York, shall*
 6 *be known and designated as the “Daniel Patrick Moynihan*
 7 *Interstate Highway”.*

8 (b) *REFERENCES.*—*Any reference in a law, map, regu-*
 9 *lation, document, paper, or other record of the United*
 10 *States to the highway referred to in subsection (a) shall be*
 11 *deemed to be a reference to the Daniel Patrick Moynihan*
 12 *Interstate Highway.*

13 **Subtitle C—Finance**

14 **SEC. 1301. FEDERAL SHARE.**

15 *Section 120 of title 23, United States Code, is amended*
 16 *by striking subsection (d) and inserting the following:*

17 “(d) *INCREASED FEDERAL SHARE.*—

18 “(1) *IN GENERAL.*—*The Federal share payable*
 19 *under subsection (a) or (b) may be increased for*
 20 *projects and activities in each State in which is lo-*
 21 *cated—*

22 “(A) *nontaxable Indian land;*

23 “(B) *public land (reserved or unreserved);*

24 “(C) *a national forest; or*

25 “(D) *a national park and monument.*

26 “(2) *AMOUNT.*—

1 “(A) *IN GENERAL.*—*The Federal share for*
2 *States described in paragraph (1) shall be in-*
3 *creased by a percentage of the remaining cost*
4 *that—*

5 “(i) *is equal to the percentage that—*

6 “(I) *the area of all land described*
7 *in paragraph (1) in a State; bears to*

8 “(II) *the total area of the State;*

9 *but*

10 “(ii) *does not exceed 95 percent of the*
11 *total cost of the project or activity for which*
12 *the Federal share is provided.*

13 “(B) *ADJUSTMENT.*—*The Secretary shall*
14 *adjust the Federal share for States under sub-*
15 *paragraph (A) as the Secretary determines nec-*
16 *essary, on the basis of data provided by the Fed-*
17 *eral agencies that are responsible for maintain-*
18 *ing the data.*

19 “(C) *DECREASED FEDERAL SHARE.*—*Unless*
20 *the State voluntarily agrees to a decreased Fed-*
21 *eral share, the Secretary shall provide the max-*
22 *imum Federal share allowable under subsections*
23 *(a) and (b), as adjusted by this subsection.”.*

1 **SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.**

2 *Section 104 of title 23, United States Code, is amended*
3 *by striking subsection (k) and inserting the following:*

4 *“(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—*

5 *“(1) TRANSFER OF HIGHWAY FUNDS FOR TRAN-*
6 *SIT PROJECTS.—*

7 *“(A) IN GENERAL.—Subject to subpara-*
8 *graph (B), funds made available for transit*
9 *projects or transportation planning under this*
10 *title may be transferred to and administered by*
11 *the Secretary in accordance with chapter 53 of*
12 *title 49.*

13 *“(B) NON-FEDERAL SHARE.—The provi-*
14 *sions of this title relating to the non-Federal*
15 *share shall apply to the transferred funds.*

16 *“(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-*
17 *WAY PROJECTS.—Funds made available for highway*
18 *projects or transportation planning under chapter 53*
19 *of title 49 may be transferred to and administered by*
20 *the Secretary in accordance with this title.*

21 *“(3) TRANSFER OF HIGHWAY FUNDS TO OTHER*
22 *FEDERAL AGENCIES.—*

23 *“(A) IN GENERAL.—Except as provided in*
24 *clauses (i) and (ii) and subparagraph (B), funds*
25 *made available under this title or any other Act*
26 *that are derived from Highway Trust Fund*

1 *(other than the Mass Transit account) may be*
2 *transferred to another Federal agency if—*

3 “(i)(I) *an expenditure is specifically*
4 *authorized in Federal-aid highway legisla-*
5 *tion or as a line item in an appropriation*
6 *act; or*

7 “(II) *a State transportation depart-*
8 *ment consents to the transfer of funds;*

9 “(ii) *the Secretary determines, after*
10 *consultation with the State transportation*
11 *department (as appropriate), that the Fed-*
12 *eral agency should carry out a project with*
13 *the funds; and*

14 “(iii) *the other Federal agency agrees*
15 *to accept the transfer of funds and to ad-*
16 *minister the project.*

17 “(B) *ADMINISTRATION.—*

18 “(i) *PROCEDURES.—A project carried*
19 *out with funds transferred to a Federal*
20 *agency under subparagraph (A) shall be ad-*
21 *ministered by the Federal agency under the*
22 *procedures of the Federal agency.*

23 “(ii) *APPROPRIATIONS.—Funds trans-*
24 *ferred to a Federal agency under subpara-*
25 *graph (A) shall not be considered an aug-*

1 *mentation of the appropriations of the Fed-*
2 *eral agency.*

3 “(iii) *NON-FEDERAL SHARE.*—*The pro-*
4 *visions of this title, or an Act described in*
5 *subparagraph (A), relating to the non-Fed-*
6 *eral share shall apply to a project carried*
7 *out with the transferred funds, unless the*
8 *Secretary determines that it is in the best*
9 *interest of the United States that the non-*
10 *Federal share be waived.*

11 “(4) *TRANSFER OF FUNDS AMONG STATES OR TO*
12 *FEDERAL HIGHWAY ADMINISTRATION.*—

13 “(A) *IN GENERAL.*—*Subject to subpara-*
14 *graphs (B) through (D), the Secretary may, at*
15 *the request of a State, transfer funds apportioned*
16 *or allocated to the State to another State, or to*
17 *the Federal Highway Administration, for the*
18 *purpose of funding 1 or more specific projects.*

19 “(B) *ADMINISTRATION.*—*The transferred*
20 *funds shall be used for the same purpose and in*
21 *the same manner for which the transferred funds*
22 *were authorized.*

23 “(C) *APPORTIONMENT.*—*The transfer shall*
24 *have no effect on any apportionment formula*

1 *used to distribute funds to States under this sec-*
 2 *tion or section 105 or 144.*

3 “(D) *SURFACE TRANSPORTATION PRO-*
 4 *GRAM.—Funds that are apportioned or allocated*
 5 *to a State under subsection (b)(3) and attributed*
 6 *to an urbanized area of a State with a popu-*
 7 *lation of over 200,000 individuals under section*
 8 *133(d)(2) may be transferred under this para-*
 9 *graph only if the metropolitan planning organi-*
 10 *zation designated for the area concurs, in writ-*
 11 *ing, with the transfer request.*

12 “(5) *TRANSFER OF OBLIGATION AUTHORITY.—*
 13 *Obligation authority for funds transferred under this*
 14 *subsection shall be transferred in the same manner*
 15 *and amount as the funds for the projects are trans-*
 16 *ferred under this subsection.”.*

17 **SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE**
 18 **AND INNOVATION ACT AMENDMENTS.**

19 (a) *DEFINITIONS.—Section 181 of title 23, United*
 20 *States Code, is amended—*

21 (1) *in paragraph (3), by striking “category” and*
 22 *“offered into the capital markets”;*

23 (2) *by striking paragraph (7) and redesignating*
 24 *paragraphs (8) through (15) as paragraphs (7)*
 25 *through (14) respectively;*

1 (3) in paragraph (8) (as redesignated by para-
2 graph (2))—

3 (A) in subparagraph (B), by striking the
4 period at the end and inserting a semicolon; and

5 (B) by striking subparagraph (D) and in-
6 serting the following:

7 “(D) a project that—

8 “(i)(I) is a project for—

9 “(aa) a public freight rail facility
10 or a private facility providing public
11 benefit;

12 “(bb) an intermodal freight trans-
13 fer facility;

14 “(cc) a means of access to a facil-
15 ity described in item (aa) or (bb);

16 “(dd) a service improvement for a
17 facility described in item (aa) or (bb)
18 (including a capital investment for an
19 intelligent transportation system); or

20 “(II) comprises a series of projects de-
21 scribed in subclause (I) with the common
22 objective of improving the flow of goods;

23 “(ii) may involve the combining of pri-
24 vate and public sector funds, including in-

1 *vestment of public funds in private sector*
 2 *facility improvements; and*

3 *“(iii) if located within the boundaries*
 4 *of a port terminal, includes only such sur-*
 5 *face transportation infrastructure modifica-*
 6 *tions as are necessary to facilitate direct*
 7 *intermodal interchange, transfer, and access*
 8 *into and out of the port.”; and*

9 *(4) in paragraph (10) (as redesignated by para-*
 10 *graph (2)) by striking “bond” and inserting “credit”.*

11 *(b) DETERMINATION OF ELIGIBILITY AND PROJECT*
 12 *SELECTION.—Section 182 of title 23, United States Code,*
 13 *is amended—*

14 *(1) in subsection (a)—*

15 *(A) by striking paragraphs (1) and (2) and*
 16 *inserting the following:*

17 *“(1) INCLUSION IN TRANSPORTATION PLANS AND*
 18 *PROGRAMS.—The project shall satisfy the applicable*
 19 *planning and programming requirements of sections*
 20 *134 and 135 at such time as an agreement to make*
 21 *available a Federal credit instrument is entered into*
 22 *under this subchapter.*

23 *“(2) APPLICATION.—A State, local government,*
 24 *public authority, public-private partnership, or any*
 25 *other legal entity undertaking the project and author-*

1 *ized by the Secretary shall submit a project applica-*
 2 *tion to the Secretary.”;*

3 *(B) in paragraph (3)(A)—*

4 *(i) in clause (i), by striking*
 5 *“\$100,000,000” and inserting*
 6 *“\$50,000,000”; and*

7 *(ii) in clause (ii), by striking “50”*
 8 *and inserting “20”; and*

9 *(C) in paragraph (4)—*

10 *(i) by striking “Project financing” and*
 11 *inserting “The Federal credit instrument”;*
 12 *and*

13 *(ii) by inserting before the period at*
 14 *the end the following: “that also secure the*
 15 *project obligations”; and*

16 *(2) in subsection (b)—*

17 *(A) in paragraph (1), by striking “criteria”*
 18 *the second place it appears and inserting “re-*
 19 *quirements”; and*

20 *(B) in paragraph (2)(B), by inserting*
 21 *“(which may be the Federal credit instrument)”*
 22 *after “obligations”.*

23 *(c) SECURED LOANS.—Section 183 of title 23, United*
 24 *States Code, is amended—*

25 *(1) in subsection (a)—*

1 (A) in paragraph (1)—

2 (i) by striking “of any project selected
3 under section 182.” at the end;

4 (ii) in subparagraphs (A) and (B), by
5 inserting “of any project selected under sec-
6 tion 182” after “costs” ; and

7 (iii) in subparagraph (B), by striking
8 the semicolon at the end and inserting a pe-
9 riod; and

10 (B) in paragraph (4)—

11 (i) by striking “funding” and inserting
12 “execution”; and

13 (ii) by striking “rating,” and all that
14 follows and inserting a period;

15 (2) in subsection (b)—

16 (A) by striking paragraph (2) and inserting
17 the following:

18 “(2) *MAXIMUM AMOUNT.*—The amount of the se-
19 cured loan shall not exceed the lesser of—

20 “(A) 33 percent of the reasonably antici-
21 pated eligible project costs; or

22 “(B) the amount of the senior project obli-
23 gations.”;

1 (B) in paragraph (3)(A)(i), by inserting
2 “that also secure the senior project obligations”
3 after “sources”; and

4 (C) in paragraph (4), by striking “market-
5 able”; and

6 (3) in subsection (c)—

7 (A) by striking paragraph (3);

8 (B) by redesignating paragraphs (4) and
9 (5) as paragraphs (3) and (4), respectively; and

10 (C) in paragraph (3) (as redesignated by
11 subparagraph (B))—

12 (i) in subparagraph (A), by striking
13 “during the 10 years”; and

14 (ii) in subparagraph (B)(ii), by strik-
15 ing “loan” and all that follows and insert-
16 ing “loan.”.

17 (d) *LINES OF CREDIT*.—Section 184 of title 23, United
18 States Code, is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (3), by striking “interest,
21 any debt service reserve fund, and any other
22 available reserve” and inserting “interest (but
23 not including reasonably required financing re-
24 serves)”; and

1 (B) in paragraph (4), by striking “market-
2 able United States Treasury securities as of the
3 date on which the line of credit is obligated” and
4 inserting “United States Treasury securities as
5 of the date of execution of the line of credit agree-
6 ment”; and

7 (C) in paragraph (5)(A)(i), by inserting
8 “that also secure the senior project obligations”
9 after “sources”; and

10 (2) in subsection (c)—

11 (A) in paragraph (2)—

12 (i) by striking “scheduled”;

13 (ii) by inserting “be scheduled to” after
14 “shall”; and

15 (iii) by striking “be fully repaid, with
16 interest,” and inserting “to conclude, with
17 full repayment of principal and interest,”;

18 and

19 (B) by striking paragraph (3).

20 (e) *PROGRAM ADMINISTRATION.*—Section 185 of title
21 23, United States Code, is amended to read as follows:

22 “**§ 185. Program administration**

23 “(a) *REQUIREMENT.*—The Secretary shall establish a
24 uniform system to service the Federal credit instruments
25 made available under this subchapter.

1 “(b) *FEES.*—*The Secretary may establish fees at a*
2 *level to cover all or a portion of the costs to the Federal*
3 *government of servicing the Federal credit instruments.*

4 “(c) *SERVICER.*—

5 “(1) *IN GENERAL.*—*The Secretary may appoint*
6 *a financial entity to assist the Secretary in servicing*
7 *the Federal credit instruments.*

8 “(2) *DUTIES.*—*The servicer shall act as the*
9 *agent for the Secretary.*

10 “(3) *FEE.*—*The servicer shall receive a servicing*
11 *fee, subject to approval by the Secretary.*

12 “(d) *ASSISTANCE FROM EXPERT FIRMS.*—*The Sec-*
13 *retary may retain the services of expert firms, including*
14 *counsel, in the field of municipal and project finance to*
15 *assist in the underwriting and servicing of Federal credit*
16 *instruments.”.*

17 “(f) *FUNDING.*—*Section 188 of title 23, United States*
18 *Code, is amended to read as follows:*

19 “**§ 188. Funding**

20 “(a) *FUNDING.*—

21 “(1) *IN GENERAL.*—*There is authorized to be ap-*
22 *propriated from the Highway Trust Fund (other than*
23 *the Mass Transit Account) to carry out this sub-*
24 *chapter \$130,000,000 for each of fiscal years 2004*
25 *through 2009.*

1 “(2) *COLLECTED FEES.*—All fees collected under
2 this subchapter shall be made available to the Sec-
3 retary, without further appropriation, to carry out
4 this subchapter.

5 “(3) *ADMINISTRATIVE COSTS.*—Of amounts made
6 available under paragraph (1), the Secretary may use
7 for the administration of this subchapter not more
8 than \$2,000,000 for each of fiscal years 2004 through
9 2009.

10 “(4) *AVAILABILITY.*—Amounts made available
11 under paragraph (1) shall remain available until ex-
12 pended.

13 “(b) *CONTRACT AUTHORITY.*—

14 “(1) *IN GENERAL.*—Notwithstanding any other
15 provision of law, approval by the Secretary of a Fed-
16 eral credit instrument that uses funds made available
17 under this subchapter shall be deemed to be accept-
18 ance by the United States of a contractual obligation
19 to fund the Federal credit investment.

20 “(2) *AVAILABILITY.*—Amounts authorized under
21 this section for a fiscal year shall be available for ob-
22 ligation on October 1 of the fiscal year.”.

23 “(g) *REPEAL.*—Section 189 of title 23, United States
24 code, is repealed.

1 (h) *CONFORMING AMENDMENTS.*—*The analysis for*
 2 *chapter 1 of title 23, United States Code, is amended—*

3 (1) *by striking the item relating to section 185*
 4 *and inserting the following:*

“185. *Program administration.*”;

5 *and*

6 (2) *by striking the item relating to section 189.*

7 **SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRA-**
 8 **TION PLANS AND INTERNATIONAL FUEL TAX**
 9 **AGREEMENTS.**

10 (a) *IN GENERAL.*—*Chapter 317 of title 49, United*
 11 *States Code, is amended by adding at the end the following:*

12 **“§ 31708. Facilitation of international registration**
 13 **plans and international fuel tax agree-**
 14 **ments**

15 *“The Secretary may provide assistance to any State*
 16 *that is participating in the International Registration Plan*
 17 *and International Fuel Tax Agreement, as provided in sec-*
 18 *tions 31704 and 31705, respectively, and that serves as a*
 19 *base jurisdiction for motor carriers that are domiciled in*
 20 *Mexico, to assist the State with administrative costs result-*
 21 *ing from serving as a base jurisdiction for motor carriers*
 22 *from Mexico.”.*

23 (b) *CONFORMING AMENDMENT.*—*The analysis for*
 24 *chapter 317 of title 49, United States Code, is amended by*
 25 *adding at the end the following:*

“31708. *Facilitation of international registration plans and international fuel tax agreements.*”.

1 **SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE**
 2 **SOURCES TO SUPPORT THE HIGHWAY TRUST**
 3 **FUND AND FINANCE THE NEEDS OF THE SUR-**
 4 **FACE TRANSPORTATION SYSTEM.**

5 (a) *ESTABLISHMENT.*—*There is established a commis-*
 6 *sion to be known as the “National Commission on Future*
 7 *Revenue Sources to Support the Highway Trust Fund and*
 8 *Finance the Needs of the Surface Transportation System”*
 9 *(referred to in this section as the “Commission”).*

10 (b) *MEMBERSHIP.*—

11 (1) *COMPOSITION.*—*The Commission shall be*
 12 *composed of 11 members, of whom—*

13 (A) *3 members shall be appointed by the*
 14 *President;*

15 (B) *2 members shall be appointed by the*
 16 *Speaker of the House of Representatives;*

17 (C) *2 members shall be appointed by the*
 18 *minority leader of the House of Representatives;*

19 (D) *2 members shall be appointed by the*
 20 *majority leader of the Senate; and*

21 (E) *2 members shall be appointed by the*
 22 *minority leader of the Senate.*

1 (2) *QUALIFICATIONS.*—*Members appointed under*
2 *paragraph (1) shall have experience in or represent*
3 *the interests of—*

4 (A) *public finance, including experience in*
5 *developing State and local revenue resources;*

6 (B) *surface transportation program admin-*
7 *istration;*

8 (C) *organizations that use surface transpor-*
9 *tation facilities;*

10 (D) *academic research into related issues; or*

11 (E) *other activities that provide unique per-*
12 *spectives on current and future requirements for*
13 *revenue sources to support the Highway Trust*
14 *Fund.*

15 (3) *DATE OF APPOINTMENTS.*—*The appointment*
16 *of a member of the Commission shall be made not*
17 *later than 120 days after the date of establishment of*
18 *the Commission.*

19 (4) *TERMS.*—*A member shall be appointed for*
20 *the life of the Commission.*

21 (5) *VACANCIES.*—*A vacancy on the Commis-*
22 *sion—*

23 (A) *shall not affect the powers of the Com-*
24 *mission; and*

1 (B) shall be filled in the same manner as
2 the original appointment was made.

3 (6) *INITIAL MEETING.*—Not later than 30 days
4 after the date on which all members of the Commis-
5 sion have been appointed, the Commission shall hold
6 the initial meeting of the Commission.

7 (7) *MEETINGS.*—The Commission shall meet at
8 the call of the Chairperson.

9 (8) *QUORUM.*—A majority of the members of the
10 Commission shall constitute a quorum, but a lesser
11 number of members may hold hearings.

12 (9) *CHAIRPERSON AND VICE CHAIRPERSON.*—The
13 Commission shall select a Chairperson and Vice
14 Chairperson from among the members of the Commis-
15 sion.

16 (c) *DUTIES.*—

17 (1) *IN GENERAL.*—The Commission shall—

18 (A) conduct a comprehensive study of alter-
19 natives to replace or to supplement the fuel tax
20 as the principal revenue source to support the
21 Highway Trust Fund and suggest new or alter-
22 native sources of revenue to fund the needs of the
23 surface transportation system over at least the
24 next 30 years;

1 (B) conduct the study in a manner that
2 builds on—

3 (i) findings, conclusions, and rec-
4 ommendations of the recent study conducted
5 by the Transportation Research Board on
6 alternatives to the fuel tax to support high-
7 way program financing; and

8 (ii) other relevant prior research;

9 (C) consult with the Secretary and the Sec-
10 retary of the Treasury in conducting the study
11 to ensure that the views of the Secretaries con-
12 cerning essential attributes of Highway Trust
13 Fund revenue alternatives are considered;

14 (D) consult with representatives of State
15 Departments of Transportation and metropoli-
16 tan planning organizations and other key inter-
17 ested stakeholders in conducting the study to en-
18 sure that—

19 (i) the views of the stakeholders on al-
20 ternative revenue sources to support State
21 transportation improvement programs are
22 considered; and

23 (ii) any recommended Federal financ-
24 ing strategy takes into account State finan-
25 cial requirements; and

1 (E) based on the study, make specific rec-
2 ommendations regarding—

3 (i) actions that should be taken to de-
4 velop alternative revenue sources to support
5 the Highway Trust Fund; and

6 (ii) the time frame for taking those ac-
7 tions.

8 (2) SPECIFIC MATTERS.—The study shall address
9 specifically—

10 (A) the advantages and disadvantages of al-
11 ternative revenue sources to meet anticipated
12 Federal surface transportation financial require-
13 ments;

14 (B) recommendations concerning the most
15 promising revenue sources to support long-term
16 Federal surface transportation financing require-
17 ments;

18 (C) development of a broad transition strat-
19 egy to move from the current tax base to new
20 funding mechanisms, including the time frame
21 for various components of the transition strategy;

22 (D) recommendations for additional re-
23 search that may be needed to implement rec-
24 ommended alternatives; and

1 (E) the extent to which revenues should re-
2 flect the relative use of the highway system.

3 (3) *RELATED WORK.*—To the maximum extent
4 practicable, the study shall build on related work that
5 has been done by—

6 (A) the Secretary of Transportation;

7 (B) the Secretary of Energy;

8 (C) the Transportation Research Board;

9 and

10 (D) other entities and persons.

11 (4) *FACTORS.*—In developing recommendations
12 under this subsection, the Commission shall con-
13 sider—

14 (A) the ability to generate sufficient reve-
15 nues from all modes to meet anticipated long-
16 term surface transportation financing needs;

17 (B) the roles of the various levels of govern-
18 ment and the private sector in meeting future
19 surface transportation financing needs;

20 (C) administrative costs (including enforce-
21 ment costs) to implement each option;

22 (D) the expected increase in non-taxed fuels
23 and the impact of taxing those fuels;

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

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

3 (G) *the flexibility of different options to*
4 *allow various pricing alternatives to be imple-*
5 *mented; and*

6 (H) *potential compatibility issues with*
7 *State and local tax mechanisms under each al-*
8 *ternative.*

9 (5) *REPORT AND RECOMMENDATIONS.—Not later*
10 *than September 30, 2007, the Commission shall sub-*
11 *mit to Congress a final report that contains—*

12 (A) *a detailed statement of the findings and*
13 *conclusions of the Commission; and*

14 (B) *the recommendations of the Commission*
15 *for such legislation and administrative actions*
16 *as the Commission considers appropriate.*

17 (d) *POWERS.—*

18 (1) *HEARINGS.—The Commission may hold such*
19 *hearings, meet and act at such times and places, take*
20 *such testimony, and receive such evidence as the Com-*
21 *mission considers advisable to carry out this section.*

22 (2) *INFORMATION FROM FEDERAL AGENCIES.—*

23 (A) *IN GENERAL.—The Commission may se-*
24 *cure directly from a Federal agency such infor-*

1 *mation as the Commission considers necessary to*
2 *carry out this section.*

3 *(B) PROVISION OF INFORMATION.—On re-*
4 *quest of the Chairperson of the Commission, the*
5 *head of the agency shall provide the information*
6 *to the Commission.*

7 *(3) POSTAL SERVICES.—The Commission may*
8 *use the United States mails in the same manner and*
9 *under the same conditions as other agencies of the*
10 *Federal Government.*

11 *(4) DONATIONS.—The Commission may accept,*
12 *use, and dispose of donations of services or property.*

13 *(e) COMMISSION PERSONNEL MATTERS.—*

14 *(1) MEMBERS.—A member of the Commission*
15 *shall serve without pay but shall be allowed travel ex-*
16 *penditures, including per diem in lieu of subsistence, at*
17 *rates authorized for an employee of an agency under*
18 *subchapter I of chapter 57 of title 5, United States*
19 *Code, while away from the home or regular place of*
20 *business of the member in the performance of the du-*
21 *ties of the Commission.*

22 *(2) CONTRACTOR.—The Commission may con-*
23 *tract with an appropriate organization, agency, or*
24 *entity to conduct the study required under this sec-*
25 *tion, under the strategic guidance of the Commission.*

1 (3) *ADMINISTRATIVE SUPPORT.*—*On the request*
2 *of the Commission, the Administrator of the Federal*
3 *Highway Administration shall provide to the Com-*
4 *mission, on a reimbursable basis, the administrative*
5 *support and services necessary for the Commission to*
6 *carry out the duties of the Commission under this sec-*
7 *tion.*

8 (4) *DETAIL OF DEPARTMENT PERSONNEL.*—

9 (A) *IN GENERAL.*—*On the request of the*
10 *Commission, the Secretary may detail, on a re-*
11 *imbursable basis, any of the personnel of the De-*
12 *partment to the Commission to assist the Com-*
13 *mission in carrying out the duties of the Com-*
14 *mission under this section.*

15 (B) *CIVIL SERVICE STATUS.*—*The detail of*
16 *the employee shall be without interruption or*
17 *loss of civil service status or privilege.*

18 (5) *COOPERATION.*—*The staff of the Secretary*
19 *shall cooperate with the Commission in the study re-*
20 *quired under this section, including providing such*
21 *nonconfidential data and information as are nec-*
22 *essary to conduct the study.*

23 (f) *RELATIONSHIP TO OTHER LAWS.*—

24 (1) *IN GENERAL.*—*Except as provided in para-*
25 *graphs (2) and (3), funds made available to carry out*

1 *this section shall be available for obligation in the*
2 *same manner as if the funds were apportioned under*
3 *chapter 1 of title 23, United States Code.*

4 (2) *FEDERAL SHARE.—The Federal share of the*
5 *cost of the study and the Commission under this sec-*
6 *tion shall be 100 percent.*

7 (3) *AVAILABILITY.—Funds made available to*
8 *carry out this section shall remain available until ex-*
9 *pended.*

10 (g) *AUTHORIZATION OF APPROPRIATIONS.—There is*
11 *authorized to be appropriated from the Highway Trust*
12 *Fund (other than the Mass Transit Account) to carry out*
13 *this section \$3,000,000 for fiscal year 2004.*

14 (h) *TERMINATION.—*

15 (1) *IN GENERAL.—The Commission shall termi-*
16 *nate on the date that is 180 days after the date on*
17 *which the Commission submits the report of the Com-*
18 *mission under subsection (c)(5).*

19 (2) *RECORDS.—Not later than the termination*
20 *date for the Commission, all records and papers of the*
21 *Commission shall be delivered to the Administrator of*
22 *General Services for deposit in the National Archives.*

23 **SEC. 1306. STATE INFRASTRUCTURE BANKS.**

24 *Section 1511(b)(1)(A) of the Transportation Equity*
25 *Act for the 21st Century (23 U.S.C. 181 note; 112 Stat.*

1 251) is amended by striking “Missouri,” and all that fol-
 2 lows through “for the establishment” and inserting “Mis-
 3 souri, Rhode Island, Texas, and any other State that seeks
 4 such an agreement for the establishment”.

5 **Subtitle D—Safety**

6 **SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

7 (a) SAFETY IMPROVEMENT.—

8 (1) IN GENERAL.—Section 148 of title 23,
 9 United States Code, is amended to read as follows:

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

11 “(a) DEFINITIONS.—In this section:

12 “(1) HIGHWAY SAFETY IMPROVEMENT PRO-
 13 GRAM.—The term ‘highway safety improvement pro-
 14 gram’ means the program carried out under this sec-
 15 tion.

16 “(2) HIGHWAY SAFETY IMPROVEMENT
 17 PROJECT.—

18 “(A) IN GENERAL.—The term ‘highway
 19 safety improvement project’ means a project de-
 20 scribed in the State strategic highway safety
 21 plan that—

22 “(i) corrects or improves a hazardous
 23 road location or feature; or

24 “(ii) addresses a highway safety prob-
 25 lem.

1 “(B) *INCLUSIONS.*—*The term ‘highway safe-*
2 *ty improvement project’ includes a project for—*

3 “(i) *an intersection safety improve-*
4 *ment;*

5 “(ii) *pavement and shoulder widening*
6 *(including addition of a passing lane to*
7 *remedy an unsafe condition);*

8 “(iii) *installation of rumble strips or*
9 *another warning device, if the rumble strips*
10 *or other warning devices do not adversely*
11 *affect the safety or mobility of bicyclists and*
12 *pedestrians;*

13 “(iv) *installation of a skid-resistant*
14 *surface at an intersection or other location*
15 *with a high frequency of accidents;*

16 “(v) *an improvement for pedestrian or*
17 *bicyclist safety;*

18 “(vi)(I) *construction of any project for*
19 *the elimination of hazards at a railway-*
20 *highway crossing that is eligible for funding*
21 *under section 130, including the separation*
22 *or protection of grades at railway-highway*
23 *crossings;*

24 “(II) *construction of a railway-high-*
25 *way crossing safety feature; or*

- 1 “(III) the conduct of a model traffic
2 enforcement activity at a railway-highway
3 crossing;
- 4 “(vii) construction of a traffic calming
5 feature;
- 6 “(viii) elimination of a roadside obsta-
7 cle;
- 8 “(ix) improvement of highway signage
9 and pavement markings;
- 10 “(x) installation of a priority control
11 system for emergency vehicles at signalized
12 intersections;
- 13 “(xi) installation of a traffic control or
14 other warning device at a location with
15 high accident potential;
- 16 “(xii) safety-conscious planning;
- 17 “(xiii) improvement in the collection
18 and analysis of crash data;
- 19 “(xiv) planning, equipment, oper-
20 ational activities, or traffic enforcement ac-
21 tivities (including police assistance) relat-
22 ing to workzone safety;
- 23 “(xv) installation of guardrails, bar-
24 riers (including barriers between construc-
25 tion work zones and traffic lanes for the

1 *safety of motorists and workers), and crash*
 2 *attenuators;*

3 *“(xvi) the addition or retrofitting of*
 4 *structures or other measures to eliminate or*
 5 *reduce accidents involving vehicles and*
 6 *wildlife; or*

7 *“(xvii) installation and maintenance*
 8 *of signs (including fluorescent, yellow-green*
 9 *signs) at pedestrian-bicycle crossings and in*
 10 *school zones.*

11 “(3) *SAFETY PROJECT UNDER ANY OTHER SEC-*
 12 *TION.—*

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

17 “(B) *INCLUSION.—The term ‘safety project*
 18 *under any other section’ includes a project to—*

19 “(i) *promote the awareness of the pub-*
 20 *lic and educate the public concerning high-*
 21 *way safety matters; or*

22 “(ii) *enforce highway safety laws.*

23 “(4) *STATE HIGHWAY SAFETY IMPROVEMENT*
 24 *PROGRAM.—The term ‘State highway safety improve-*
 25 *ment program’ means projects or strategies included*

1 *in the State strategic highway safety plan carried out*
 2 *as part of the State transportation improvement pro-*
 3 *gram under section 135(f).*

4 “(5) *STATE STRATEGIC HIGHWAY SAFETY*
 5 *PLAN.—The term ‘State strategic highway safety*
 6 *plan’ means a plan developed by the State transpor-*
 7 *tation department that—*

8 “(A) *is developed after consultation with—*

9 “(i) *a highway safety representative of*
 10 *the Governor of the State;*

11 “(ii) *regional transportation planning*
 12 *organizations, if any;*

13 “(iii) *representatives of major modes of*
 14 *transportation;*

15 “(iv) *local traffic enforcement officials;*

16 “(v) *persons responsible for admin-*
 17 *istering section 130 at the State level;*

18 “(vi) *representatives conducting Oper-*
 19 *ation Lifesaver;*

20 “(vii) *representatives conducting a*
 21 *motor carrier safety program under section*
 22 *31104 or 31107 of title 49;*

23 “(viii) *motor vehicle administration*
 24 *agencies; and*

1 “(ix) other major State and local safe-
2 ty stakeholders;

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

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

9 “(D) considers safety needs of, and high-fa-
10 tality segments of, public roads;

11 “(E) considers the results of State, regional,
12 or local transportation and highway safety plan-
13 ning processes in existence as of the date of en-
14 actment of this section;

15 “(F) describes a program of projects or
16 strategies to reduce or eliminate safety hazards;

17 “(G) is approved by the Governor of the
18 State or a responsible State agency; and

19 “(H) is consistent with the requirements of
20 section 135(f).

21 “(b) PROGRAM.—

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

24 “(2) PURPOSE.—The purpose of the highway
25 safety improvement program shall be to achieve a sig-

1 *nificant reduction in traffic fatalities and serious in-*
2 *juries on public roads.*

3 “(c) *ELIGIBILITY.*—

4 “(1) *IN GENERAL.*—*To receive funds under this*
5 *section, a State shall have in effect a State highway*
6 *safety improvement program under which the State—*

7 “(A) *develops and implements a State stra-*
8 *tegic highway safety plan that identifies and*
9 *analyzes highway safety problems and opportu-*
10 *nities as provided in paragraph (2);*

11 “(B) *produces a program of projects or*
12 *strategies to reduce identified safety problems;*
13 *and*

14 “(C) *evaluates the plan on a regular basis*
15 *to ensure the accuracy of the data and priority*
16 *of proposed improvements.*

17 “(2) *IDENTIFICATION AND ANALYSIS OF HIGH-*
18 *WAY SAFETY PROBLEMS AND OPPORTUNITIES.*—*As*
19 *part of the State strategic highway safety plan, a*
20 *State shall—*

21 “(A) *have in place a crash data system with*
22 *the ability to perform safety problem identifica-*
23 *tion and countermeasure analysis;*

24 “(B) *based on the analysis required by sub-*
25 *paragraph (A), identify hazardous locations, sec-*

1 *tions, and elements (including roadside obstacles,*
2 *railway-highway crossing needs, and unmarked*
3 *or poorly marked roads) that constitute a danger*
4 *to motorists, bicyclists, pedestrians, and other*
5 *highway users;*

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

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

11 *“(ii) focus resources on areas of great-*
12 *est need; and*

13 *“(iii) are coordinated with other State*
14 *highway safety programs;*

15 *“(D) advance the capabilities of the State*
16 *for traffic records data collection, analysis, and*
17 *integration with other sources of safety data*
18 *(such as road inventories) in a manner that—*

19 *“(i) complements the State highway*
20 *safety program under chapter 4 and the*
21 *commercial vehicle safety plan under sec-*
22 *tion 31102 of title 49;*

23 *“(ii) includes all public roads; and*

24 *“(iii) identifies hazardous locations,*
25 *sections, and elements on public roads that*

1 *constitute a danger to motorists, bicyclists,*
2 *and pedestrians;*

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

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

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

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

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

22 “(d) *ELIGIBLE PROJECTS.—*

23 “(1) *IN GENERAL.—A State may obligate funds*
24 *apportioned to the State under this section to carry*
25 *out—*

1 “(A) any highway safety improvement
2 project on any public road or publicly owned bi-
3 cycle or pedestrian pathway or trail; or

4 “(B) as provided in subsection (e), for other
5 safety projects.

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

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

11 “(B) USE OF OTHER FUNDS.—States are
12 encouraged to address the full scope of their safe-
13 ty needs and opportunities by using funds made
14 available under other provisions of this title (ex-
15 cept a provision that specifically prohibits that
16 use).

17 “(e) FLEXIBLE FUNDING FOR STATES WITH A STRA-
18 TEGIC HIGHWAY SAFETY PLAN.—

19 “(1) IN GENERAL.—To further the implementa-
20 tion of a State strategic highway safety plan, a State
21 may use up to 25 percent of the amount of funds
22 made available under this section for a fiscal year to
23 carry out safety projects under any other section as
24 provided in the State strategic highway safety plan.

1 “(2) *OTHER TRANSPORTATION AND HIGHWAY*
2 *SAFETY PLANS.*—*Nothing in this subsection requires a*
3 *State to revise any State process, plan, or program*
4 *in effect on the date of enactment of this section.*

5 “(f) *REPORTS.*—

6 “(1) *IN GENERAL.*—*A State shall submit to the*
7 *Secretary a report that—*

8 “(A) *describes progress being made to im-*
9 *plement highway safety improvement projects*
10 *under this section;*

11 “(B) *assesses the effectiveness of those im-*
12 *provements; and*

13 “(C) *describes the extent to which the im-*
14 *provements funded under this section contribute*
15 *to the goals of—*

16 “(i) *reducing the number of fatalities*
17 *on roadways;*

18 “(ii) *reducing the number of roadway-*
19 *related injuries;*

20 “(iii) *reducing the occurrences of road-*
21 *way-related accidents;*

22 “(iv) *mitigating the consequences of*
23 *roadway-related accidents; and*

24 “(v) *reducing the occurrences of road-*
25 *way-railroad grade crossing accidents.*

1 “(2) *CONTENTS; SCHEDULE.*—*The Secretary*
2 *shall establish the content and schedule for a report*
3 *under paragraph (1).*

4 “(g) *FEDERAL SHARE OF HIGHWAY SAFETY IMPROVE-*
5 *MENT PROJECTS.*—*The Federal share of the cost of a high-*
6 *way safety improvement project carried out with funds*
7 *made available under this section shall be 90 percent.”.*

8 (2) *ALLOCATIONS OF APPORTIONED FUNDS.*—
9 *Section 133(d) of title 23, United States Code, is*
10 *amended—*

11 (A) *by striking paragraph (1);*

12 (B) *by redesignating paragraphs (2)*
13 *through (5) as paragraphs (1) through (4), re-*
14 *spectively;*

15 (C) *in paragraph (2) (as redesignated by*
16 *subparagraph (B))—*

17 (i) *in the first sentence of subpara-*
18 *graph (A)—*

19 (I) *by striking “subparagraphs*
20 *(C) and (D)” and inserting “subpara-*
21 *graph (C)”;* and

22 (II) *by striking “80 percent” and*
23 *inserting “90 percent”;*

24 (ii) *by striking subparagraph (C);*

1 (iii) by redesignating subparagraphs
2 (D) and (E) as subparagraphs (C) and (D),
3 respectively; and

4 (iv) in subparagraph (C) (as redesign-
5 ated by clause (iii)), by adding a period
6 at the end; and

7 (D) in paragraph (4)(A) (as redesignated
8 by subparagraph (B)), by striking “paragraph
9 (2)” and inserting “paragraph (1)”.

10 (3) CONFORMING AMENDMENTS.—

11 (A) The analysis for chapter 1 of title 23,
12 United States Code, is amended by striking the
13 item relating to section 148 and inserting the
14 following:

“148. Highway safety improvement program.”.

15 (B) Sections 154, 164, and 409 of title 23,
16 United States Code, are amended by striking
17 “152” each place it appears and inserting
18 “148”.

19 (b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVE-
20 MENT PROGRAM FUNDS.—Section 104(b) of title 23, United
21 States Code, is amended—

22 (1) in the matter preceding paragraph (1), by
23 inserting after “Improvement program,” the fol-
24 lowing: “the highway safety improvement program,”;
25 and

1 (2) *by adding at the end the following:*

2 “(5) *HIGHWAY SAFETY IMPROVEMENT PRO-*
3 *GRAM.—*

4 “(A) *IN GENERAL.—For the highway safety*
5 *improvement program, in accordance with the*
6 *following formula:*

7 “(i) *25 percent of the apportionments*
8 *in the ratio that—*

9 “(I) *the total lane miles of Fed-*
10 *eral-aid highways in each State; bears*
11 *to*

12 “(II) *the total lane miles of Fed-*
13 *eral-aid highways in all States.*

14 “(ii) *40 percent of the apportionments*
15 *in the ratio that—*

16 “(I) *the total vehicle miles trav-*
17 *eled on lanes on Federal-aid highways*
18 *in each State; bears to*

19 “(II) *the total vehicle miles trav-*
20 *eled on lanes on Federal-aid highways*
21 *in all States.*

22 “(iii) *35 percent of the apportionments*
23 *in the ratio that—*

24 “(I) *the estimated tax payments*
25 *attributable to highway users in each*

1 *State paid into the Highway Trust*
 2 *Fund (other than the Mass Transit Ac-*
 3 *count) in the latest fiscal year for*
 4 *which data are available; bears to*

5 “*(II) the estimated tax payments*
 6 *attributable to highway users in all*
 7 *States paid into the Highway Trust*
 8 *Fund (other than the Mass Transit Ac-*
 9 *count) in the latest fiscal year for*
 10 *which data are available.*”

11 “*(B) MINIMUM APPORTIONMENT.—Notwith-*
 12 *standing subparagraph (A), each State shall re-*
 13 *ceive a minimum of 1/2 of 1 percent of the funds*
 14 *apportioned under this paragraph.*”.

15 *(c) ELIMINATION OF HAZARDS RELATING TO HIGH-*
 16 *WAY FACILITIES.—*

17 *(1) FUNDS FOR PROTECTIVE DEVICES.—Section*
 18 *130(e) of title 23, United States Code, is amended—*

19 *(A) in the heading, by striking “PROTEC-*
 20 *TIVE DEVICES” and inserting “RAILWAY-HIGH-*
 21 *WAY CROSSINGS”;*

22 *(B) by striking the first sentence and insert-*
 23 *ing the following:*

24 “*(1) IN GENERAL.—For each fiscal year, at least*
 25 *\$200,000,000 of the funds authorized and expended*”

1 *under section 148 shall be available for the elimi-*
 2 *nation of hazards and the installation of protective*
 3 *devices at railway-highway crossings.”; and*

4 *(C) by striking “Sums authorized” and in-*
 5 *serting the following:*

6 *“(2) OBLIGATION.—Sums authorized”.*

7 *(2) BIENNIAL REPORTS TO CONGRESS.—Section*
 8 *130(g) of title 23, United States Code, is amended in*
 9 *the third sentence—*

10 *(A) by inserting “and the Committee on*
 11 *Commerce, Science, and Transportation,” after*
 12 *“Public Works”; and*

13 *(B) by striking “not later than April 1 of*
 14 *each year” and inserting “every other year”.*

15 *(3) EXPENDITURE OF FUNDS; APPORTION-*
 16 *MENT.—Section 130 of title 23, United States Code,*
 17 *is amended by adding at the end the following:*

18 *“(k) EXPENDITURE OF FUNDS; APPORTIONMENT.—*
 19 *Funds made available to carry out this section shall be—*

20 *“(1) available for expenditure on compilation*
 21 *and analysis of data in support of activities carried*
 22 *out under subsection (g); and*

23 *“(2) apportioned in accordance with section*
 24 *104(b)(5).”.*

25 *(d) TRANSITION.—*

1 (1) *IMPLEMENTATION.*—*Except as provided in*
2 *paragraph (2), to qualify for funding under section*
3 *148 of title 23, United States Code (as amended by*
4 *subsection (a)), a State shall develop and implement*
5 *a State strategic highway safety plan as required by*
6 *subsection (c) of that section not later than October*
7 *1 of the second fiscal year after the date of enactment*
8 *of this Act.*

9 (2) *INTERIM PERIOD.*—

10 (A) *IN GENERAL.*—*Before October 1 of the*
11 *second fiscal year after the date of enactment of*
12 *this Act and until the date on which a State de-*
13 *velops and implements a State strategic highway*
14 *safety plan, the Secretary shall apportion funds*
15 *to a State for the highway safety improvement*
16 *program and the State may obligate funds ap-*
17 *portioned to the State for the highway safety im-*
18 *provement program under section 148 for*
19 *projects that were eligible for funding under sec-*
20 *tions 130 and 152 of that title, as in effect on*
21 *the day before the date of enactment of this Act.*

22 (B) *NO STRATEGIC HIGHWAY SAFETY*
23 *PLAN.*—*If a State has not developed a strategic*
24 *highway safety plan by October 1 of the second*
25 *fiscal year after the date of enactment of this*

1 *Act, but demonstrates to the satisfaction of the*
2 *Secretary that progress is being made toward de-*
3 *veloping and implementing such a plan, the Sec-*
4 *retary shall continue to apportion funds for 1*
5 *additional fiscal year for the highway safety im-*
6 *provement program under section 148 of title 23,*
7 *United States Code, to the State, and the State*
8 *may continue to obligate funds apportioned to*
9 *the State under this section for projects that were*
10 *eligible for funding under sections 130 and 152*
11 *of that title, as in effect on the day before the*
12 *date of enactment of this Act.*

13 (C) *PENALTY.—If a State has not adopted*
14 *a strategic highway safety plan by the date that*
15 *is 2 years after the date of enactment of this Act,*
16 *funds made available to the State under section*
17 *1101(6) shall be redistributed to other States in*
18 *accordance with section 104(b) of title 23, United*
19 *States Code.*

20 **SEC. 1402. OPERATION LIFESAVER.**

21 *Section 104(d)(1) of title 23, United States Code, is*
22 *amended—*

23 (1) *by striking “subsection (b)(3)” and inserting*
24 *“subsection (b)(5)”; and*

1 (2) by striking “\$500,000” and inserting
2 “\$600,000”.

3 **SEC. 1403. LICENSE SUSPENSION.**

4 Section 164(a) of title 23, United States Code, is
5 amended by striking paragraph (3) and inserting the fol-
6 lowing:

7 “(3) *LICENSE SUSPENSION.*—The term ‘license
8 suspension’ means—

9 “(A) the suspension of all driving privileges
10 of an individual for the duration of the suspen-
11 sion period; or

12 “(B) a combination of suspension of all
13 driving privileges of an individual for the first
14 90 days of the suspension period, followed by re-
15 instatement of limited driving privileges requir-
16 ing the individual to operate only motor vehicles
17 equipped with an ignition interlock system or
18 other device approved by the Secretary during
19 the remainder of the suspension period.”.

20 **SEC. 1404. BUS AXLE WEIGHT EXEMPTION.**

21 Section 1023 of the Intermodal Surface Transpor-
22 tation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat.
23 1951) is amended by striking subsection (h) and inserting
24 the following:

1 “(h) *OVER-THE-ROAD BUS AND PUBLIC TRANSIT VE-*
2 *HICLE EXEMPTION.*—

3 “(1) *IN GENERAL.*—*The second sentence of sec-*
4 *tion 127 of title 23, United States Code (relating to*
5 *axle weight limitations for vehicles using the Dwight*
6 *D. Eisenhower System of Interstate and Defense*
7 *Highways), shall not apply to—*

8 “(A) *any over-the-road bus (as defined in*
9 *section 301 of the Americans With Disabilities*
10 *Act of 1990 (42 U.S.C. 12181)); or*

11 “(B) *any vehicle that is regularly and ex-*
12 *clusively used as an intrastate public agency*
13 *transit passenger bus.*

14 “(2) *STATE ACTION.*—*No State or political sub-*
15 *division of a State, or any political authority of 2 or*
16 *more States, shall impose any axle weight limitation*
17 *on any vehicle described in paragraph (1) in any case*
18 *in which such a vehicle is using the Dwight D. Eisen-*
19 *hower System of Interstate and Defense Highways.”.*

20 **SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.**

21 “(a) *IN GENERAL.*—*Subchapter I of chapter I of title*
22 *23, United States Code, is amended by inserting after sec-*
23 *tion 149 the following:*

24 **“§ 150. Safe routes to schools program**

25 “(a) *DEFINITIONS.*—*In this section:*

1 “(1) *PRIMARY AND SECONDARY SCHOOL.*—*The*
2 *term ‘primary and secondary school’ means a school*
3 *that provides education to children in any of grades*
4 *kindergarten through 12.*

5 “(2) *PROGRAM.*—*The term ‘program’ means the*
6 *safe routes to schools program established under sub-*
7 *section (b).*

8 “(3) *VICINITY OF A SCHOOL.*—*The term ‘vicinity*
9 *of a school’ means the area within 2 miles of a pri-*
10 *mary or secondary school.*

11 “(b) *ESTABLISHMENT.*—*The Secretary shall establish*
12 *and carry out a safe routes to school program for the benefit*
13 *of children in primary and secondary schools in accordance*
14 *with this section.*

15 “(c) *PURPOSES.*—*The purposes of the program shall*
16 *be—*

17 “(1) *to enable and to encourage children to walk*
18 *and bicycle to school;*

19 “(2) *to encourage a healthy and active lifestyle*
20 *by making walking and bicycling to school safer and*
21 *more appealing transportation alternatives; and*

22 “(3) *to facilitate the planning, development, and*
23 *implementation of projects and activities that will*
24 *improve safety in the vicinity of schools.*

1 “(d) *ELIGIBLE RECIPIENTS.*—A State shall use
2 amounts apportioned under this section to provide finan-
3 cial assistance to State, regional, and local agencies that
4 demonstrate an ability to meet the requirements of this sec-
5 tion.

6 “(e) *ELIGIBLE PROJECTS AND ACTIVITIES.*—

7 “(1) *INFRASTRUCTURE-RELATED PROJECTS.*—

8 “(A) *IN GENERAL.*—Amounts apportioned
9 to a State under this section may be used for the
10 planning, design, and construction of infrastruc-
11 ture-related projects to encourage walking and
12 bicycling to school, including—

13 “(i) sidewalk improvements;

14 “(ii) traffic calming and speed reduc-
15 tion improvements;

16 “(iii) pedestrian and bicycle crossing
17 improvements;

18 “(iv) on-street bicycle facilities;

19 “(v) off-street bicycle and pedestrian
20 facilities;

21 “(vi) secure bicycle parking facilities;

22 “(vii) traffic signal improvements; and

23 “(viii) pedestrian-railroad grade cross-
24 ing improvements.

1 “(B) *LOCATION OF PROJECTS.*—*Infrastruc-*
 2 *ture-related projects under subparagraph (A)*
 3 *may be carried out on—*

4 “(i) *any public road in the vicinity of*
 5 *a school; or*

6 “(ii) *any bicycle or pedestrian path-*
 7 *way or trail in the vicinity of a school.*

8 “(2) *BEHAVIORAL ACTIVITIES.*—

9 “(A) *IN GENERAL.*—*In addition to projects*
 10 *described in paragraph (1), amounts appor-*
 11 *tioned to a State under this section may be used*
 12 *for behavioral activities to encourage walking*
 13 *and bicycling to school, including—*

14 “(i) *public awareness campaigns and*
 15 *outreach to press and community leaders;*

16 “(ii) *traffic education and enforcement*
 17 *in the vicinity of schools; and*

18 “(iii) *student sessions on bicycle and*
 19 *pedestrian safety, health, and environment.*

20 “(B) *ALLOCATION.*—*Of the amounts appor-*
 21 *tioned to a State under this section for a fiscal*
 22 *year, not less than 10 percent shall be used for*
 23 *behavioral activities under this paragraph.*

24 “(f) *FUNDING.*—

1 “(1) *SET ASIDE.*—*Before apportioning amounts*
 2 *to carry out section 148 for a fiscal year, the Sec-*
 3 *retary shall set aside and use \$70,000,000 to carry*
 4 *out this section.*

5 “(2) *APPORTIONMENT.*—*Amounts made available*
 6 *to carry out this section shall be apportioned to*
 7 *States in accordance with section 104(b)(5).*

8 “(3) *ADMINISTRATION OF AMOUNTS.*—*Amounts*
 9 *apportioned to a State under this section shall be ad-*
 10 *ministered by the State transportation department.*

11 “(4) *FEDERAL SHARE.*—*The Federal share of the*
 12 *cost of a project or activity funded under this section*
 13 *shall be 90 percent.*

14 “(5) *PERIOD OF AVAILABILITY.*—*Notwith-*
 15 *standing section 118(b)(2), amounts apportioned*
 16 *under this section shall remain available until ex-*
 17 *pended.”.*

18 “(b) *CONFORMING AMENDMENTS.*—*The analysis for*
 19 *subchapter I of chapter 1 of title 23, United States Code*
 20 *is amended by inserting after the item relating to section*
 21 *149 the following:*

 “150. *Safe routes to school program.*”.

22 **SEC. 1406. PURCHASES OF EQUIPMENT.**

23 “(a) *IN GENERAL.*—*Section 152 of title 23, United*
 24 *States Code is amended to read as follows:*

1 **“§ 152. Purchases of equipment**

2 “(a) *IN GENERAL.*—Subject to subsection (b), a State
3 or other entity carrying out a project under this chapter
4 shall purchase device, tool or other equipment needed for
5 the project only after completing and providing a written
6 analysis demonstrating the cost savings associated with
7 purchasing the equipment compared with renting the equip-
8 ment from a qualified equipment rental provider before the
9 project commences

10 “(b) *APPLICABILITY.*—This section shall apply to—

11 “(1) earth moving, road machinery, and mate-
12 rial handling equipment, or any other item, with a
13 purchase price in excess of \$75,000; and

14 “(2) aerial work platforms with a purchase price
15 in excess of \$25,000.”.

16 “(b) *CONFORMING AMENDMENT.*—The analysis for sub-
17 chapter I of chapter 1 of title 23, United States Code, is
18 amended by striking the item relating to section 152 and
19 inserting the following:

 “152. Purchases of equipment.”.

20 **SEC. 1407. WORKZONE SAFETY.**

21 Section 358(b) of the National Highway System Des-
22 ignation Act of 1995 (109 Stat. 625) is amended by adding
23 at the end the following:

24 “(7) Recommending all federally-assisted projects
25 in excess of \$15,000,000 to enter into contracts only

1 *with work zone safety services contractors, traffic con-*
2 *trol contractors, and trench safety and shoring con-*
3 *tractors that carry general liability insurance in an*
4 *amount not less than \$15,000,000.*

5 *“(8) Recommending federally-assisted projects*
6 *the costs of which exceed \$15,000,000 to include work*
7 *zone intelligent transportation systems that are—*

8 *“(A) provided by a qualified vendor; and*

9 *“(B) monitored continuously.*

10 *“(9) Recommending federally-assisted projects to*
11 *fully fund not less than 5 percent of project costs for*
12 *work zone safety and temporary traffic control meas-*
13 *ures, in addition to the cost of the project, which*
14 *measures shall be provided by a qualified work zone*
15 *safety or traffic control provider.”.*

16 **SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW**
17 **OF VEHICULAR TRAFFIC.**

18 *Not later than 1 year after the date of enactment of*
19 *this Act, the Secretary shall promulgate regulations—*

20 *(1) to decrease the probability of worker injury;*

21 *(2) to maintain the free flow of vehicular traffic*

22 *by requiring workers whose duties place the workers*
23 *on, or in close proximity to, a Federal-aid highway*
24 *(as defined in section 101 of title 23, United States*
25 *Code) to wear high-visibility clothing; and*

1 (3) to require such other worker-safety measures
2 for workers described in paragraph (2) as the Sec-
3 retary determines appropriate.

4 ***Subtitle E—Environmental***
5 ***Planning and Review***

6 ***CHAPTER 1—TRANSPORTATION***

7 ***PLANNING***

8 ***SEC. 1501. INTEGRATION OF NATURAL RESOURCE CON-***
9 ***CERNS INTO STATE AND METROPOLITAN***
10 ***TRANSPORTATION PLANNING.***

11 (a) *METROPOLITAN PLANNING.*—Section 134(f) of title
12 23, *United States Code*, is amended—

13 (1) in paragraph (1)—

14 (A) in subparagraph (D)—

15 (i) by inserting after “environment”
16 the following: “(including the protection of
17 habitat, water quality, and agricultural
18 and forest land, while minimizing invasive
19 species)”; and

20 (ii) by inserting before the semicolon
21 the following: “(including minimizing ad-
22 verse health effects from mobile source air
23 pollution and promoting the linkage of the
24 transportation and development goals of the
25 metropolitan area)”; and

1 (B) in subparagraph (G), by inserting “and
2 efficient use” after “preservation”;

3 (2) by redesignating paragraph (2) as para-
4 graph (3); and

5 (3) by inserting after paragraph (1) the fol-
6 lowing:

7 “(2) *SELECTION OF FACTORS.*—After soliciting
8 and considering any relevant public comments, the
9 metropolitan planning organization shall determine
10 which of the factors described in paragraph (1) are
11 most appropriate for the metropolitan area to con-
12 sider.”.

13 (b) *STATEWIDE PLANNING.*—Section 135(c) of title 23,
14 United States Code, is amended—

15 (1) in paragraph (1)—

16 (A) in subparagraph (D)—

17 (i) by inserting after “environment”
18 the following: “(including the protection of
19 habitat, water quality, and agricultural
20 and forest land, while minimizing invasive
21 species)”; and

22 (ii) by inserting before the semicolon
23 the following: “(including minimizing ad-
24 verse health effects from mobile source air
25 pollution and promoting the linkage of the

1 *transportation and development goals of the*
 2 *State)”; and*

3 *(B) in subparagraph (G), by inserting “and*
 4 *efficient use” after “preservation”;*

5 *(2) by redesignating paragraph (2) as para-*
 6 *graph (3); and*

7 *(3) by inserting after paragraph (1) the fol-*
 8 *lowing:*

9 “*(2) SELECTION OF PROJECTS AND STRATE-*
 10 *GIES.—After soliciting and considering any relevant*
 11 *public comments, the State shall determine which of*
 12 *the projects and strategies described in paragraph (1)*
 13 *are most appropriate for the State to consider.”.*

14 **SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION**
 15 **AGENCIES AND RESOURCE AGENCIES IN**
 16 **TRANSPORTATION PLANNING.**

17 *(a) IN GENERAL.—Section 134(g) of title 23, United*
 18 *States Code, is amended—*

19 *(1) in paragraph (2)—*

20 *(A) by redesignating subparagraphs (B)*
 21 *through (D) as subparagraphs (C) through (E),*
 22 *respectively; and*

23 *(B) by inserting after subparagraph (A) the*
 24 *following:*

25 “*(B) MITIGATION ACTIVITIES.—*

1 “(i) *IN GENERAL.*—A long-range trans-
2 portation plan shall include a discussion
3 of—

4 “(I) *types of potential habitat,*
5 *hydrological, and environmental miti-*
6 *gation activities that may assist in*
7 *compensating for loss of habitat, wet-*
8 *land, and other environmental func-*
9 *tions; and*

10 “(II) *potential areas to carry out*
11 *these activities, including a discussion*
12 *of areas that may have the greatest po-*
13 *tential to restore and maintain the*
14 *habitat types and hydrological or envi-*
15 *ronmental functions affected by the*
16 *plan.*

17 “(ii) *CONSULTATION.*—*The discussion*
18 *shall be developed in consultation with Fed-*
19 *eral, State, and tribal wildlife, land man-*
20 *agement, and regulatory agencies.”;*

21 (2) *by redesignating paragraphs (4), (5), and (6)*
22 *as paragraphs (5), (6), and (7), respectively; and*

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

25 “(4) *CONSULTATION.*—

1 “(A) *IN GENERAL.*—*In each metropolitan*
2 *area, the metropolitan planning organization*
3 *shall consult, as appropriate, with State and*
4 *local agencies responsible for land use manage-*
5 *ment, natural resources, environmental protec-*
6 *tion, conservation, and historic preservation con-*
7 *cerning the development of a long-range trans-*
8 *portation plan.*

9 “(B) *ISSUES.*—*The consultation shall in-*
10 *volve—*

11 “(i) *comparison of transportation*
12 *plans with State conservation plans or with*
13 *maps, if available;*

14 “(ii) *comparison of transportation*
15 *plans to inventories of natural or historic*
16 *resources, if available; or*

17 “(iii) *consideration of areas where*
18 *wildlife crossing structures may be needed*
19 *to ensure connectivity between wildlife habi-*
20 *tat linkage areas.”.*

21 (b) *IMPROVED CONSULTATION DURING STATE TRANS-*
22 *PORTATION PLANNING.*—

23 (1) *IN GENERAL.*—*Section 135(e)(2) of title 23,*
24 *United States Code, is amended by adding at the end*
25 *the following:*

1 “(D) CONSULTATION, COMPARISON, AND
2 CONSIDERATION.—

3 “(i) IN GENERAL.—*The long-range*
4 *transportation plan shall be developed, as*
5 *appropriate, in consultation with State and*
6 *local agencies responsible for—*

7 “(I) *land use management;*

8 “(II) *natural resources;*

9 “(III) *environmental protection;*

10 “(IV) *conservation; and*

11 “(V) *historic preservation.*

12 “(ii) COMPARISON AND CONSIDER-
13 *ATION.—Consultation under clause (i) shall*
14 *involve—*

15 “(I) *comparison of transportation*
16 *plans to State conservation plans or*
17 *maps, if available;*

18 “(II) *comparison of transpor-*
19 *tation plans to inventories of natural*
20 *or historic resources, if available; or*

21 “(III) *consideration of areas*
22 *where wildlife crossing structures may*
23 *be needed to ensure connectivity be-*
24 *tween wildlife habitat linkage areas.”.*

1 (2) *ADDITIONAL REQUIREMENTS.*—Section
2 135(e) of title 23, United States Code, is amended—

3 (A) by redesignating paragraphs (4) and
4 (5) as paragraphs (6) and (7), respectively; and

5 (B) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) *MITIGATION ACTIVITIES.*—

8 “(A) *IN GENERAL.*—A long-range transpor-
9 tation plan shall include a discussion of—

10 “(i) types of potential habitat,
11 hydrological, and environmental mitigation
12 activities that may assist in compensating
13 for loss of habitat, wetlands, and other envi-
14 ronmental functions; and

15 “(ii) potential areas to carry out these
16 activities, including a discussion of areas
17 that may have the greatest potential to re-
18 store and maintain the habitat types and
19 hydrological or environmental functions af-
20 fected by the plan.

21 “(B) *CONSULTATION.*—The discussion shall
22 be developed in consultation with Federal, State,
23 and tribal wildlife, land management, and regu-
24 latory agencies.

1 “(5) *TRANSPORTATION STRATEGIES*.—A long-
 2 range transportation plan shall identify transpor-
 3 tation strategies necessary to efficiently serve the mo-
 4 bility needs of people.”.

5 **SEC. 1503. INTEGRATION OF NATURAL RESOURCE CON-**
 6 **CERNS INTO TRANSPORTATION PROJECT**
 7 **PLANNING.**

8 Section 109(c)(2) of title 23, United States Code, is
 9 amended—

10 (1) by striking “consider the results” and insert-
 11 ing “consider—

12 “(A) the results”;

13 (2) by striking the period at the end and insert-
 14 ing a semicolon; and

15 (3) by adding at the end the following:

16 “(B) the publication entitled ‘Flexibility in
 17 Highway Design’ of the Federal Highway Ad-
 18 ministration;

19 “(C) ‘Eight Characteristics of Process to
 20 Yield Excellence and the Seven Qualities of Ex-
 21 cellence in Transportation Design’ developed by
 22 the conference held during 1998 entitled ‘Think-
 23 ing Beyond the Pavement National Workshop on
 24 Integrating Highway Development with Commu-

1 *nities and the Environment while Maintaining*
 2 *Safety and Performance’; and*

3 *“(D) any other material that the Secretary*
 4 *determines to be appropriate.”.*

5 **SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION**
 6 **PLANNING AND PROJECTS.**

7 *(a) METROPOLITAN PLANNING.—*

8 *(1) PARTICIPATION BY INTERESTED PARTIES.—*
 9 *Section 134(g)(5) of title 23, United States Code (as*
 10 *redesignated by section 1502(a)(1)), is amended—*

11 *(A) by striking “Before approving” and in-*
 12 *serting the following:*

13 *“(A) IN GENERAL.—Before approving”; and*

14 *(B) by adding at the end the following:*

15 *“(B) METHODS.—In carrying out subpara-*
 16 *graph (A), the metropolitan planning organiza-*
 17 *tion shall, to the maximum extent practicable—*

18 *“(i) hold any public meetings at con-*
 19 *venient and accessible locations and times;*

20 *“(ii) employ visualization techniques*
 21 *to describe plans; and*

22 *“(iii) make public information avail-*
 23 *able in electronically accessible format and*
 24 *means, such as the World Wide Web.”.*

1 (2) *PUBLICATION OF LONG-RANGE TRANSPOR-*
2 *TATION PLANS.—Section 134(g)(6)(i) of title 23,*
3 *United States Code (as redesignated by section*
4 *1502(a)(1)), is amended by inserting before the semi-*
5 *colon the following: “, including (to the maximum ex-*
6 *tent practicable) in electronically accessible formats*
7 *and means such as the World Wide Web”.*

8 (b) *STATEWIDE PLANNING.—*

9 (1) *PARTICIPATION BY INTERESTED PARTIES.—*
10 *Section 135(e)(3) of title 23, United States Code, is*
11 *amended by striking subparagraph (B) and inserting*
12 *the following:*

13 *“(B) METHODS.—In carrying out subpara-*
14 *graph (A), the State shall, to the maximum ex-*
15 *tent practicable—*

16 *“(i) hold any public meetings at con-*
17 *venient and accessible locations and times;*

18 *“(ii) employ visualization techniques*
19 *to describe plans; and*

20 *“(iii) make public information avail-*
21 *able in electronically accessible format and*
22 *means, such as the World Wide Web.”.*

23 (2) *PUBLICATION OF LONG-RANGE TRANSPOR-*
24 *TATION PLANS.—Section 135(e) of title 23, United*

1 *States Code (as amended by section 1502(b)(2)), is*
2 *amended by adding at the end the following:*

3 “(8) *PUBLICATION OF LONG-RANGE TRANSPOR-*
4 *TATION PLANS.—Each long-range transportation plan*
5 *prepared by a State shall be published or otherwise*
6 *made available, including (to the maximum extent*
7 *practicable) in electronically accessible formats and*
8 *means, such as the World Wide Web.”.*

9 **SEC. 1505. PROJECT MITIGATION.**

10 (a) *MITIGATION FOR NATIONAL HIGHWAY SYSTEM*
11 *PROJECTS.—Section 103(b)(6)(M) of title 23, United States*
12 *Code, is amended—*

13 (1) *by inserting “(i)” after “(M); and*

14 (2) *by adding at the end the following:*

15 “(i) *State habitat, streams, and wetlands*
16 *mitigation efforts under section 155.”.*

17 (b) *MITIGATION FOR SURFACE TRANSPORTATION PRO-*
18 *GRAM PROJECTS.—Section 133(b)(11) of title 23, United*
19 *States Code, is amended—*

20 (1) *by inserting “(A)” after “(11)”; and*

21 (2) *by adding at the end the following:*

22 “(B) *State habitat, streams, and wetlands miti-*
23 *gation efforts under section 155.”.*

1 (c) *STATE HABITAT, STREAMS, AND WETLANDS MITI-*
2 *GATION FUNDS.*—Section 155 of title 23, United States
3 Code, is amended to read as follows:

4 **“§ 155. State habitat, streams, and wetlands mitiga-**
5 **tion funds**

6 “(a) *ESTABLISHMENT.*—A State should establish a
7 habitat, streams, and wetlands mitigation fund (referred to
8 in this section as a ‘State fund’).

9 “(b) *PURPOSE.*—The purpose of a State fund is to en-
10 courage efforts for habitat, streams, and wetlands mitiga-
11 tion in advance of or in conjunction with highway projects
12 to—

13 “(1) ensure that the best habitat, streams, and
14 wetland mitigation sites now available are used; and

15 “(2) accelerate transportation project delivery by
16 making high-quality habitat, streams, and wetland
17 mitigation credits available when needed.

18 “(c) *FUNDS.*—A State may deposit into a State fund
19 part of the funds apportioned to the State under—

20 “(1) section 104(b)(1) for the National Highway
21 System; and

22 “(2) section 104(b)(3) for the surface transpor-
23 tation program.

24 “(d) *USE.*—

1 “(1) *IN GENERAL.*—Amounts deposited in a
2 *State fund shall be used (in a manner consistent with*
3 *this section) for habitat, streams, or wetlands mitiga-*
4 *tion related to 1 or more projects funded under this*
5 *title, including a project under the transportation im-*
6 *provement program of the State developed under sec-*
7 *tion 135(f).*

8 “(2) *ENDANGERED SPECIES.*—*In carrying out*
9 *this section, a State and cooperating agency shall give*
10 *consideration to mitigation projects, on-site or off-site,*
11 *that restore and preserve the best available sites to*
12 *conserve biodiversity and habitat for—*

13 “(A) *Federal or State listed threatened or*
14 *endangered species of plants and animals; and*

15 “(B) *plant or animal species warranting*
16 *listing as threatened or endangered, as deter-*
17 *mined by the Secretary of the Interior in accord-*
18 *ance with section 4(b)(3)(B) of the Endangered*
19 *Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).*

20 “(e) *CONSISTENCY WITH APPLICABLE REQUIRE-*
21 *MENTS.*—*Contributions from the State fund to mitigation*
22 *efforts may occur in advance of project construction only*
23 *if the efforts are consistent with all applicable requirements*
24 *of Federal law (including regulations).”.*

1 (d) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 2 *chapter I of chapter 1 of title 23, United States Code, is*
 3 *amended by striking the item relating to section 155 and*
 4 *inserting the following:*

“155. *State habitat, streams, and wetlands mitigation funds.*”.

5 **CHAPTER 2—TRANSPORTATION PROJECT**
 6 **DEVELOPMENT PROCESS**

7 **SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT**
 8 **PROCESS.**

9 (a) *IN GENERAL.*—*Chapter 3 of title 23, United States*
 10 *Code (as amended by section 1203(a)), is amended by in-*
 11 *serting after section 325 the following:*

12 **“§ 326. Transportation project development process**

13 “(a) *DEFINITIONS.*—*In this section:*

14 “(1) *AGENCY.*—*The term ‘agency’ means any*
 15 *agency, department, or other unit of Federal, State,*
 16 *local, or tribal government.*

17 “(2) *ENVIRONMENTAL IMPACT STATEMENT.*—*The*
 18 *term ‘environmental impact statement’ means a de-*
 19 *tailed statement of the environmental impacts of a*
 20 *project required to be prepared under the National*
 21 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
 22 *seq.).*

23 “(3) *ENVIRONMENTAL REVIEW PROCESS.*—

1 “(A) *IN GENERAL.*—*The term ‘environ-*
2 *mental review process’ means the process for pre-*
3 *paring, for a project—*

4 “(i) *an environmental impact state-*
5 *ment; or*

6 “(ii) *any other document or analysis*
7 *required to be prepared under the National*
8 *Environmental Policy Act of 1969 (42*
9 *U.S.C. 4321 et seq.)*

10 “(B) *INCLUSIONS.*—*The term ‘environ-*
11 *mental review process’ includes the process for*
12 *and completion of any environmental permit,*
13 *approval, review, or study required for a project*
14 *under any Federal law other than the National*
15 *Environmental Policy Act of 1969 (42 U.S.C.*
16 *4321 et seq.).*

17 “(4) *PROJECT.*—*The term ‘project’ means any*
18 *highway or transit project that requires the approval*
19 *of the Secretary.*

20 “(5) *PROJECT SPONSOR.*—*The term ‘project*
21 *sponsor’ means an agency or other entity (including*
22 *any private or public-private entity), that seeks ap-*
23 *proval of the Secretary for a project.*

24 “(6) *STATE TRANSPORTATION DEPARTMENT.*—
25 *The term ‘State transportation department’ means*

1 *any statewide agency of a State with responsibility*
2 *for transportation.*

3 “(b) *PROCESS.*—

4 “(1) *LEAD AGENCY.*—

5 “(A) *IN GENERAL.*—*The Department of*
6 *Transportation shall be the lead Federal agency*
7 *in the environmental review process for a project.*

8 “(B) *JOINT LEAD AGENCIES.*—*Nothing in*
9 *this section precludes another agency from being*
10 *a joint lead agency in accordance with regula-*
11 *tions under the National Environmental Policy*
12 *Act of 1969 (42 U.S.C. 4321 et seq.).*

13 “(C) *CONCURRENCE OF PROJECT SPON-*
14 *SOR.*—*The lead agency may carry out the envi-*
15 *ronmental review process in accordance with this*
16 *section only with the concurrence of the project*
17 *sponsor.*

18 “(2) *REQUEST FOR PROCESS.*—

19 “(A) *IN GENERAL.*—*A project sponsor may*
20 *request that the lead agency carry out the envi-*
21 *ronmental review process for a project or group*
22 *of projects in accordance with this section.*

23 “(B) *GRANT OF REQUEST; PUBLIC NO-*
24 *TICE.*—*The lead agency shall—*

1 “(i) grant a request under subpara-
2 graph (A); and

3 “(ii) provide public notice of the re-
4 quest.

5 “(3) *EFFECTIVE DATE.*—*The environmental re-*
6 *view process described in this section may be applied*
7 *to a project only after the date on which public notice*
8 *is provided under subparagraph (B)(ii).*

9 “(c) *ROLES AND RESPONSIBILITY OF LEAD AGENCY.*—
10 *With respect to the environmental review process for any*
11 *project, the lead agency shall have authority and responsi-*
12 *bility to—*

13 “(A) identify and invite cooperating agen-
14 cies in accordance with subsection (d);

15 “(B) develop an agency coordination plan
16 with review, schedule, and timelines in accord-
17 ance with subsection (e);

18 “(C) determine the purpose and need for the
19 project in accordance with subsection (f);

20 “(D) determine the range of alternatives to
21 be considered in accordance with subsection (g);

22 “(E) convene dispute-avoidance and deci-
23 sion resolution meetings and related efforts in
24 accordance with subsection (h);

1 “(F) take such other actions as are nec-
2 essary and proper, within the authority of the
3 lead agency, to facilitate the expeditious resolu-
4 tion of the environmental review process for the
5 project; and

6 “(G) prepare or ensure that any required
7 environmental impact statement or other docu-
8 ment required to be completed under the Na-
9 tional Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.) is completed in accordance
11 with this section and applicable Federal law.

12 “(d) *ROLES AND RESPONSIBILITIES OF COOPERATING*
13 *AGENCIES.*—

14 “(1) *IN GENERAL.*—With respect to a project,
15 each Federal agency shall carry out any obligations
16 of the Federal agency in the environmental review
17 process in accordance with this section and applicable
18 Federal law.

19 “(2) *INVITATION.*—

20 “(A) *IN GENERAL.*—The lead agency
21 shall—

22 “(i) identify, as early as practicable in
23 the environmental review process for a
24 project, any other agencies that may have
25 an interest in the project, including—

1 “(I) agencies with jurisdiction
2 over environmentally-related matters
3 that may affect the project or may be
4 required by law to conduct an environ-
5 mental-related independent review or
6 analysis of the project or determine
7 whether to issue an environmental-re-
8 lated permit, license, or approval for
9 the project; and

10 “(II) agencies with special exper-
11 tise relevant to the project;

12 “(ii) invite the agencies identified in
13 clause (i) to become participating agencies
14 in the environmental review process for that
15 project; and

16 “(iii) grant requests to become cooper-
17 ating agencies from agencies not originally
18 invited.

19 “(B) RESPONSES.—The deadline for receipt
20 of a response from an agency that receives an in-
21 vitation under subparagraph (A)(ii)—

22 “(i) shall be 30 days after the date of
23 receipt by the agency of the invitation; but

24 “(ii) may be extended by the lead agen-
25 cy for good cause.

1 “(3) *DECLINING OF INVITATIONS.*—A Federal
2 agency that is invited by the lead agency to partici-
3 pate in the environmental review process for a project
4 shall be designated as a cooperating agency by the
5 lead agency, unless the invited agency informs the
6 lead agency in writing, by the deadline specified in
7 the invitation, that the invited agency—

8 “(A) has no jurisdiction or authority with
9 respect to the project;

10 “(B) has no expertise or information rel-
11 evant to the project; and

12 “(C) does not intend to submit comments on
13 the project.

14 “(4) *EFFECT OF DESIGNATION.*—Designation as
15 a cooperating agency under this subsection shall not
16 imply that the cooperating agency—

17 “(A) supports a proposed project; or

18 “(B) has any jurisdiction over, or special
19 expertise with respect to evaluation of, the
20 project.

21 “(5) *DESIGNATIONS FOR CATEGORIES OF*
22 *PROJECTS.*—

23 “(A) *IN GENERAL.*—The Secretary may in-
24 vite other agencies to become cooperating agen-
25 cies for a category of projects.

1 “(B) *DESIGNATION.*—An agency may be
2 designated as a cooperating agency for a cat-
3 egory of projects only with the consent of the
4 agency.

5 “(6) *CONCURRENT REVIEWS.*—Each Federal
6 agency shall, to the maximum extent practicable—

7 “(A) carry out obligations of the Federal
8 agency under other applicable law concurrently,
9 and in conjunction, with the review required
10 under the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.), unless doing so
12 would impair the ability of the Federal agency
13 to carry out those obligations; and

14 “(B) formulate and implement administra-
15 tive, policy, and procedural mechanisms to en-
16 able the agency to ensure completion of the envi-
17 ronmental review process in a timely, coordi-
18 nated, and environmentally responsible manner.

19 “(e) *DEVELOPMENT OF FLEXIBLE PROCESS AND*
20 *TIMELINE.*—

21 “(1) *COORDINATION PLAN.*—

22 “(A) *IN GENERAL.*—The lead agency shall
23 establish a coordination plan, which may be in-
24 corporated into a memorandum of under-
25 standing, to coordinate agency and public par-

1 *icipation in and comment on the environmental*
2 *review process for a project or category of*
3 *projects.*

4 “(B) *WORKPLAN.—*

5 *“(i) IN GENERAL.—The lead agency*
6 *shall develop, as part of the coordination*
7 *plan, a workplan for completing the collec-*
8 *tion, analysis, and evaluation of baseline*
9 *data and future impacts modeling necessary*
10 *to complete the environmental review proc-*
11 *ess, including any data, analyses, and mod-*
12 *eling necessary for related permits, approv-*
13 *als, reviews, or studies required for the*
14 *project under other laws.*

15 “(ii) *CONSULTATION.—In developing*
16 *the workplan under clause (i), the lead*
17 *agency shall consult with—*

18 *“(I) each cooperating agency for*
19 *the project;*

20 *“(II) the State in which the*
21 *project is located; and*

22 *“(III) if the State is not the*
23 *project sponsor, the project sponsor.*

24 “(C) *SCHEDULE.—*

1 “(i) *IN GENERAL.*—*The lead agency*
2 *shall establish as part of the coordination*
3 *plan, after consultation with each cooper-*
4 *ating agency for the project and with the*
5 *State in which the project is located (and,*
6 *if the State is not the project sponsor, with*
7 *the project sponsor), a schedule for comple-*
8 *tion of the environmental review process for*
9 *the project.*

10 “(ii) *FACTORS FOR CONSIDERATION.*—
11 *In establishing the schedule, the lead agency*
12 *shall consider factors such as—*

13 “(I) *the responsibilities of cooper-*
14 *ating agencies under applicable laws;*

15 “(II) *resources available to the co-*
16 *operating agencies;*

17 “(III) *overall size and complexity*
18 *of a project;*

19 “(IV) *the overall schedule for and*
20 *cost of a project; and*

21 “(V) *the sensitivity of the natural*
22 *and historic resources that could be af-*
23 *fected by the project.*

24 “(D) *CONSISTENCY WITH OTHER TIME PE-*
25 *RIODS.*—*A schedule under subparagraph (C)*

1 *shall be consistent with any other relevant time*
2 *periods established under Federal law.*

3 “(E) *MODIFICATION.—The lead agency*
4 *may—*

5 “(i) *lengthen a schedule established*
6 *under subparagraph (C) for good cause; and*

7 “(ii) *shorten a schedule only with the*
8 *concurrence of the affected cooperating agen-*
9 *cies.*

10 “(F) *DISSEMINATION.—A copy of a schedule*
11 *under subparagraph (C), and of any modifica-*
12 *tions to the schedule, shall be—*

13 “(i) *provided to all cooperating agen-*
14 *cies and to the State transportation depart-*
15 *ment of the State in which the project is lo-*
16 *cated (and, if the State is not the project*
17 *sponsor, to the project sponsor); and*

18 “(ii) *made available to the public.*

19 “(2) *COMMENTS AND TIMELINES.—*

20 “(A) *IN GENERAL.—A schedule established*
21 *under paragraph (1)(C) shall include—*

22 “(i) *opportunities for comment, dead-*
23 *line for receipt of any comments submitted,*
24 *deadline for lead agency response to com-*
25 *ments; and*

1 “(ii) *except as otherwise provided*
2 *under paragraph (1)—*

3 “(I) *an opportunity to comment*
4 *by agencies and the public on a draft*
5 *or final environmental impact state-*
6 *ment for a period of not more than 60*
7 *days longer than the minimum period*
8 *required under the National Environ-*
9 *mental Policy Act of 1969 (42 U.S.C.*
10 *4321 et seq.); and*

11 “(II) *for all other comment peri-*
12 *ods established by the lead agency for*
13 *agency or public comments in the envi-*
14 *ronmental review process, a period of*
15 *not more than the longer of—*

16 “(aa) *30 days after the final*
17 *day of the minimum period re-*
18 *quired under Federal law (includ-*
19 *ing regulations), if available; or*

20 “(bb) *if a minimum period*
21 *is not required under Federal law*
22 *(including regulations), 30 days.*

23 “(B) *EXTENSION OF COMMENT PERIODS.—*

24 *The lead agency may extend a period of com-*

1 *ment established under this paragraph for good*
2 *cause.*

3 “(C) *LATE COMMENTS.*—*A comment con-*
4 *cerning a project submitted under this para-*
5 *graph after the date of termination of the appli-*
6 *cable comment period or extension of a comment*
7 *period shall not be eligible for consideration by*
8 *the lead agency unless the lead agency or project*
9 *sponsor determines there was good cause for the*
10 *delay or the lead agency is required to consider*
11 *significant new circumstances or information in*
12 *accordance with sections 1501.7 and 1502.9 of*
13 *title 40, Code of Federal Regulations.*

14 “(D) *DEADLINES FOR DECISIONS UNDER*
15 *OTHER LAWS.*—*In any case in which a decision*
16 *under any Federal law relating to a project (in-*
17 *cluding the issuance or denial of a permit or li-*
18 *cence) is required to be made by the later of the*
19 *date that is 180 days after the date on which the*
20 *Secretary made all final decisions of the lead*
21 *agency with respect to the project, or 180 days*
22 *after the date on which an application was sub-*
23 *mitted for the permit or license, the Secretary*
24 *shall submit to the Committee on Environment*
25 *and Public Works of the Senate and the Com-*

1 *mittee on Transportation and Infrastructure of*
2 *the House of Representatives—*

3 *“(i) as soon as practicable after the*
4 *180-day period, an initial notice of the fail-*
5 *ure of the Federal agency to make the deci-*
6 *sion; and*

7 *“(ii) every 60 day thereafter until such*
8 *date as all decisions of the Federal agency*
9 *relating to the project have been made by*
10 *the Federal agency, an additional notice*
11 *that describes the number of decisions of the*
12 *Federal agency that remain outstanding as*
13 *of the date of the additional notice.*

14 *“(3) INVOLVEMENT OF THE PUBLIC.—Nothing in*
15 *this subsection shall reduce any time period provided*
16 *for public comment in the environmental review proc-*
17 *ess under existing Federal law (including a regula-*
18 *tion).*

19 *“(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED*
20 *STATEMENT.—*

21 *“(1) IN GENERAL.—With respect to the environ-*
22 *mental review process for a project, the purpose and*
23 *need for the project shall be defined in accordance*
24 *with this subsection.*

1 “(2) *AUTHORITY.*—*The lead agency shall define*
2 *the purpose and need for a project, including the*
3 *transportation objectives and any other objectives in-*
4 *tended to be achieved by the project.*

5 “(3) *INVOLVEMENT OF COOPERATING AGENCIES*
6 *AND THE PUBLIC.*—*Before determining the purpose*
7 *and need for a project, the lead agency shall solicit*
8 *for 30 days, and consider, any relevant comments on*
9 *the draft statement of purpose and need for a pro-*
10 *posed project received from the public and cooperating*
11 *agencies.*

12 “(4) *EFFECT ON OTHER REVIEWS.*—*For the pur-*
13 *pose of compliance with the National Environmental*
14 *Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any*
15 *other law requiring an agency that is not the lead*
16 *agency to determine or consider a project purpose or*
17 *project need, such an agency acting, permitting, or*
18 *approving under, or otherwise applying, Federal law*
19 *with respect to a project shall adopt the determina-*
20 *tion of purpose and need for the project made by the*
21 *lead agency.*

22 “(5) *SAVINGS.*—*Nothing in this subsection pre-*
23 *empts or interferes with any power, jurisdiction, re-*
24 *sponsibility, or authority of an agency under applica-*

1 *ble law (including regulations) with respect to a*
2 *project.*

3 “(6) *CONTENTS.*—

4 “(A) *IN GENERAL.*—*The statement of pur-*
5 *pose and need shall include a clear statement of*
6 *the objectives that the proposed project is in-*
7 *tended to achieve.*

8 “(B) *EFFECT ON EXISTING STANDARDS.*—
9 *Nothing in this subsection shall alter existing*
10 *standards for defining the purpose and need of*
11 *a project.*

12 “(7) *FACTORS TO CONSIDER.*—*The lead agency*
13 *may determine that any of the following factors and*
14 *documents are appropriate for consideration in deter-*
15 *mining the purpose of and need for a project:*

16 “(A) *Transportation plans and related*
17 *planning documents developed through the state-*
18 *wide and metropolitan transportation planning*
19 *process under sections 134 and 135.*

20 “(B) *Land use plans adopted by units of*
21 *State, local, or tribal government (or, in the case*
22 *of Federal land, by the applicable Federal land*
23 *management agencies).*

24 “(C) *Economic development plans adopted*
25 *by—*

1 “(i) units of State, local, or tribal gov-
2 ernment; or

3 “(ii) established economic development
4 planning organizations or authorities.

5 “(D) Environmental protection plans, in-
6 cluding plans for the protection or treatment
7 of—

8 “(i) air quality;

9 “(ii) water quality and runoff;

10 “(iii) habitat needs of plants and ani-
11 mals;

12 “(iv) threatened and endangered spe-
13 cies;

14 “(v) invasive species;

15 “(vi) historic properties; and

16 “(vii) other environmental resources.

17 “(E) Any publicly available plans or poli-
18 cies relating to the national defense, national se-
19 curity, or foreign policy of the United States.

20 “(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

21 “(1) IN GENERAL.—With respect to the environ-
22 mental review process for a project, the alternatives
23 shall be determined in accordance with this sub-
24 section.

1 “(2) *AUTHORITY.*—*The lead agency shall deter-*
2 *mine the alternatives to be considered for a project.*

3 “(3) *INVOLVEMENT OF COOPERATING AGENCIES*
4 *AND THE PUBLIC.*—

5 “(A) *IN GENERAL.*—*Before determining the*
6 *alternatives for a project, the lead agency shall*
7 *solicit for 30 days and consider any relevant*
8 *comments on the proposed alternatives received*
9 *from the public and cooperating agencies.*

10 “(B) *ALTERNATIVES.*—*The lead agency*
11 *shall consider—*

12 “(i) *alternatives that meet the purpose*
13 *and need of the project; and*

14 “(ii) *the alternative of no action.*

15 “(C) *EFFECT ON EXISTING STANDARDS.*—
16 *Nothing in this subsection shall alter the existing*
17 *standards for determining the range of alter-*
18 *natives.*

19 “(4) *EFFECT ON OTHER REVIEWS.*—*Any other*
20 *agency acting under or applying Federal law with re-*
21 *spect to a project shall consider only the alternatives*
22 *determined by the lead agency.*

23 “(5) *SAVINGS.*—*Nothing in this subsection pre-*
24 *empts or interferes with any power, jurisdiction, re-*
25 *sponsibility, or authority of an agency under applica-*

1 *ble law (including regulations) with respect to a*
2 *project.*

3 “(6) *FACTORS TO CONSIDER.—The lead agency*
4 *may determine that any of the following factors and*
5 *documents are appropriate for consideration in deter-*
6 *mining the alternatives for a project:*

7 “(A) *The overall size and complexity of the*
8 *proposed action.*

9 “(B) *The sensitivity of the potentially af-*
10 *ected resources.*

11 “(C) *The overall schedule and cost of the*
12 *project.*

13 “(D) *Transportation plans and related*
14 *planning documents developed through the state-*
15 *wide and metropolitan transportation planning*
16 *process under sections 134 and 135 of title 23 of*
17 *the United States Code.*

18 “(E) *Land use plans adopted by units of*
19 *State, local, or tribal government (or, in the case*
20 *of Federal land, by the applicable Federal land*
21 *management agencies).*

22 “(F) *Economic development plans adopted*
23 *by—*

24 “(i) *units of State, local, or tribal gov-*
25 *ernment; or*

1 “(ii) established economic development
2 planning organizations or authorities.

3 “(G) environmental protection plans, in-
4 cluding plans for the protection or treatment
5 of—

6 “(i) air quality;

7 “(ii) water quality and runoff;

8 “(iii) habitat needs of plants and ani-
9 mals;

10 “(iv) threatened and endangered spe-
11 cies;

12 “(v) invasive species;

13 “(vi) historic properties; and

14 “(vii) other environmental resources.

15 “(H) Any publicly available plans or poli-
16 cies relating to the national defense, national se-
17 curity, or foreign policy of the United States.

18 “(h) *PROMPT ISSUE IDENTIFICATION AND RESOLU-*
19 *TION PROCESS.*—

20 “(1) *IN GENERAL.*—*The lead agency, the project*
21 *sponsor, and the cooperating agencies shall work co-*
22 *operatively, in accordance with this section, to iden-*
23 *tify and resolve issues that could—*

24 “(A) delay completion of the environmental
25 review process; or

1 “(B) result in denial of any approvals re-
2 quired for the project under applicable laws.

3 “(2) LEAD AGENCY RESPONSIBILITIES.—

4 “(A) IN GENERAL.—The lead agency, with
5 the assistance of the project sponsor, shall make
6 information available to the cooperating agen-
7 cies, as early as practicable in the environmental
8 review process, regarding—

9 “(i) the environmental and socio-
10 economic resources located within the
11 project area; and

12 “(ii) the general locations of the alter-
13 natives under consideration.

14 “(B) BASIS FOR INFORMATION.—Informa-
15 tion about resources in the project area may be
16 based on existing data sources, including geo-
17 graphic information systems mapping.

18 “(3) COOPERATING AGENCY RESPONSIBIL-
19 ITIES.—

20 “(A) IN GENERAL.—Based on information
21 received from the lead agency, cooperating agen-
22 cies shall promptly identify to the lead agency
23 any major issues of concern regarding the poten-
24 tial environmental or socioeconomic impacts of a
25 project.

1 “(B) *MAJOR ISSUES OF CONCERN.*—A
2 *major issue of concern referred to in subpara-*
3 *graph (A) may include any issue that could sub-*
4 *stantially delay or prevent an agency from*
5 *granting a permit or other approval that is*
6 *needed for a project, as determined by a cooper-*
7 *ating agency.*

8 “(4) *ISSUE RESOLUTION.*—*On identification of a*
9 *major issue of concern under paragraph (3), or at*
10 *any time upon the request of a project sponsor or the*
11 *Governor of a State, the lead agency shall promptly*
12 *convene a meeting with representatives of each of the*
13 *relevant cooperating agencies, the project sponsor, and*
14 *the Governor to address and resolve the issue.*

15 “(5) *NOTIFICATION.*—*If a resolution of a major*
16 *issue of concern under paragraph (4) cannot be*
17 *achieved by the date that is 30 days after the date on*
18 *which a meeting under that paragraph is convened,*
19 *the lead agency shall provide notification of the fail-*
20 *ure to resolve the major issue of concern to—*

21 “(A) *the heads of all cooperating agencies;*

22 “(B) *the project sponsor;*

23 “(C) *the Governor involved;*

24 “(D) *the Committee on Environment and*
25 *Public Works of the Senate; and*

1 “(E) *the Committee on Transportation and*
2 *Infrastructure of the House of Representatives.*

3 “(i) *PERFORMANCE MEASUREMENT.*—

4 “(1) *PROGRESS REPORTS.*—*The Secretary shall*
5 *establish a program to measure and report on*
6 *progress toward improving and expediting the plan-*
7 *ning and environmental review process.*

8 “(2) *MINIMUM REQUIREMENTS.*—*The program*
9 *shall include, at a minimum—*

10 “(A) *the establishment of criteria for meas-*
11 *uring consideration of—*

12 “(i) *State and metropolitan planning,*
13 *project planning, and design criteria; and*

14 “(ii) *environmental processing times*
15 *and costs;*

16 “(B) *the collection of data to assess perform-*
17 *ance based on the established criteria; and*

18 “(C) *the annual reporting of the results of*
19 *the performance measurement studies.*

20 “(3) *INVOLVEMENT OF THE PUBLIC AND COOPER-*
21 *ATING AGENCIES.*—

22 “(A) *IN GENERAL.*—*The Secretary shall bi-*
23 *ennially conduct a survey of agencies partici-*
24 *parting in the environmental review process*
25 *under this section to assess the expectations and*

1 *experiences of each surveyed agency with regard*
2 *to the planning and environmental review proc-*
3 *ess for projects reviewed under this section.*

4 “(B) *PUBLIC PARTICIPATION.*—*In con-*
5 *ducting the survey, the Secretary shall solicit*
6 *comments from the public.*

7 “(j) *ASSISTANCE TO AFFECTED FEDERAL AND STATE*
8 *AGENCIES.*—

9 “(1) *IN GENERAL.*—*The Secretary may approve*
10 *a request by a State or recipient to provide funds, for*
11 *a highway project made available under this title, or*
12 *for a mass transit project made available under chap-*
13 *ter 53 of title 49 to the State or recipient for the*
14 *project, subject to the coordinated environmental re-*
15 *view process established under this section, to affected*
16 *Federal and State agencies to provide the resources*
17 *necessary to meet any time limits established under*
18 *this section.*

19 “(2) *AMOUNTS.*—*Such requests under paragraph*
20 *(1) shall be approved only—*

21 “(A) *for such additional amounts as the*
22 *Secretary determines are necessary for the af-*
23 *ected Federal and State agencies to meet the*
24 *time limits for environmental review; and*

1 “(B) if those time limits are less than the
2 customary time necessary for that review.”.

3 (b) *CONFORMING AMENDMENTS.*—

4 (1) *The analysis for chapter 3 of title 23, United*
5 *States Code, is amended by inserting after the item*
6 *relating to section 325 (as added by section 1203(f))*
7 *the following:*

 “326. *Transportation project development process.*”.

8 (2) *Section 1309 of the Transportation Equity*
9 *Act for the 21st Century (112 Stat. 232) is amend-*
10 *ed—*

11 (A) *by striking subsections (a), (b), (c), (d),*
12 *and (e);*

13 (B) *by redesignating subsections (f) and (g)*
14 *as subsections (b) and (a), respectively, and mov-*
15 *ing the subsections so as to appear in alphabet-*
16 *ical order; and*

17 (C) *in subsection (a) (as redesignated by*
18 *subparagraph (B)), in the subsection heading, by*
19 *striking “FEDERAL AGENCY DEFINED.—” and*
20 *inserting “DEFINITION OF FEDERAL*
21 *AGENCY.—”.*

1 **SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CAT-**
2 **EGORICAL EXCLUSIONS.**

3 (a) *IN GENERAL.*—Chapter 3 of title 23, United States
4 Code (as amended by section 1511(a)), is amended by in-
5 serting after section 326 the following:

6 **“§ 327. Assumption of responsibility for categorical ex-**
7 **clusions**

8 “(a) *CATEGORICAL EXCLUSION DETERMINATIONS.*—

9 “(1) *IN GENERAL.*—The Secretary may assign,
10 and a State may assume, responsibility for deter-
11 mining whether certain designated activities are in-
12 cluded within classes of action identified in regula-
13 tion by the Secretary that are categorically excluded
14 from requirements for environmental assessments or
15 environmental impact statements pursuant to regula-
16 tions promulgated by the Council on Environmental
17 Quality under part 1500 of title 40, Code of Federal
18 Regulations (as in effect on October 1, 2003).

19 “(2) *SCOPE OF AUTHORITY.*—A determination
20 described in paragraph (1) shall be made by a State
21 in accordance with criteria established by the Sec-
22 retary and only for types of activities specifically des-
23 ignated by the Secretary.

24 “(3) *CRITERIA.*—The criteria under paragraph
25 (2) shall include provisions for public availability of
26 information consistent with section 552 of title 5 and

1 *the National Environmental Policy Act of 1969 (42*
2 *U.S.C. 4321 et seq.).*

3 “(b) *OTHER APPLICABLE FEDERAL LAWS.*—

4 “(1) *IN GENERAL.*—*If a State assumes responsi-*
5 *bility under subsection (a), the Secretary may also*
6 *assign and the State may assume all or part of the*
7 *responsibilities of the Secretary for environmental re-*
8 *view, consultation, or other related actions required*
9 *under any Federal law applicable to activities that*
10 *are classified by the Secretary as categorical exclu-*
11 *sions, with the exception of government-to-government*
12 *consultation with Indian tribes, subject to the same*
13 *procedural and substantive requirements as would be*
14 *required if that responsibility were carried out by the*
15 *Secretary.*

16 “(2) *SOLE RESPONSIBILITY.*—*A State that as-*
17 *sumes responsibility under paragraph (1) with re-*
18 *spect to a Federal law shall be solely responsible and*
19 *solely liable for complying with and carrying out that*
20 *law, and the Secretary shall have no such responsi-*
21 *bility or liability.*

22 “(c) *MEMORANDA OF UNDERSTANDING.*—

23 “(1) *IN GENERAL.*—*The Secretary and the State,*
24 *after providing public notice and opportunity for*
25 *comment, shall enter into a memorandum of under-*

1 *standing setting forth the responsibilities to be as-*
2 *signed under this section and the terms and condi-*
3 *tions under which the assignments are made, includ-*
4 *ing establishment of the circumstances under which*
5 *the Secretary would reassume responsibility for cat-*
6 *egorical exclusion determinations.*

7 “(2) *TERM.—A memorandum of under-*
8 *standing—*

9 “(A) *shall have term of not more than 3*
10 *years; and*

11 “(B) *shall be renewable.*

12 “(3) *ACCEPTANCE OF JURISDICTION.—In a*
13 *memorandum of understanding, the State shall con-*
14 *sent to accept the jurisdiction of the Federal courts for*
15 *the compliance, discharge, and enforcement of any re-*
16 *sponsibility of the Secretary that the State assumes.*

17 “(4) *MONITORING.—The Secretary shall—*

18 “(A) *monitor compliance by the State with*
19 *the memorandum of understanding and the pro-*
20 *vision by the State of financial resources to*
21 *carry out the memorandum of understanding;*
22 *and*

23 “(B) *take into account the performance by*
24 *the State when considering renewal of the memo-*
25 *randum of understanding.*

1 “(d) *TERMINATION.*—*The Secretary may terminate*
 2 *any assumption of responsibility under a memorandum of*
 3 *understanding on a determination that the State is not ade-*
 4 *quately carrying out the responsibilities assigned to the*
 5 *State.*

6 “(e) *STATE AGENCY DEEMED TO BE FEDERAL AGEN-*
 7 *CY.*—*A State agency that is assigned a responsibility under*
 8 *a memorandum of understanding shall be deemed to be a*
 9 *Federal agency for the purposes of the Federal law under*
 10 *which the responsibility is exercised.”.*

11 “(b) *CONFORMING AMENDMENT.*—*The analysis for*
 12 *chapter 3 of title 23, United States Code (as amended by*
 13 *section 1511(b)), is amended by inserting after the item re-*
 14 *lating to section 326 the following:*

“327. Assumption of responsibility for categorical exclusions.”.

15 **SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY**
 16 **PILOT PROGRAM.**

17 “(a) *IN GENERAL.*—*Chapter 3 of title 23, United States*
 18 *Code (as amended by section 1512(a)), is amended by in-*
 19 *serting after section 327 the following:*

20 **“§ 328. Surface transportation project delivery pilot**
 21 **program**

22 “(a) *ESTABLISHMENT.*—

23 “(1) *IN GENERAL.*—*The Secretary shall carry*
 24 *out a surface transportation project delivery pilot*
 25 *program (referred to in this section as the ‘program’).*

1 “(2) *ASSUMPTION OF RESPONSIBILITY.*—

2 “(A) *IN GENERAL.*—*Subject to the other*
3 *provisions of this section, with the written agree-*
4 *ment of the Secretary and a State, which may*
5 *be in the form of a memorandum of under-*
6 *standing, the Secretary may assign, and the*
7 *State may assume, the responsibilities of the Sec-*
8 *retary with respect to 1 or more highway*
9 *projects within the State under the National En-*
10 *vironmental Policy Act of 1969 (42 U.S.C. 4321*
11 *et seq.).*

12 “(B) *ADDITIONAL RESPONSIBILITY.*—*If a*
13 *State assumes responsibility under subparagraph*
14 *(A)—*

15 “(i) *the Secretary may assign to the*
16 *State, and the State may assume, all or*
17 *part of the responsibilities of the Secretary*
18 *for environmental review, consultation, or*
19 *other action required under any Federal en-*
20 *vironmental law pertaining to the review or*
21 *approval of a specific project; but*

22 “(ii) *the Secretary may not assign—*

23 “(I) *responsibility for any con-*
24 *formity determination required under*

1 *section 176 of the Clean Air Act (42*
2 *U.S.C. 7506); or*

3 *“(II) any responsibility imposed*
4 *on the Secretary by section 134 or 135.*

5 *“(C) PROCEDURAL AND SUBSTANTIVE RE-*
6 *QUIREMENTS.—A State shall assume responsi-*
7 *bility under this section subject to the same pro-*
8 *cedural and substantive requirements as would*
9 *apply if that responsibility were carried out by*
10 *the Secretary.*

11 *“(D) FEDERAL RESPONSIBILITY.—Any re-*
12 *sponsibility of the Secretary not explicitly as-*
13 *sumed by the State by written agreement under*
14 *this section shall remain the responsibility of the*
15 *Secretary.*

16 *“(E) NO EFFECT ON AUTHORITY.—Nothing*
17 *in this section preempts or interferes with any*
18 *power, jurisdiction, responsibility, or authority*
19 *of an agency, other than the Department of*
20 *Transportation, under applicable law (including*
21 *regulations) with respect to a project.*

22 *“(b) STATE PARTICIPATION.—*

23 *“(1) NUMBER OF PARTICIPATING STATES.—The*
24 *Secretary may permit not more than 5 States (in-*

1 *cluding the State of Oklahoma) to participate in the*
2 *program.*

3 “(2) *APPLICATION.*—*Not later than 270 days*
4 *after the date of enactment of this section, the Sec-*
5 *retary shall promulgate regulations that establish re-*
6 *quirements relating to information required to be con-*
7 *tained in any application of a State to participate*
8 *in the program, including, at a minimum—*

9 “(A) *the projects or classes of projects for*
10 *which the State anticipates exercising the au-*
11 *thority that may be granted under the program;*

12 “(B) *verification of the financial resources*
13 *necessary to carry out the authority that may be*
14 *granted under the program; and*

15 “(C) *evidence of the notice and solicitation*
16 *of public comment by the State relating to par-*
17 *ticipation of the State in the program, including*
18 *copies of comments received from that sollicita-*
19 *tion.*

20 “(3) *PUBLIC NOTICE.*—

21 “(A) *IN GENERAL.*—*Each State that sub-*
22 *mits an application under this subsection shall*
23 *give notice of the intent of the State to partici-*
24 *pate in the program not later than 30 days be-*
25 *fore the date of submission of the application.*

1 “(B) *METHOD OF NOTICE AND SOLICITA-*
2 *TION.—The State shall provide notice and solicit*
3 *public comment under this paragraph by pub-*
4 *lishing the complete application of the State in*
5 *accordance with the appropriate public notice*
6 *law of the State.*

7 “(4) *SELECTION CRITERIA.—The Secretary may*
8 *approve the application of a State under this section*
9 *only if—*

10 “(A) *the regulatory requirements under*
11 *paragraph (2) have been met;*

12 “(B) *the Secretary determines that the State*
13 *has the capability, including financial and per-*
14 *sonnel, to assume the responsibility; and*

15 “(C) *the head of the State agency having*
16 *primary jurisdiction over highway matters en-*
17 *ters into a written agreement with the Secretary*
18 *described in subsection (c).*

19 “(5) *OTHER FEDERAL AGENCY VIEWS.—If a*
20 *State applies to assume a responsibility of the Sec-*
21 *retary that would have required the Secretary to con-*
22 *sult with another Federal agency, the Secretary shall*
23 *solicit the views of the Federal agency before approv-*
24 *ing the application.*

1 “(c) *WRITTEN AGREEMENT.*—A written agreement
2 *under this section shall—*

3 “(1) *be executed by the Governor or the top-rank-*
4 *ing transportation official in the State who is charged*
5 *with responsibility for highway construction;*

6 “(2) *be in such form as the Secretary may pre-*
7 *scribe;*

8 “(3) *provide that the State—*

9 “(A) *agrees to assume all or part of the re-*
10 *sponsibilities of the Secretary described in sub-*
11 *section (a);*

12 “(B) *expressly consents, on behalf of the*
13 *State, to accept the jurisdiction of the Federal*
14 *courts for the compliance, discharge, and enforce-*
15 *ment of any responsibility of the Secretary as-*
16 *sumed by the State;*

17 “(C) *certifies that State laws (including*
18 *regulations) are in effect that—*

19 “(i) *authorize the State to take the ac-*
20 *tions necessary to carry out the responsibil-*
21 *ities being assumed; and*

22 “(ii) *are comparable to section 552 of*
23 *title 5, including providing that any deci-*
24 *sion regarding the public availability of a*
25 *document under those State laws is review-*

1 able by a court of competent jurisdiction;
2 and

3 “(D) agrees to maintain the financial re-
4 sources necessary to carry out the responsibilities
5 being assumed.

6 “(d) JURISDICTION.—

7 “(1) IN GENERAL.—The United States district
8 courts shall have exclusive jurisdiction over any civil
9 action against a State for failure to carry out any re-
10 sponsibility of the State under this section.

11 “(2) LEGAL STANDARDS AND REQUIREMENTS.—
12 A civil action under paragraph (1) shall be governed
13 by the legal standards and requirements that would
14 apply in such a civil action against the Secretary
15 had the Secretary taken the actions in question.

16 “(3) INTERVENTION.—The Secretary shall have
17 the right to intervene in any action described in
18 paragraph (1).

19 “(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—
20 A State that assumes responsibility under subsection (a)(2)
21 shall be solely responsible and solely liable for carrying out,
22 in lieu of the Secretary, the responsibilities assumed under
23 subsection (a)(2), until the program is terminated as pro-
24 vided in subsection (i).

1 “(f) *LIMITATIONS ON AGREEMENTS.*—*Nothing in this*
2 *section permits a State to assume any rulemaking author-*
3 *ity of the Secretary under any Federal law.*

4 “(g) *AUDITS.*—

5 “(1) *IN GENERAL.*—*To ensure compliance by a*
6 *State with any agreement of the State under sub-*
7 *section (c)(1) (including compliance by the State with*
8 *all Federal laws for which responsibility is assumed*
9 *under subsection (a)(2)), for each State participating*
10 *in the program under this section, the Secretary shall*
11 *conduct—*

12 “(A) *semiannual audits during each of the*
13 *first 2 years of State participation; and*

14 “(B) *annual audits during each subsequent*
15 *year of State participation.*

16 “(2) *PUBLIC AVAILABILITY AND COMMENT.*—

17 “(A) *IN GENERAL.*—*An audit conducted*
18 *under paragraph (1) shall be provided to the*
19 *public for comment.*

20 “(B) *RESPONSE.*—*Not later than 60 days*
21 *after the date on which the period for public*
22 *comment ends, the Secretary shall respond to*
23 *public comments received under subparagraph*
24 *(A).*

1 “(h) *REPORT TO CONGRESS.*—*The Secretary shall sub-*
2 *mit to Congress an annual report that describes the admin-*
3 *istration of the program.*

4 “(i) *TERMINATION.*—

5 “(1) *IN GENERAL.*—*Except as provided in para-*
6 *graph (2), the program shall terminate on the date*
7 *that is 6 years after the date of enactment of this sec-*
8 *tion.*

9 “(2) *TERMINATION BY SECRETARY.*—*The Sec-*
10 *retary may terminate the participation of any State*
11 *in the program if—*

12 “(A) *the Secretary determines that the State*
13 *is not adequately carrying out the responsibil-*
14 *ities assigned to the State;*

15 “(B) *the Secretary provides to the State—*

16 “(i) *notification of the determination*
17 *of noncompliance; and*

18 “(ii) *a period of at least 30 days dur-*
19 *ing which to take such corrective action as*
20 *the Secretary determines is necessary to*
21 *comply with the applicable agreement; and*

22 “(C) *the State, after the notification and*
23 *period provided under subparagraph (B), fails to*
24 *take satisfactory corrective action, as determined*
25 *by Secretary.”.*

1 (b) *CONFORMING AMENDMENT.*—*The analysis for*
 2 *chapter 3 of title 23, United States Code (as amended by*
 3 *section 1512(b)), is amended by inserting after the item re-*
 4 *lating to section 327 the following:*

“328. *Surface transportation project delivery pilot program.*”.

5 **SEC. 1514. REGULATIONS.**

6 *Except as provided in section 1513, not later than 1*
 7 *year after the date of enactment of this Act, the Secretary*
 8 *shall promulgate regulations necessary to implement the*
 9 *amendments made by chapter 1 and this chapter.*

10 **CHAPTER 3—MISCELLANEOUS**

11 **SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.**

12 *Section 108 of title 23, United States Code, is amended*
 13 *by adding at the end the following:*

14 “(d) **CRITICAL REAL PROPERTY ACQUISITION.**—

15 “(1) **IN GENERAL.**—*Subject to paragraph (2),*
 16 *funds apportioned to a State under this title may be*
 17 *used to pay the costs of acquiring any real property*
 18 *that is determined to be critical under paragraph (2)*
 19 *for a project proposed for funding under this title.*

20 “(2) **REIMBURSEMENT.**—*The Federal share of*
 21 *the costs referred to in paragraph (1) shall be eligible*
 22 *for reimbursement out of funds apportioned to a State*
 23 *under this title if, before the date of acquisition, the*
 24 *Secretary determines that—*

1 “(A) *the property is offered for sale on the*
2 *open market;*

3 “(B) *in acquiring the property, the State*
4 *will comply with the Uniform Relocation Assist-*
5 *ance and Real Property Acquisition Policies Act*
6 *of 1970 (42 U.S.C. 4601 et seq.); and*

7 “(C) *immediate acquisition of the property*
8 *is critical because—*

9 “(i) *based on an appraisal of the prop-*
10 *erty, the value of the property is increasing*
11 *significantly;*

12 “(ii) *there is an imminent threat of de-*
13 *velopment or redevelopment of the property;*
14 *and*

15 “(iii) *the property is necessary for the*
16 *implementation of the goals stated in the*
17 *proposal for the project.*

18 “(3) *APPLICABLE LAW.—An acquisition of real*
19 *property under this section shall be considered to be*
20 *an exempt project under section 176 of the Clean Air*
21 *Act (42 U.S.C. 7506).*

22 “(4) *ENVIRONMENTAL REVIEW.—*

23 “(A) *IN GENERAL.—A project proposed to*
24 *be conducted under this title shall not be con-*
25 *ducted on property acquired under paragraph*

1 (1) until any required environmental reviews for
2 the project have been completed.

3 “(B) *EFFECT ON CONSIDERATION OF*
4 *PROJECT ALTERNATIVES.*—The number of crit-
5 ical acquisitions of real property associated with
6 a project shall not affect the consideration of
7 project alternatives during the environmental re-
8 view process.

9 “(5) *PROCEEDS FROM THE SALE OR LEASE OF*
10 *REAL PROPERTY.*—Section 156(c) shall not apply to
11 the sale, use, or lease of any real property acquired
12 under paragraph (1).”.

13 **SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.**

14 Section 104 of title 23, United States Code, is amended
15 by adding at the end the following:

16 “(m) *PLANNING CAPACITY BUILDING INITIATIVE.*—

17 “(1) *IN GENERAL.*—The Secretary shall carry
18 out a planning capacity building initiative to sup-
19 port enhancements in transportation planning to—

20 “(A) strengthen the processes and products
21 of metropolitan and statewide transportation
22 planning under this title;

23 “(B) enhance tribal capacity to conduct
24 joint transportation planning under chapter 2;

1 “(C) participate in the metropolitan and
2 statewide transportation planning programs
3 under this title; and

4 “(D) increase the knowledge and skill level
5 of participants in metropolitan and statewide
6 transportation.

7 “(2) *PRIORITY.*—The Secretary shall give pri-
8 ority to planning practices and processes that sup-
9 port—

10 “(A) the transportation elements of home-
11 land security planning, including—

12 “(i) training and best practices relat-
13 ing to emergency evacuation;

14 “(ii) developing materials to assist
15 areas in coordinating emergency manage-
16 ment and transportation officials; and

17 “(iii) developing training on how
18 planning organizations may examine secu-
19 rity issues;

20 “(B) performance-based planning, includ-
21 ing—

22 “(i) data and data analysis tech-
23 nologies to be shared with States, metropoli-
24 tan planning organizations, local govern-

1 ments, and nongovernmental organizations
2 that—

3 “*(I) participate in transportation*
4 *planning;*

5 “*(II) use the data and data anal-*
6 *ysis to engage in metropolitan, tribal,*
7 *or statewide transportation planning;*

8 “*(III) involve the public in the de-*
9 *velopment of transportation plans,*
10 *projects, and alternative scenarios; and*

11 “*(IV) develop strategies to avoid,*
12 *minimize, and mitigate the impacts of*
13 *transportation facilities and projects;*
14 *and*

15 “*(ii) improvement of the quality of*
16 *congestion management systems, including*
17 *the development of—*

18 “*(I) a measure of congestion;*

19 “*(II) a measure of transportation*
20 *system reliability; and*

21 “*(III) a measure of induced de-*
22 *mand;*

23 “*(C) safety planning, including—*

24 “*(i) development of State strategic*
25 *safety plans consistent with section 148;*

1 “(ii) incorporation of work zone safety
2 into planning; and

3 “(iii) training in the development of
4 data systems relating to highway safety;

5 “(D) operations planning, including—

6 “(i) developing training of the integra-
7 tion of transportation system operations
8 and management into the transportation
9 planning process; and

10 “(ii) training and best practices relat-
11 ing to regional concepts of operations;

12 “(E) freight planning, including—

13 “(i) modeling of freight at a regional
14 and statewide level; and

15 “(ii) techniques for engaging the
16 freight community with the planning proc-
17 ess;

18 “(F) air quality planning, including—

19 “(i) assisting new and existing non-
20 attainment and maintenance areas in de-
21 veloping the technical capacity to perform
22 air quality conformity analysis;

23 “(ii) providing training on areas such
24 as modeling and data collection to support
25 air quality planning and analysis;

1 “(iii) developing concepts and tech-
2 niques to assist areas in meeting air quality
3 performance timeframes; and

4 “(iv) developing materials to explain
5 air quality issues to decisionmakers and the
6 public; and

7 “(G) integration of environment and plan-
8 ning.

9 “(3) *USE OF FUNDS.*—The Secretary shall use
10 amounts made available under paragraph (4) to
11 make grants to, or enter into contracts, cooperative
12 agreements, and other transactions with, a Federal
13 agency, State agency, local agency, federally recog-
14 nized Indian tribal government or tribal consortium,
15 authority, association, nonprofit or for-profit corpora-
16 tion, or institution of higher education for research,
17 program development, information collection and dis-
18 semination, and technical assistance.

19 “(4) *SET-ASIDE.*—

20 “(A) *IN GENERAL.*—On October 1 of each
21 fiscal year, of the funds made available under
22 subsection (a), the Secretary shall set aside
23 \$4,000,000 to carry out this subsection.

24 “(B) *FEDERAL SHARE.*—The Federal share
25 of the cost of an activity carried out using funds

1 *made available under subparagraph (A) shall be*
 2 *100 percent.*

3 “(C) *AVAILABILITY.—Funds made available*
 4 *under subparagraph (A) shall remain available*
 5 *until expended.*”.

6 ***Subtitle F—Environment***

7 ***SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLU-*** 8 ***TION ABATEMENT; CONTROL OF INVASIVE*** 9 ***PLANT SPECIES AND ESTABLISHMENT OF NA-*** 10 ***TIVE SPECIES.***

11 (a) *MODIFICATION TO NHS/STP FOR ENVIRON-*
 12 *MENTAL RESTORATION, POLLUTION ABATEMENT, AND*
 13 *INVASIVE SPECIES.—*

14 (1) *MODIFICATIONS TO NATIONAL HIGHWAY SYS-*
 15 *TEM.—Section 103(b)(6) of title 23, United States*
 16 *Code, is amended by adding at the end the following:*

17 “(Q) *Environmental restoration and pollu-*
 18 *tion abatement in accordance with section 165.*

19 “(R) *Control of invasive plant species and*
 20 *establishment of native species in accordance*
 21 *with section 166.*”.

22 (2) *MODIFICATIONS TO SURFACE TRANSPOR-*
 23 *TATION PROGRAM.—Section 133(b) of title 23, is*
 24 *amended by striking paragraph (14) and inserting*
 25 *the following:*

1 “(14) *Environmental restoration and pollution*
2 *abatement in accordance with section 165.*

3 “(15) *Control of invasive plant species and es-*
4 *tablishment of native species in accordance with sec-*
5 *tion 166.”.*

6 **(b) ELIGIBLE ACTIVITIES.**—*Subchapter I of chapter 1*
7 *of title 23, United States Code, is amended by adding at*
8 *the end the following:*

9 **“§ 165. Eligibility for environmental restoration and**
10 ***pollution abatement***

11 “(a) *IN GENERAL.*—*Subject to subsection (b), environ-*
12 *mental restoration and pollution abatement to minimize or*
13 *mitigate the impacts of any transportation project funded*
14 *under this title (including retrofitting and construction of*
15 *storm water treatment systems to meet Federal and State*
16 *requirements under sections 401 and 402 of the Federal*
17 *Water Pollution Control Act (33 U.S.C. 1341, 1342)) may*
18 *be carried out to address water pollution or environmental*
19 *degradation caused wholly or partially by a transportation*
20 *facility.*

21 “(b) *MAXIMUM EXPENDITURE.*—*In a case in which a*
22 *transportation facility is undergoing reconstruction, reha-*
23 *bilitation, resurfacing, or restoration, the expenditure of*
24 *funds under this section for environmental restoration or*
25 *pollution abatement described in subsection (a) shall not*

1 *exceed 20 percent of the total cost of the reconstruction, re-*
 2 *habilitation, resurfacing, or restoration of the facility.*

3 **“§ 166. Control of invasive plant species and establish-**
 4 **ment of native species**

5 “(a) DEFINITIONS.—*In this section:*

6 “(1) INVASIVE PLANT SPECIES—*The term*
 7 *‘invasive plant species’ means a nonindigenous spe-*
 8 *cies the introduction of which causes or is likely to*
 9 *cause economic or environmental harm or harm to*
 10 *human health.*

11 “(2) NATIVE PLANT SPECIES.—*The term ‘native*
 12 *plant species’ means, with respect to a particular eco-*
 13 *system, a species that, other than as result of an in-*
 14 *troduction, historically occurred or currently occurs*
 15 *in that ecosystem.*

16 “(b) CONTROL OF SPECIES.—

17 “(1) IN GENERAL.—*In accordance with all ap-*
 18 *plicable Federal law (including regulations), funds*
 19 *made available to carry out this section may be used*
 20 *for—*

21 “(A) *participation in the control of invasive*
 22 *plant species; and*

23 “(B) *the establishment of native species.*

1 “(2) *INCLUDED ACTIVITIES.*—*The participation*
2 *and establishment under paragraph (1) may in-*
3 *clude—*

4 “(A) *participation in statewide inventories*
5 *of invasive plant species and desirable plant spe-*
6 *cies;*

7 “(B) *regional native plant habitat conserva-*
8 *tion and mitigation;*

9 “(C) *native revegetation; and*

10 “(D) *training.*

11 “(3) *CONTRIBUTIONS.*—

12 “(A) *IN GENERAL.*—*Subject to subpara-*
13 *graph (B), an activity described in paragraph*
14 *(1) may be carried out concurrently with, in ad-*
15 *vance of, or following the construction of a*
16 *project funded under this title.*

17 “(B) *CONDITION FOR ACTIVITIES CON-*
18 *DUCTED IN ADVANCE OF PROJECT CONSTRUC-*
19 *TION.*—*An activity described in paragraph (1)*
20 *may be carried out in advance of construction of*
21 *a project only if the activity is carried out in ac-*
22 *cordance with all applicable requirements of*
23 *Federal law (including regulations) and State*
24 *transportation planning processes.”.*

1 (c) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 2 *chapter I of chapter 1 of title 23, United States Code (as*
 3 *amended by section 1406(b)), is amended by adding at the*
 4 *end the following:*

“165. *Eligibility for environmental restoration and pollution abatement.*”.

“166. *Control of invasive plant species and establishment of native species.*”.

5 **SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.**

6 (a) *IN GENERAL.*—*Section 162 of title 23, United*
 7 *States Code, is amended—*

8 (1) *in subsection (a)(1), by striking “the roads*
 9 *as” and all that follows and inserting “the roads as—*

10 *“(A) National Scenic Byways;*

11 *“(B) All-American Roads; or*

12 *“(C) America’s Byways.”;*

13 (2) *in subsection (b)—*

14 (A) *in paragraph (1)(A), by striking “des-*
 15 *ignated as” and all that follows and inserting*

16 *“designated as—*

17 *“(i) National Scenic Byways;*

18 *“(ii) All-American Roads; or*

19 *“(iii) America’s Byways; and”;*

20 (B) *in paragraph (2)—*

21 (i) *in subparagraph (A), by striking*

22 *“Byway or All-American Road” and insert-*

23 *ing “Byway, All-American Road, or 1 of*

24 *America’s Byways”; and*

1 (ii) in subparagraph (B), by striking
2 “designation as a” and all that follows and
3 inserting “designation as—

4 “(i) a National Scenic Byway;

5 “(ii) an All-American Road; or

6 “(iii) 1 of America’s Byways; and”;

7 and

8 (3) in subsection (c)(4), by striking “passing
9 lane,”.

10 (b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING,
11 AND PROMOTION.—Section 162 of title 23, United States
12 Code, is amended—

13 (1) by redesignating subsections (d), (e), and (f)
14 as subsections (e), (f), and (g), respectively;

15 (2) by inserting after subsection (c) the fol-
16 lowing:

17 “(d) RESEARCH, TECHNICAL ASSISTANCE, MAR-
18 KETING, AND PROMOTION.—

19 “(1) IN GENERAL.—The Secretary may carry out
20 technical assistance, marketing, market research, and
21 promotion with respect to State Scenic Byways, Na-
22 tional Scenic Byways, All-American Roads, and
23 America’s Byways.

24 “(2) COOPERATION, GRANTS, AND CONTRACTS.—
25 The Secretary may make grants to, or enter into con-

1 *tracts, cooperative agreements, and other transactions*
 2 *with, any Federal agency, State agency, authority,*
 3 *association, institution, for-profit or nonprofit cor-*
 4 *poration, organization, or person, to carry out*
 5 *projects and activities under this subsection.*

6 “(3) *FUNDS.*—*The Secretary may use not more*
 7 *than \$2,000,000 for each fiscal year of funds made*
 8 *available for the National Scenic Byways Program to*
 9 *carry out projects and activities under this sub-*
 10 *section.*

11 “(4) *PRIORITY.*—*The Secretary shall give pri-*
 12 *ority under this subsection to partnerships that lever-*
 13 *age Federal funds for research, technical assistance,*
 14 *marketing and promotion.”; and*

15 (3) *in subsection (g) (as redesignated by para-*
 16 *graph (1)), by striking “80 percent” and inserting*
 17 *“the share applicable under section 120(b), as ad-*
 18 *justed under subsection (d) of that section”.*

19 **SEC. 1603. RECREATIONAL TRAILS PROGRAM.**

20 (a) *RECREATIONAL TRAILS PROGRAM FORMULA.*—
 21 *Section 104(h)(1) of title 23, United States Code, is amend-*
 22 *ed—*

23 (1) *by striking “Whenever” and inserting the fol-*
 24 *lowing:*

25 “(A) *IN GENERAL.*—*In any case in which”;*

1 (2) by striking “research and technical assist-
2 ance under the recreational trails program and for
3 the administration of the National Recreational
4 Trails Advisory Committee” and inserting “research,
5 technical assistance, and training under the rec-
6 reational trails program”; and

7 (3) by striking “The Secretary” and inserting
8 the following:

9 “(B) *CONTRACTS AND AGREEMENTS.—The*
10 *Secretary*”.

11 (b) *RECREATIONAL TRAILS PROGRAM ADMINISTRA-*
12 *TION.—Section 206 of title 23, United States Code, is*
13 *amended—*

14 (1) *in subsection (c)—*

15 (A) *by redesignating paragraphs (1) and*
16 (2) *as subparagraphs (A) and (B), respectively,*
17 *and indenting appropriately;*

18 (B) *by striking “To be eligible for appor-*
19 *tionments under this section” and inserting the*
20 *following:*

21 “(1) *IN GENERAL.—To be eligible for appor-*
22 *tionments under this section*”; and

23 (C) *by adding at the end the following:*

24 “(2) *OBLIGATION REQUIREMENT.—If a State*
25 *does not meet the requirements under paragraph (1)*

1 *within a fiscal year, the State shall not be eligible for*
2 *an apportionment in the following fiscal year.”;*

3 *(2) in subsection (d)—*

4 *(A) by striking paragraph (2) and inserting*
5 *the following:*

6 *“(2) PERMISSIBLE USES.—Permissible uses of*
7 *funds apportioned to a State for a fiscal year to carry*
8 *out this section include—*

9 *“(A) maintenance and restoration of rec-*
10 *reational trails;*

11 *“(B) development and rehabilitation of*
12 *trailside and trailhead facilities and trail link-*
13 *ages for recreational trails;*

14 *“(C) purchase and lease of recreational trail*
15 *construction and maintenance equipment;*

16 *“(D) construction of new recreational trails,*
17 *except that, in the case of new recreational trails*
18 *crossing Federal land, construction of the trails*
19 *shall be—*

20 *“(i) permissible under other law;*

21 *“(ii) necessary and recommended by a*
22 *statewide comprehensive outdoor recreation*
23 *plan that is—*

1 “(I) required under the Land and
2 Water Conservation Fund Act of 1965
3 (16 U.S.C. 460l–4 et seq.); and

4 “(II) in effect;

5 “(iii) approved by the administering
6 agency of the State designated under sub-
7 section (c)(1)(A); and

8 “(iv) approved by each Federal agency
9 having jurisdiction over the affected land,
10 under such terms and conditions as the
11 head of the Federal agency determines to be
12 appropriate, except that the approval shall
13 be contingent on compliance by the Federal
14 agency with all applicable laws, includ-
15 ing—

16 “(I) the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et
18 seq.);

19 “(II) the Forest and Rangeland
20 Renewable Resources Planning Act of
21 1974 (16 U.S.C. 1600 et seq.); and

22 “(III) the Federal Land Policy
23 and Management Act of 1976 (43
24 U.S.C. 1701 et seq.);

1 “(E) acquisition of easements and fee sim-
2 ple title to property for recreational trails or rec-
3 reational trail corridors;

4 “(F) assessment of trail conditions for ac-
5 cessibility and maintenance;

6 “(G) use of trail crews, youth conservation
7 or service corps, or other appropriate means to
8 carry out activities under this section;

9 “(H) development and dissemination of
10 publications and operation of educational pro-
11 grams to promote safety and environmental pro-
12 tection, as those objectives relate to the use of rec-
13 reational trails, supporting non-law enforcement
14 trail safety and trail use monitoring patrol pro-
15 grams, and providing trail-related training, but
16 in an amount not to exceed 5 percent of the ap-
17 portionment made to the State for the fiscal
18 year; and

19 “(I) payment of costs to the State incurred
20 in administering the program, but in an amount
21 not to exceed 7 percent of the apportionment
22 made to the State for the fiscal year to carry out
23 this section.”; and

24 (B) in paragraph (3)—

1 (i) in subparagraph (D), by striking
2 “(2)(F)” and inserting “(2)(I)”; and

3 (ii) by adding at the end the following:

4 “(E) USE OF YOUTH CONSERVATION OR
5 SERVICE CORPS.—A State shall make available
6 not less than 10 percent of the apportionments of
7 the State to provide grants to, or to enter into
8 cooperative agreements or contracts with, quali-
9 fied youth conservation or service corps to per-
10 form recreational trails program activities.”;
11 and

12 (3) in subsection (f)—

13 (A) in paragraph (1)—

14 (i) by inserting “and the Federal share
15 of the administrative costs of a State” after
16 “project”; and

17 (ii) by striking “not exceed 80 percent”
18 and inserting in its place “be determined in
19 accordance with section 120(b)”;

20 (B) in paragraph (2)—

21 (i) in subparagraph (A), by striking
22 “80 percent of” and inserting “the amount
23 determined in accordance with section
24 120(b) for”; and

1 (ii) in subparagraph (B), by inserting
2 “sponsoring the project” after “Federal
3 agency”;

4 (C) by striking paragraph (5);

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

7 (E) by inserting after paragraph (3) the fol-
8 lowing:

9 “(4) *USE OF RECREATIONAL TRAILS PROGRAM*
10 *FUNDS TO MATCH OTHER FEDERAL PROGRAM*
11 *FUNDS.—Notwithstanding any other provision of law,*
12 *funds made available under this section may be used*
13 *to pay the non-Federal matching share for other Fed-*
14 *eral program funds that are—*

15 “(A) *expended in accordance with the re-*
16 *quirements of the Federal program relating to*
17 *activities funded and populations served; and*

18 “(B) *expended on a project that is eligible*
19 *for assistance under this section.”; and*

20 (F) *in paragraph (5) (as redesignated by*
21 *subparagraph (D)), by striking “80 percent” and*
22 *inserting “the Federal share as determined in ac-*
23 *cordance with section 120(b)”;* and

24 (4) *in subsection (h)—*

1 (A) in paragraph (1), by inserting after
2 subparagraph (B) the following:

3 “(C) *PLANNING AND ENVIRONMENTAL AS-*
4 *SESSMENT COSTS INCURRED PRIOR TO PROJECT*
5 *APPROVAL.—A project funded under any of sub-*
6 *paragraphs (A) through (H) of subsection (d)(2)*
7 *may permit preapproval planning and environ-*
8 *mental compliance costs incurred not more than*
9 *18 months before project approval to be credited*
10 *toward the non-Federal share in accordance with*
11 *subsection (f).”;* and

12 (B) by striking paragraph (2) and inserting
13 the following:

14 “(2) *WAIVER OF HIGHWAY PROGRAM REQUIRE-*
15 *MENTS.—A project funded under this section—*

16 “(A) *is intended to enhance recreational op-*
17 *portunity;*

18 “(B) *is not considered to be a highway*
19 *project; and*

20 “(C) *is not subject to—*

21 “(i) *section 112, 114, 116, 134, 135,*
22 *138, 217, or 301 of this title; or*

23 “(ii) *section 303 of title 49.”.*

1 **SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.**

2 *Subsection 103(c) of title 23, United States Code, is*
3 *amended by adding at the end the following:*

4 “(5) *EXEMPTION OF INTERSTATE SYSTEM.*—

5 “(A) *IN GENERAL.*—*Except as provided in*
6 *subparagraph (B), the Interstate System shall*
7 *not be considered to be a historic site under sec-*
8 *tion 303 of title 49 or section 138 of this title,*
9 *regardless of whether the Interstate System or*
10 *portions of the Interstate System are listed on, or*
11 *eligible for listing on, the National Register of*
12 *Historic Places.*

13 “(B) *INDIVIDUAL ELEMENTS.*—*A portion of*
14 *the Interstate System that possesses an inde-*
15 *pendent feature of historic significance, such as*
16 *a historic bridge or a highly significant engi-*
17 *neering feature, that would qualify independ-*
18 *ently for listing on the National Register of His-*
19 *toric Places, shall be considered to be a historic*
20 *site under section 303 of title 49 or section 138*
21 *of this title, as applicable.”.*

22 **SEC. 1605. STANDARDS.**

23 (a) *IN GENERAL.*—*Section 109(a) of title 23, United*
24 *States Code, is amended—*

25 (1) *in paragraph (1), by striking “and” at the*
26 *end;*

1 (2) *in paragraph (2), by striking the period at*
2 *the end and inserting “; and”; and*

3 (3) *by adding at the end the following:*

4 “(3) *consider the preservation, historic, scenic,*
5 *natural environmental, and community values.”.*

6 (b) *CONTEXT SENSITIVE DESIGN.—Section 109 of title*
7 *23, United States Code, is amended by striking subsection*
8 *(p) and inserting the following:*

9 “(p) *CONTEXT SENSITIVE DESIGN.—*

10 “(1) *IN GENERAL.—The Secretary shall encour-*
11 *age States to design projects funded under this title*
12 *that—*

13 “(A) *allow for the preservation of environ-*
14 *mental, scenic, or historic values;*

15 “(B) *ensure the safe use of the facility;*

16 “(C) *provide for consideration of the context*
17 *of the locality;*

18 “(D) *encourage access for other modes of*
19 *transportation; and*

20 “(E) *comply with subsection (a).*

21 “(2) *APPROVAL BY SECRETARY.—Notwith-*
22 *standing subsections (b) and (c), the Secretary may*
23 *approve a project described in paragraph (1) for the*
24 *National Highway System if the project is designed*
25 *to achieve the criteria specified in that paragraph.”.*

1 **SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.**

2 *Section 102 of title 23, United States Code, is amended*
3 *by striking subsection (a) and inserting the following:*

4 *“(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER*
5 *REQUIREMENTS.—*

6 *“(1) DEFINITIONS.—In this subsection:*

7 *“(A) RESPONSIBLE AGENCY.—The term ‘re-*
8 *sponsible agency’ means—*

9 *“(i) a State transportation depart-*
10 *ment; and*

11 *“(ii) a local agency in a State that is*
12 *responsible for transportation matters.*

13 *“(B) SERIOUSLY DEGRADED.—The term ‘se-*
14 *riously degraded’, with respect to a high occu-*
15 *pancy vehicle lane, means, in the case of a high*
16 *occupancy vehicle lane, the minimum average*
17 *operating speed, performance threshold, and as-*
18 *sociated time period of the high occupancy vehi-*
19 *cle lane, calculated and determined jointly by all*
20 *applicable responsible agencies and based on con-*
21 *ditions unique to the roadway, are unsatisfac-*
22 *tory.*

23 *“(2) REQUIREMENTS.—*

24 *“(A) IN GENERAL.—Subject to subpara-*
25 *graph (B), for each State, 1 or more responsible*
26 *agencies shall establish the occupancy require-*

1 *ments of vehicles operating on high occupancy*
2 *vehicle lanes.*

3 “(B) *MINIMUM NUMBER OF OCCUPANTS.—*
4 *Except as provided in paragraph (3), an occu-*
5 *pancy requirement established under subpara-*
6 *graph (A) shall—*

7 “(i) *require at least 2 occupants per*
8 *vehicle for a vehicle operating on a high oc-*
9 *cupancy vehicle lane; and*

10 “(ii) *in the case of a high occupancy*
11 *vehicle lane that traverses an adjacent*
12 *State, be established in consultation with*
13 *the adjacent State.*

14 “(3) *EXCEPTIONS TO HOV OCCUPANCY REQUIRE-*
15 *MENTS.—*

16 “(A) *MOTORCYCLES.—For the purpose of*
17 *this subsection, a motorcycle—*

18 “(i) *shall not be considered to be a sin-*
19 *gle occupant vehicle; and*

20 “(ii) *shall be allowed to use a high oc-*
21 *cupancy vehicle lane unless a responsible*
22 *agency—*

23 “(I) *certifies to the Secretary the*
24 *use of a high occupancy vehicle lane by*

1 *a motorcycle would create a safety haz-*
2 *ard; and*

3 *“(II) restricts that the use of the*
4 *high occupancy vehicle lane by motor-*
5 *cycles.*

6 *“(B) LOW EMISSION AND ENERGY-EFFI-*
7 *CIENT VEHICLES.—*

8 *“(i) DEFINITION OF LOW EMISSION*
9 *AND ENERGY-EFFICIENT VEHICLE.—In this*
10 *subparagraph, the term ‘low emission and*
11 *energy-efficient vehicle’ means a vehicle that*
12 *has been certified by the Administrator of*
13 *the Environmental Protection Agency—*

14 *“(I)(aa) to have a 45-mile per*
15 *gallon or greater fuel economy highway*
16 *rating; or*

17 *“(bb) to qualify as an alternative*
18 *fueled vehicle under section 301 of the*
19 *Energy Policy Act of 1992 (42 U.S.C.*
20 *13211); and*

21 *“(II) as meeting Tier II emission*
22 *level established in regulations promul-*
23 *gated by the Administrator of the En-*
24 *vironmental Protection Agency under*
25 *section 202(i) of the Clean Air Act (42*

1 U.S.C. 7521(i)) for that make and
2 model year vehicle.

3 “(ii) *EXEMPTION FOR LOW EMISSION*
4 *AND ENERGY-EFFICIENT VEHICLES.*—A re-
5 sponsible agency may permit qualifying low
6 emission and energy-efficient vehicles that
7 do not meet applicable occupancy require-
8 ments (as determined by the responsible
9 agency) to use high occupancy vehicle lanes
10 if the responsible agency—

11 “(I) establishes a program that
12 addresses how those qualifying low
13 emission and energy-efficient vehicles
14 are selected and certified;

15 “(II) establishes requirements for
16 labeling qualifying low emission and
17 energy-efficient vehicles (including pro-
18 cedures for enforcing those require-
19 ments);

20 “(III) continuously monitors,
21 evaluates, and reports to the Secretary
22 on performance; and

23 “(IV) imposes such restrictions on
24 the use on high occupancy vehicle lanes
25 by vehicles that do not satisfy estab-

1 *lished occupancy requirements as are*
2 *necessary to ensure that the perform-*
3 *ance of individual high occupancy ve-*
4 *hicle lanes, and the entire high occu-*
5 *pancy vehicle lane system, will not be-*
6 *come seriously degraded.*

7 *“(C) TOLLING OF VEHICLES.—*

8 *“(i) IN GENERAL.—A responsible agen-*
9 *cy may permit vehicles, in addition to the*
10 *vehicles described in paragraphs (A), (B),*
11 *and (D) that do not satisfy established occu-*
12 *pancy requirements, to use a high occu-*
13 *pancy vehicle lane only if the responsible*
14 *agency charges those vehicles a toll.*

15 *“(ii) APPLICABLE AUTHORITY.—In im-*
16 *posing a toll under clause (i), a responsible*
17 *agency shall—*

18 *“(I) be subject to section 129;*

19 *“(II) establish a toll program that*
20 *addresses ways in which motorists may*
21 *enroll and participate in the program;*

22 *“(III) develop, manage, and*
23 *maintain a system that will automati-*
24 *cally collect the tolls from covered vehi-*
25 *cles;*

1 “(IV) continuously monitor,
2 evaluate, and report on performance of
3 the system;

4 “(V) establish such policies and
5 procedures as are necessary—

6 “(aa) to vary the toll charged
7 in order to manage the demand
8 for use of high occupancy vehicle
9 lanes; and

10 “(bb) to enforce violations;

11 and

12 “(VI) establish procedures to im-
13 pose such restrictions on the use of high
14 occupancy vehicle lanes by vehicles that
15 do not satisfy established occupancy re-
16 quirements as are necessary to ensure
17 that the performance of individual
18 high occupancy vehicle lanes, and the
19 entire high occupancy vehicle lane sys-
20 tem, will not become seriously de-
21 graded.

22 “(D) DESIGNATED PUBLIC TRANSPOR-
23 TATION VEHICLES.—

24 “(i) DEFINITION OF DESIGNATED PUB-
25 LIC TRANSPORTATION VEHICLE.—In this

1 *subparagraph, the term ‘designated public*
2 *transportation vehicle’ means a vehicle*
3 *that—*

4 *“(I) provides designated public*
5 *transportation (as defined in section*
6 *221 of the Americans with Disabilities*
7 *Act of 1990 (42 U.S.C. 12141)); and*

8 *“(II)(aa) is owned or operated by*
9 *a public entity; or*

10 *“(bb) is operated under a contract*
11 *with a public entity.*

12 *“(ii) USE OF HIGH OCCUPANCY VEHI-*
13 *CLE LANES.—A responsible agency may*
14 *permit designated public transportation ve-*
15 *hicles that do not satisfy established occu-*
16 *pancy requirements to use high occupancy*
17 *vehicle lanes if the responsible agency—*

18 *“(I) requires the clear and identi-*
19 *fiable labeling of each designated pub-*
20 *lic transportation vehicle operating*
21 *under a contract with a public entity*
22 *with the name of the public entity on*
23 *all sides of the vehicle;*

24 *“(II) continuously monitors, eval-*
25 *uates, and reports on performance of*

1 *those designated public transportation*
2 *vehicles; and*

3 “(III) *imposes such restrictions on*
4 *the use of high occupancy vehicle lanes*
5 *by designated public transportation ve-*
6 *hicles as are necessary to ensure that*
7 *the performance of individual high oc-*
8 *cupancy vehicle lanes, and the entire*
9 *high occupancy vehicle lane system,*
10 *will not become seriously degraded.*

11 “(E) *HOV LANE MANAGEMENT, OPERATION,*
12 *AND MONITORING.—*

13 “(i) *IN GENERAL.—A responsible agen-*
14 *cy that permits any of the exceptions speci-*
15 *fied in this paragraph shall comply with*
16 *clauses (ii) and (iii).*

17 “(ii) *PERFORMANCE MONITORING,*
18 *EVALUATION, AND REPORTING.—A respon-*
19 *sible agency described in clause (i) shall es-*
20 *tablish, manage, and support a performance*
21 *monitoring, evaluation, and reporting pro-*
22 *gram under which the responsible agency*
23 *continuously monitors, assesses, and reports*
24 *on the effects that any vehicle permitted to*
25 *use a high occupancy vehicle lane under an*

1 exception under this paragraph may have
2 on the operation of—

3 “(I) individual high occupancy
4 vehicle lanes; and

5 “(II) the entire high occupancy
6 vehicle lane system.

7 “(iii) OPERATION OF HOV LANE OR
8 SYSTEM.—A responsible agency described in
9 clause (i) shall limit use of, or cease to use,
10 any of the exceptions specified in this para-
11 graph if the presence of any vehicle per-
12 mitted to use a high occupancy vehicle lane
13 under an exception under this paragraph
14 seriously degrades the operation of—

15 “(I) individual high occupancy
16 vehicle lanes; and

17 “(II) the entire high occupancy
18 vehicle lane system.”.

19 **SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN**
20 **WALKWAYS.**

21 (a) *IN GENERAL.*—Section 217 of title 23, United
22 States Code, is amended—

23 (1) in subsection (a), by inserting “pedestrian
24 and” after “safe”;

1 (2) *in subsection (e), by striking “bicycles” each*
2 *place it appears and inserting “pedestrians or*
3 *bicyclists”;*

4 (3) *by striking subsection (f) and inserting the*
5 *following:*

6 “*(f) FEDERAL SHARE.—The Federal share of the con-*
7 *struction of bicycle transportation facilities and pedestrian*
8 *walkways, and for carrying out nonconstruction projects re-*
9 *lating to safe pedestrian and bicycle use, shall be deter-*
10 *mined in accordance with section 120(b).”;*

11 (4) *by redesignating subsection (j) as subsection*
12 *(l);*

13 (5) *by inserting after subsection (i) the following:*

14 “*(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—*

15 “*(1) IN GENERAL.—The Secretary shall select*
16 *and make grants to a national, nonprofit organiza-*
17 *tion engaged in promoting bicycle and pedestrian*
18 *safety—*

19 “*(A) to operate a national bicycle and pe-*
20 *destrian clearinghouse;*

21 “*(B) to develop information and edu-*
22 *cational programs regarding walking and bicy-*
23 *cling; and*

24 “*(C) to disseminate techniques and strate-*
25 *gies for improving bicycle and pedestrian safety.*

1 “(2) *FUNDING.*—*The Secretary may use funds*
 2 *apportioned under section 104(n) to carry out this*
 3 *subsection.*

4 “(3) *APPLICABILITY OF TITLE 23.*—*Funds au-*
 5 *thorized to be appropriated to carry out this sub-*
 6 *section shall be available for obligation in the same*
 7 *manner as if the funds were apportioned under sec-*
 8 *tion 104, except that the funds shall remain available*
 9 *until expended.*

10 “(k) *FUNDS FOR BICYCLE AND PEDESTRIAN SAFE-*
 11 *TY.*—*A State shall allocate for bicycle and pedestrian im-*
 12 *provements in the State a percentage of the funds remain-*
 13 *ing after implementation of sections 130(e) and 150, in an*
 14 *amount that is equal to or greater than the percentage of*
 15 *all fatal crashes in the States involving bicyclists and pedes-*
 16 *trians.”; and*

17 (6) *in subsection (l) (as redesignated by para-*
 18 *graph (4))—*

19 (A) *by redesignating paragraph (4) as*
 20 *paragraph (5); and*

21 (B) *by inserting after paragraph (3) the fol-*
 22 *lowing:*

23 “(4) *SHARED USE PATH.*—*The term ‘shared use*
 24 *path’ means a multiuse trail or other path that is—*

1 “(A) physically separated from motorized
 2 vehicular traffic by an open space or barrier, ei-
 3 ther within a highway right-of-way or within an
 4 independent right-of-way; and

5 “(B) usable for transportation purposes (in-
 6 cluding by pedestrians, bicyclists, skaters, eques-
 7 trians, and other nonmotorized users).”.

8 (b) *RESERVATION OF FUNDS.*—Section 104 of title 23,
 9 United States Code (as amended by section 1601(b)), is
 10 amended by adding at the end the following:

11 “(n) *BICYCLE AND PEDESTRIAN SAFETY GRANTS.*—
 12 On October 1 of each of fiscal years 2004 through 2009,
 13 the Secretary, after making the deductions authorized by
 14 subsections (a) and (f), shall set aside \$500,000 of the re-
 15 maining funds apportioned under subsection (b)(3) for use
 16 in carrying out the bicycle and pedestrian safety grant pro-
 17 gram under section 217.”.

18 **SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE**

19 **RIGHTS-OF-WAY.**

20 Section 111 of title 23, United States Code, is amended
 21 by adding at the end the following:

22 “(d) *IDLING REDUCTION FACILITIES IN INTERSTATE*
 23 *RIGHTS-OF-WAY.*—

24 “(1) *IN GENERAL.*—Notwithstanding subsection
 25 (a), a State may—

1 “(A) permit electrification or other idling
 2 reduction facilities and equipment, for use by
 3 motor vehicles used for commercial purposes, to
 4 be placed in rest and recreation areas, and in
 5 safety rest areas, constructed or located on
 6 rights-of-way of the Interstate System in the
 7 State; and

8 “(B) may charge, or permit charges, for the
 9 use of those facilities.

10 “(2) *PURPOSE.*—The exclusive purpose of the fa-
 11 cilities described in paragraph (1) (or similar tech-
 12 nologies) shall be to enable operators of motor vehicles
 13 used for commercial purposes—

14 “(A) to turn off their engines while parked;

15 and

16 “(B) to have heating, air conditioning, elec-
 17 tricity, and communication services in the vehi-
 18 cle without use of the engine.”.

19 **SEC. 1609. TOLL PROGRAMS.**

20 (a) *INTERSTATE SYSTEM RECONSTRUCTION AND RE-*
 21 *HABILITATION PILOT PROGRAM.*—Section 1216(b) of the
 22 *Transportation Equity Act for the 21st Century* (23 U.S.C.
 23 129 note; 112 Stat. 212)—

24 (1) is amended—

25 (A) in paragraph (1)—

1 (i) by striking “The Secretary” and
2 inserting “Notwithstanding section 301, the
3 Secretary”; and

4 (ii) by striking “that could not other-
5 wise be adequately maintained or function-
6 ally improved without the collection of
7 tolls”;

8 (B) in paragraph (3), by striking subpara-
9 graph (C) and inserting the following:

10 “(C) An analysis demonstrating that fi-
11 nancing the reconstruction or rehabilitation of
12 the facility with the collection of tolls under this
13 pilot program is the most efficient, economical,
14 or expeditious way to advance the project.”;

15 (C) in paragraph (4)—

16 (i) by striking subparagraph (A) and
17 inserting the following:

18 “(A) the State’s analysis showing that fi-
19 nancing the reconstruction or rehabilitation of a
20 facility with the collection of tolls under the pilot
21 program is the most efficient, economical, or ex-
22 peditious way to advance the project.”;

23 (ii) by striking subparagraph (B) and
24 inserting the following:

1 “(B) the facility needs reconstruction or re-
2 habilitation, including major work that may re-
3 quire replacing sections of the existing facility on
4 new alignment;”;

5 (iii) by striking subparagraph (C);

6 and

7 (iv) by redesignating subparagraphs
8 (D) and (E) as subparagraphs (C) and (D),
9 respectively;

10 (2) is redesignated as subsection (d) of section
11 129 of title 23, United States Code, and moved to ap-
12 pear at the end of that section; and

13 (3) by striking “of title 23, United States Code”
14 each place it appears.

15 (b) VARIABLE TOLL PRICING PROGRAM.—Section 129
16 of title 23, United States Code (as amended by subsection
17 (a)(2)), is amended by adding at the end the following:

18 “(e) VARIABLE TOLL PRICING PROGRAM.—

19 “(1) DEFINITIONS.—In this subsection:

20 “(A) ELIGIBLE TOLL FACILITY.—The term
21 ‘eligible toll facility’ includes—

22 “(i) a facility in existence on the date
23 of enactment of this subsection that collects
24 tolls;

1 “(ii) a facility in existence on the date
2 of enactment of this subsection that serves
3 high occupancy vehicle lanes; and

4 “(iii) a facility modified or constructed
5 after the date of enactment of this subsection
6 to create additional tolled capacity (includ-
7 ing a facility constructed by a private enti-
8 ty or using private funds).

9 “(B) *NONATTAINMENT AREA.*—The term
10 ‘nonattainment area’ has the meaning given the
11 term in section 171 of the Clean Air Act (42
12 U.S.C. 7501).

13 “(2) *ESTABLISHMENT.*—Notwithstanding sec-
14 tions 129 and 301, the Secretary may permit a State,
15 public authority, or a public or private entity des-
16 ignated by a State, to collect a toll from motor vehi-
17 cles at an eligible toll facility for any highway,
18 bridge, or tunnel, including facilities on the Interstate
19 System—

20 “(A) to manage high levels of congestion; or

21 “(B) to reduce emissions in a nonattain-
22 ment area or maintenance area.

23 “(3) *LIMITATION ON USE OF REVENUES.*—

1 “(A) *IN GENERAL.*—*All toll revenues re-*
2 *ceived under paragraph (2) shall be used by a*
3 *State or public authority for—*

4 “(i) *debt service;*

5 “(ii) *a reasonable return on investment*
6 *of any private financing; and*

7 “(iii) *the costs necessary for proper op-*
8 *eration and maintenance of any facilities*
9 *under paragraph (2) (including reconstruc-*
10 *tion, resurfacing, restoration, and rehabili-*
11 *tation); and*

12 “(iv) *projects eligible for Federal as-*
13 *sistance under this title.*

14 “(B) *REQUIREMENTS.*—

15 “(i) *VARIABLE PRICE REQUIREMENT.*—
16 *The Secretary shall require, for each facility*
17 *that charges tolls under this subsection, that*
18 *the tolls vary in price according to time of*
19 *day, as appropriate to manage congestion*
20 *or improve air quality.*

21 “(ii) *HOV PASSENGER REQUIRE-*
22 *MENTS.*—*In addition to the exceptions to*
23 *the high occupancy vehicle passenger re-*
24 *quirements established under section*
25 *102(a)(2), a State may permit motor vehi-*

1 *cles with fewer than 2 occupants to operate*
2 *in high occupancy vehicle lanes as part of*
3 *a variable toll pricing program established*
4 *under this subsection.*

5 “(C) *AGREEMENT.*—

6 “(i) *IN GENERAL.*—*Before the Sec-*
7 *retary may permit a facility to charge tolls*
8 *under this subsection, the Secretary and the*
9 *applicable State or public authority shall*
10 *enter into an agreement for each facility in-*
11 *corporating the conditions described in sub-*
12 *paragraphs (A) and (B).*

13 “(ii) *TERMINATION.*—*An agreement*
14 *under clause (i) shall terminate with respect*
15 *to a facility upon the decision of the State*
16 *or public authority to discontinue the vari-*
17 *able tolling program under this subsection*
18 *for the facility.*

19 “(iii) *DEBT.*—*If there is any debt out-*
20 *standing on a facility at the time at which*
21 *the decision is made to discontinue the pro-*
22 *gram under this subsection with respect to*
23 *the facility, the facility may continue to*
24 *charge tolls in accordance with the terms of*

1 *the agreement until such time as the debt is*
2 *retired.*

3 “(D) *LIMITATION ON FEDERAL SHARE.—*

4 *The Federal share of the cost of a project on a*
5 *facility tolled under this subsection, including a*
6 *project to install the toll collection facility shall*
7 *be a percentage, not to exceed 80 percent, deter-*
8 *mined by the applicable State.*

9 “(4) *ELIGIBILITY.—To be eligible to participate*
10 *in the program under this subsection, a State or pub-*
11 *lic authority shall provide to the Secretary—*

12 “(A) *a description of the congestion or air*
13 *quality problems sought to be addressed under*
14 *the program;*

15 “(B) *a description of—*

16 “(i) *the goals sought to be achieved*
17 *under the program; and*

18 “(ii) *the performance measures that*
19 *would be used to gauge the success made to-*
20 *ward reaching those goals; and*

21 “(C) *such other information as the Sec-*
22 *retary may require.*

23 “(f) *AUTOMATION.—A facility created or modified*
24 *under this section shall use an electronic toll collection sys-*
25 *tem that uses a transponder or other means to specify an*

1 *account for the purposes of collecting a toll as a vehicle*
2 *passes through the collection facility.*

3 “(g) *INTEROPERABILITY.*—

4 “(1) *RULE.*—

5 “(A) *IN GENERAL.*—*Not later than 180*
6 *days after the date of enactment of this sub-*
7 *section, the Secretary shall promulgate a final*
8 *rule specifying requirements, standards, or per-*
9 *formance specifications for automated toll collec-*
10 *tion systems implemented under this section.*

11 “(B) *DEVELOPMENT.*—*In developing that*
12 *rule, which shall be designed to maximize the*
13 *interoperability of electronic collection systems,*
14 *the Secretary shall, to the maximum extent prac-*
15 *ticable—*

16 “(i) *seek to accelerate progress toward*
17 *the national goal of achieving a nationwide*
18 *interoperable electronic toll collection sys-*
19 *tem;*

20 “(ii) *take into account the use of tran-*
21 *sponders currently deployed within an ap-*
22 *propriate geographical area of travel and*
23 *the transponders likely to be in use within*
24 *the next 5 years; and*

1 “(iii) seek to minimize additional costs
2 and maximize convenience to users of toll
3 facility and to the toll facility owner or op-
4 erator.

5 “(2) *FUTURE MODIFICATIONS.*—As the state of
6 technology progresses, the Secretary shall modify the
7 rule promulgated under paragraph (1)(A), as appro-
8 priate.”.

9 (c) *CONFORMING AMENDMENTS.*—

10 (1) *IN GENERAL.*—Section 1012 of the Inter-
11 modal Surface Transportation Efficiency Act (23
12 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is
13 amended by striking subsection (b).

14 (2) *CONTINUATION OF PROGRAM.*—Notwith-
15 standing the amendment made by paragraph (1), the
16 Secretary shall monitor and allow any value pricing
17 program established under a cooperative agreement in
18 effect on the day before the date of enactment of this
19 Act to continue.

20 **SEC. 1610. FEDERAL REFERENCE METHOD.**

21 (a) *IN GENERAL.*—Section 6102 of the Transportation
22 Equity Act for the 21st Century (42 U.S.C. 7407 note; 112
23 Stat. 464) is amended by striking subsection (e) and insert-
24 ing the following:

1 “(e) *FIELD STUDY*.—Not later than 2 years after the
2 date of enactment of the *Safe, Accountable, Flexible, and*
3 *Efficient Transportation Equity Act of 2003*, the Adminis-
4 trator shall—

5 “(1) *conduct a field study of the ability of the*
6 *PM_{2.5} Federal Reference Method to differentiate those*
7 *particles that are larger than 2.5 micrometers in di-*
8 *ameter;*

9 “(2) *develop a Federal reference method to meas-*
10 *ure directly particles that are larger than 2.5 mi-*
11 *croimeters in diameter without reliance on subtracting*
12 *from coarse particle measurements those particles that*
13 *are equal to or smaller than 2.5 micrometers in di-*
14 *ameter;*

15 “(3) *develop a method of measuring the composi-*
16 *tion of coarse particles; and*

17 “(4) *submit a report on the study and respon-*
18 *sibilities of the Administrator under paragraphs (1)*
19 *through (3) to—*

20 “(A) *the Committee on Commerce of the*
21 *House of Representatives; and*

22 “(B) *the Committee on Environment and*
23 *Public Works of the Senate.”.*

1 **SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO**
2 **CMAQ.**

3 *Section 104(b)(2) of title 23, United States Code, is*
4 *amended—*

5 *(1) in subparagraph B—*

6 *(A) in the matter preceding clause (i), by*
7 *striking “ozone or carbon monoxide” and insert-*
8 *ing “ozone, carbon monoxide, or fine particulate*
9 *matter (PM_{2.5})”;*

10 *(B) by striking clause (i) and inserting the*
11 *following:*

12 *“(i) 1.0, if at the time of apportion-*
13 *ment, the area is a maintenance area;”;*

14 *(C) in clause (vi), by striking “or” after the*
15 *semicolon; and*

16 *(D) in clause (vii), by striking “area as de-*
17 *scribed in section 149(b) for ozone,” and insert-*
18 *ing “area for ozone (as described in section*
19 *149(b)) or for PM-2.5”;*

20 *(2) by adding at the end the following:*

21 *“(viii) 1.0 if, at the time of apportion-*
22 *ment, any county that is not designated as*
23 *a nonattainment or maintenance area*
24 *under the 1-hour ozone standard is des-*
25 *ignated as nonattainment under the 8-hour*
26 *ozone standard;*

1 “(ix) 1.2 if, at the time of apportion-
2 ment, the area is not a nonattainment or
3 maintenance area as described in section
4 149(b) for ozone or carbon monoxide, but is
5 an area designated nonattainment under
6 the PM-2.5 standard.”;

7 (3) by striking subparagraph (C) and inserting
8 the following:

9 “(C) *ADDITIONAL ADJUSTMENT FOR CAR-*
10 *BON MONOXIDE AREAS.—If, in addition to being*
11 *designated as a nonattainment or maintenance*
12 *area for ozone as described in section 149(b), any*
13 *county within the area was also classified under*
14 *subpart 3 of part D of title I of the Clean Air*
15 *Act (42 U.S.C. 7512 et seq.) as a nonattainment*
16 *or maintenance area described in section 149(b)*
17 *for carbon monoxide, the weighted nonattain-*
18 *ment or maintenance area population of the*
19 *county, as determined under clauses (i) through*
20 *(vi) or clause (viii) of subparagraph (B), shall be*
21 *further multiplied by a factor of 1.2.”;*

22 (4) by redesignating subparagraph (D) and (E)
23 as subparagraphs (E) and (F) respectively; and

24 (5) by inserting after subparagraph (C) the fol-
25 lowing:

1 “(D) *ADDITIONAL ADJUSTMENT FOR PM 2.5*
 2 *AREAS.—If, in addition to being designated as a*
 3 *nonattainment or maintenance area for ozone or*
 4 *carbon monoxide, or both as described in section*
 5 *149(b), any county within the area was also des-*
 6 *ignated under the PM–2.5 standard as a non-*
 7 *attainment or maintenance area, the weighted*
 8 *nonattainment or maintenance area population*
 9 *of those counties shall be further multiplied by a*
 10 *factor of 1.2.”.*

11 **SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.**

12 (a) *ELIGIBLE PROJECTS.—Section 149(b) of title 23,*
 13 *United States Code, is amended—*

14 (1) *in paragraph (4), by striking “or” at the*
 15 *end;*

16 (2) *in paragraph (5), by striking the period at*
 17 *the end and inserting “; or”; and*

18 (3) *by adding at the end the following:*

19 “(6) *if the project or program is for the purchase*
 20 *of alternative fuel (as defined in section 301 of the*
 21 *Energy Policy Act of 1992 (42 U.S.C. 13211)) or bio-*
 22 *diesel.”.*

23 (b) *STATES RECEIVING MINIMUM APPORTIONMENT.—*
 24 *Section 149(c) of title 23, United States Code, is amended—*

1 (1) *in paragraph (1), by striking “for any*
 2 *project eligible under the surface transportation pro-*
 3 *gram under section 133.” and inserting the following:*

4 *“for any project in the State that—*

5 *“(A) would otherwise be eligible under this*
 6 *section as if the project were carried out in a*
 7 *nonattainment or maintenance area; or*

8 *“(B) is eligible under the surface transpor-*
 9 *tation program under section 133.”; and*

10 (2) *in paragraph (2), by striking “for any*
 11 *project in the State eligible under section 133.” and*
 12 *inserting the following: “for any project in the State*
 13 *that—*

14 *“(A) would otherwise be eligible under this*
 15 *section as if the project were carried out in a*
 16 *nonattainment or maintenance area; or*

17 *“(B) is eligible under the surface transpor-*
 18 *tation program under section 133.”.*

19 **SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.**

20 *Section 149 of title 23, United States Code, is amended*
 21 *by adding at the end the following:*

22 *“(g) INTERAGENCY CONSULTATION.—The Secretary*
 23 *shall encourage States and metropolitan planning organi-*
 24 *zations to consult with State and local air quality agencies*
 25 *in nonattainment and maintenance areas on the estimated*

1 *emission reductions from proposed congestion mitigation*
2 *and air quality improvement programs and projects.”.*

3 **SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ**
4 **PROJECTS.**

5 *Section 149 of title 23, United States Code, is amended*
6 *by adding at the end the following:*

7 *“(h) EVALUATION AND ASSESSMENT OF PROJECTS.—*

8 *“(1) IN GENERAL.—The Secretary, in consulta-*
9 *tion with the Administrator of the Environmental*
10 *Protection Agency, shall evaluate and assess a rep-*
11 *resentative sample of projects funded under the con-*
12 *gestion mitigation and air quality program to—*

13 *“(A) determine the direct and indirect im-*
14 *pect of the projects on air quality and congestion*
15 *levels; and*

16 *“(B) ensure the effective implementation of*
17 *the program.*

18 *“(2) DATABASE.—Using appropriate assessments*
19 *of projects funded under the congestion mitigation*
20 *and air quality program and results from other re-*
21 *search, the Secretary shall maintain and disseminate*
22 *a cumulative database describing the impacts of the*
23 *projects.*

24 *“(3) CONSIDERATION.—The Secretary, in con-*
25 *sultation with the Administrator of the Environ-*

1 *mental Protection Agency, shall consider the rec-*
2 *ommendations and findings of the report submitted to*
3 *Congress under section 1110(e) of the Transportation*
4 *Equity Act for the 21st Century (112 Stat. 144), in-*
5 *cluding recommendations and findings that would*
6 *improve the operation and evaluation of the conges-*
7 *tion mitigation and air quality improvement pro-*
8 *gram under section 149.”.*

9 **SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY**

10 **TIMELINES, REQUIREMENTS, AND HORIZON.**

11 *(a) METROPOLITAN PLANNING.—*

12 *(1) DEVELOPMENT OF LONG-RANGE TRANSPOR-*
13 *TATION PLAN.—Section 134(g)(1) of title 23, United*
14 *States Code, is amended by striking “periodically, ac-*
15 *cording to a schedule that the Secretary determines to*
16 *be appropriate,” and inserting “every 4 years in*
17 *areas designated as nonattainment, as defined in sec-*
18 *tion 107(d) of the Clean Air Act (42 U.S.C. 7407(d)),*
19 *and in areas that were nonattainment that have been*
20 *redesignated to attainment in accordance with section*
21 *107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a*
22 *maintenance plan under section 175A of that Act (42*
23 *U.S.C. 7505a), or every 5 years in areas designated*
24 *as attainment (as defined in section 107(d) of that*
25 *Act (42 U.S.C. 7407(d))),”.*

1 (2) *METROPOLITAN TRANSPORTATION IMPROVE-*
2 *MENT PROGRAM.*—Section 134(h) of title 23, United
3 States Code, is amended—

4 (A) in paragraph (1)(D), by striking “2
5 years” and inserting “4 years”; and

6 (B) in paragraph (2)(A), by striking “3-
7 year” and inserting “4-year”.

8 (3) *STATEWIDE TRANSPORTATION IMPROVEMENT*
9 *PROGRAM.*—Section 135(f)(1)(A) of title 23, United
10 States Code, is amended by inserting after “program”
11 the following: “(which program shall cover a period
12 of 4 years and be updated every 4 years)”.

13 (4) *FINAL REGULATIONS.*—Not later than 18
14 months after the date of enactment of the Safe, Ac-
15 countable, Flexible, and Efficient Transportation Eq-
16 uity Act of 2003, the Secretary shall promulgate regu-
17 lations that are consistent with the amendments made
18 by this subsection.

19 (b) *SYNCHRONIZED CONFORMITY DETERMINATION.*—
20 Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c))
21 is amended—

22 (1) in paragraph (2)—

23 (A) by striking “(2) Any transportation
24 plan” and inserting the following:

1 “(2) *TRANSPORTATION PLANS AND PROGRAMS.—*
2 *Any transportation plan*”;

3 *(B) in subparagraph (C)(iii), by striking*
4 *the period at the end and inserting a semicolon;*

5 *(C) in subparagraph (D)—*

6 *(i) by striking “Any project” and in-*
7 *serting “any transportation project”; and*

8 *(ii) by striking the period at the end*
9 *and inserting “; and”; and*

10 *(D) by adding at the end the following:*

11 *“(E) the appropriate metropolitan planning*
12 *organization shall redetermine conformity of ex-*
13 *isting transportation plans and programs not*
14 *later than 2 years after the date on which the*
15 *Administrator—*

16 *“(i) finds a motor vehicle emissions*
17 *budget to be adequate in accordance with*
18 *section 93.118(e)(4) of title 40, Code of Fed-*
19 *eral Regulations (as in effect on October 1,*
20 *2003);*

21 *“(ii) approves an implementation plan*
22 *that establishes a motor vehicle emissions*
23 *budget, if that budget has not yet been used*
24 *in a conformity determination prior to ap-*
25 *proval; or*

1 “(iii) promulgates an implementation
2 plan that establishes or revises a motor ve-
3 hicle emissions budget.”;

4 (2) in paragraph (4)(B)(ii), by striking “but in
5 no case shall such determinations for transportation
6 plans and programs be less frequent than every 3
7 years; and” and inserting “but the frequency for mak-
8 ing conformity determinations on updated transpor-
9 tation plans and programs shall be every 4 years, ex-
10 cept in a case in which—

11 “(I) the metropolitan planning
12 organization elects to update a trans-
13 portation plan or program more fre-
14 quently; or

15 “(II) the metropolitan planning
16 organization is required to determine
17 conformity in accordance with para-
18 graph (2)(E); and”;

19 (3) in paragraph (4)(B)—

20 (A) in clause (ii), by striking “and” at the
21 end;

22 (B) in clause (iii), by striking the period at
23 the end and inserting “; and”; and

24 (C) by adding at the end the following:

1 “(iv) address the effects of the most re-
 2 cent population, economic, employment,
 3 travel, transit ridership, congestion, and in-
 4 duced travel demand information in the de-
 5 velopment and application of the latest
 6 travel and emissions models.”;

7 (4) by adding at the end the following:

8 “(7) CONFORMITY HORIZON FOR TRANSPOR-
 9 TATION PLANS.—

10 “(A) IN GENERAL.—For the purposes of this
 11 section, a transportation plan in a nonattain-
 12 ment or maintenance area shall be considered to
 13 be a transportation plan or a portion of a trans-
 14 portation plan that extends for the longest of the
 15 following periods:

16 “(i) The first 10-year period of any
 17 such transportation plan.

18 “(ii) The latest year in the implemen-
 19 tation plan applicable to the area that con-
 20 tains a motor vehicle emission budget.

21 “(iii) The year after the completion
 22 date of a regionally significant project, if
 23 the project requires approval before the sub-
 24 sequent conformity determination.

1 “(B) *EXCEPTION.*—*In a case in which an*
2 *area has a revision to an implementation plan*
3 *under section 175A(b) and the Administrator*
4 *has found the motor vehicle emissions budgets*
5 *from that revision to be adequate in accordance*
6 *with section 93.118(e)(4) of title 40, Code of Fed-*
7 *eral Regulations (as in effect on October 1,*
8 *2003), or has approved the revision, the trans-*
9 *portation plan shall be considered to be a trans-*
10 *portation plan or portion of a transportation*
11 *plan that extends through the last year of the im-*
12 *plementation plan required under section*
13 *175A(b).*

14 “(8) *DEFINITIONS.*—*In this subsection:*

15 “(A) *REGIONALLY SIGNIFICANT PROJECT.*—

16 “(i) *IN GENERAL.*—*The term ‘region-*
17 *ally significant project’ means a transpor-*
18 *tation project that is on a facility that*
19 *serves a regional transportation need, in-*
20 *cluding—*

21 “(I) *access to and from the area*
22 *outside of the region;*

23 “(II) *access to and from major*
24 *planned developments, including new*

1 *retail malls, sports complexes, or trans-*
2 *portation terminals; and*

3 *“(III) most transportation termi-*
4 *nals.*

5 *“(ii) PRINCIPAL ARTERIALS AND FIXED*
6 *GUIDEWAYS.—The term ‘regionally signifi-*
7 *cant project’ includes, at a minimum—*

8 *“(I) all principal arterial high-*
9 *ways; and*

10 *“(II) all fixed guideway transit*
11 *facilities that offer an alternative to re-*
12 *gional highway travel.*

13 *“(iii) ADDITIONAL PROJECTS.—The*
14 *interagency consultation process and proce-*
15 *dures described in section 93.105(c) of title*
16 *40, Code of Federal Regulations (as in effect*
17 *on October 1, 2003), shall be used to make*
18 *determinations as to whether minor arterial*
19 *highways and other transportation projects*
20 *should be considered ‘regionally significant*
21 *projects’.*

22 *“(iv) EXCLUSIONS.—The term ‘region-*
23 *ally significant project’ does not include*
24 *any project of a type listed in sections*
25 *93.126 or 127 of title 40, Code of Federal*

1 *Regulations (as in effect on October 1,*
2 *2003).*

3 “(B) *SIGNIFICANT REVISION.*—*The term*
4 *‘significant revision’ means—*

5 “(i) *with respect to a regionally sig-*
6 *nificant project, a significant change in de-*
7 *sign concept or scope to the project; and*

8 “(ii) *with respect to any other kind of*
9 *project, a change that converts a project*
10 *that is not a regionally significant project*
11 *into a regionally significant project.*

12 “(C) *TRANSPORTATION PROJECT.*—*The term*
13 *‘transportation project’ includes only a project*
14 *that is—*

15 “(i) *a regionally significant project; or*

16 “(ii) *a project that makes a significant*
17 *revision to an existing project.”; and*

18 (5) *in the matter following paragraph (3)(B), by*
19 *inserting “transportation” before “project” each place*
20 *it appears.*

21 **SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.**

22 *Section 176(c) of the Clean Air Act (42 U.S.C.*
23 *7506(c)) is amended by striking paragraph (3) and insert-*
24 *ing the following:*

1 “(3) *METHODS OF CONFORMITY DETERMINATION*
2 *BEFORE BUDGET IS AVAILABLE.*—

3 “(A) *IN GENERAL.*—*Until such time as a*
4 *motor vehicle emission budget from an imple-*
5 *mentation plan submitted for a national ambi-*
6 *ent air quality standard is determined to be ade-*
7 *quate in accordance with section 93.118(e)(4) of*
8 *title 40, Code of Federal Regulations (as in effect*
9 *on October 1, 2003), or the submitted implemen-*
10 *tation plan is approved, conformity of such a*
11 *plan, program, or project shall be demonstrated,*
12 *as selected through the consultation process re-*
13 *quired under paragraph (4)(D)(i), with—*

14 “(i) *a motor vehicle emission budget*
15 *that has been found adequate in accordance*
16 *with section 93.118(e)(4) of title 40, Code of*
17 *Federal Regulations (as in effect on October*
18 *1, 2003), or that has been approved, from*
19 *an implementation plan for the most recent*
20 *prior applicable national ambient air qual-*
21 *ity standard addressing the same pollutant;*
22 *or*

23 “(ii) *other such tests as the Adminis-*
24 *trator shall determine to ensure that—*

1 “(I) the transportation plan or
2 program—

3 “(aa) is consistent with the
4 most recent estimates of mobile
5 source emissions;

6 “(bb) provides for the expedi-
7 tious implementation of transpor-
8 tation control measures in the ap-
9 plicable implementation plan;
10 and

11 “(cc) with respect to an ozone
12 or carbon monoxide nonattain-
13 ment area, contributes to annual
14 emissions reductions consistent
15 with sections 182(b)(1) and
16 187(a)(7); and

17 “(II) the transportation project—

18 “(aa) comes from a con-
19 forming transportation plan and
20 program described in this sub-
21 paragraph; and

22 “(bb) in a carbon monoxide
23 nonattainment area, eliminates or
24 reduces the severity and number
25 of violations of the carbon mon-

1 oxide standards in the area sub-
2 stantially affected by the project.

3 “(B) *DETERMINATION FOR A TRANSPOR-*
4 *TATION PROJECT IN A CARBON MONOXIDE NON-*
5 *ATTAINMENT AREA.*—*A determination under sub-*
6 *paragraph (A)(i)(II)(bb) may be made as part*
7 *of either the conformity determination for the*
8 *transportation program or for the individual*
9 *project taken as a whole during the environ-*
10 *mental review phase of project development.”.*

11 **SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVE-**
12 **MENTS.**

13 Section 176(c) of the Clean Air Act (42 U.S.C.
14 7506(c)) (as amended by section 1615(b)(4)) is amended—

15 (1) by redesignating paragraph (8) as para-
16 graph (9); and

17 (2) by inserting after paragraph (7) the fol-
18 lowing:

19 “(8) *SUBSTITUTION FOR TRANSPORTATION CON-*
20 *TROL MEASURES.*—

21 “(A) *IN GENERAL.*—*Transportation control*
22 *measures that are specified in an implementa-*
23 *tion plan may be replaced or added to the imple-*
24 *mentation plan with alternate or additional*
25 *transportation control measures if—*

1 “(i) the substitute measures achieve
2 equivalent or greater emissions reductions
3 than the control measure to be replaced, as
4 demonstrated with an analysis that is con-
5 sistent with the current methodology used
6 for evaluating the replaced control measure
7 in the implementation plan;

8 “(ii) the substitute control measures
9 are implemented—

10 “(I) in accordance with a schedule
11 that is consistent with the schedule
12 provided for control measures in the
13 implementation plan; or

14 “(II) if the implementation plan
15 date for implementation of the control
16 measure to be replaced has passed, as
17 soon as practicable after the implemen-
18 tation plan date but not later than the
19 date on which emission reductions are
20 necessary to achieve the purpose of the
21 implementation plan;

22 “(iii) the substitute and additional
23 control measures are accompanied with evi-
24 dence of adequate personnel, funding, and
25 authority under State or local law to imple-

1 *ment, monitor, and enforce the control*
2 *measures;*

3 “(iv) *the substitute and additional con-*
4 *trol measures were developed through a col-*
5 *laborative process that included—*

6 “(I) *participation by representa-*
7 *tives of all affected jurisdictions (in-*
8 *cluding local air pollution control*
9 *agencies, the State air pollution control*
10 *agency, and State and local transpor-*
11 *tation agencies);*

12 “(II) *consultation with the Ad-*
13 *ministrator; and*

14 “(III) *reasonable public notice*
15 *and opportunity for comment; and*

16 “(v) *the metropolitan planning organi-*
17 *zation, State air pollution control agency,*
18 *and the Administrator concur with the*
19 *equivalency of the substitute or additional*
20 *control measures.*

21 “(B) *ADOPTION.—After carrying out sub-*
22 *paragraph (A), a State shall adopt the substitute*
23 *or additional transportation control measure in*
24 *the applicable implementation plan.*

1 “(C) *NO REQUIREMENT FOR EXPRESS PER-*
2 *MISSION.—The substitution or addition of a*
3 *transportation control measure in accordance*
4 *with this paragraph shall not be contingent on*
5 *there being any provision in the implementation*
6 *plan that expressly permits such a substitution*
7 *or addition.*

8 “(D) *NO REQUIREMENT FOR NEW CON-*
9 *FORMITY DETERMINATION.—The substitution or*
10 *addition of a transportation control measure in*
11 *accordance with this paragraph shall not re-*
12 *quire—*

13 “(i) *a new conformity determination*
14 *for the transportation plan; or*

15 “(ii) *a revision of the implementation*
16 *plan.*

17 “(E) *CONTINUATION OF CONTROL MEASURE*
18 *BEING REPLACED.—A control measure that is*
19 *being replaced by a substitute control measure*
20 *under this paragraph shall remain in effect until*
21 *the substitute control measure is approved.*

22 “(F) *EFFECT OF ADOPTION.—Adoption of a*
23 *substitute control measure shall constitute rescis-*
24 *sion of the previously applicable control meas-*
25 *ure.”.*

1 **SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED**
 2 **BY EXCEPTIONAL EVENTS.**

3 (a) *IN GENERAL.*—Section 319 of the Clean Air Act
 4 (42 U.S.C. 7619) is amended—

5 (1) *by striking the section heading and all that*
 6 *follows through “after notice and opportunity for pub-*
 7 *lic hearing” and inserting the following:*

8 **“SEC. 319. AIR QUALITY MONITORING.**

9 “(a) *IN GENERAL.*—*After notice and opportunity for*
 10 *public hearing”;* and

11 (2) *by adding at the end the following:*

12 “(b) *AIR QUALITY MONITORING DATA INFLUENCED BY*
 13 *EXCEPTIONAL EVENTS.*—

14 “(1) *DEFINITION OF EXCEPTIONAL EVENT.*—*In*
 15 *this section:*

16 “(A) *IN GENERAL.*—*The term ‘exceptional*
 17 *event’ means an event that—*

18 “(i) *affects air quality;*

19 “(ii) *is not reasonably controllable or*
 20 *preventable;*

21 “(iii) *is—*

22 “(I) *a natural event; or*

23 “(II) *an event caused by human*
 24 *activity that is unlikely to recur at a*
 25 *particular location; and*

1 “(iv) is determined by the Adminis-
2 trator through the process established in the
3 regulations promulgated under paragraph
4 (2) to be an exceptional event.

5 “(B) *EXCLUSIONS.*—The term ‘exceptional
6 event’ does not include—

7 “(i) stagnation of air masses or mete-
8 orological inversions;

9 “(ii) a meteorological event involving
10 high temperatures or lack of precipitation;
11 or

12 “(iii) air pollution relating to source
13 noncompliance.

14 “(2) *REGULATIONS.*—

15 “(A) *PROPOSED REGULATIONS.*—Not later
16 than March 1, 2005, after consultation with Fed-
17 eral land managers and State air pollution con-
18 trol agencies, the Administrator shall publish in
19 the *Federal Register* proposed regulations gov-
20 erning the review and handling of air quality
21 monitoring data influenced by exceptional
22 events.

23 “(B) *FINAL REGULATIONS.*—Not later than
24 1 year after the date on which the Administrator
25 publishes proposed regulations under subpara-

1 *graph (A), and after providing an opportunity*
2 *for interested persons to make oral presentations*
3 *of views, data, and arguments regarding the pro-*
4 *posed regulations, the Administrator shall pro-*
5 *mulgate final regulations governing the review*
6 *and handling of air quality monitoring data in-*
7 *fluenced by an exceptional event that are con-*
8 *sistent with paragraph (3).*

9 “(3) *PRINCIPLES AND REQUIREMENTS.*—

10 “(A) *PRINCIPLES.*—*In promulgating regu-*
11 *lations under this section, the Administrator*
12 *shall follow—*

13 “(i) *the principle that protection of*
14 *public health is the highest priority;*

15 “(ii) *the principle that timely informa-*
16 *tion should be provided to the public in any*
17 *case in which the air quality is unhealthy;*

18 “(iii) *the principle that all ambient*
19 *air quality data should be included in a*
20 *timely manner, an appropriate Federal air*
21 *quality database that is accessible to the*
22 *public;*

23 “(iv) *the principle that each State*
24 *must take necessary measures to safeguard*

1 *public health regardless of the source of the*
2 *air pollution; and*

3 “(v) *the principle that air quality data*
4 *should be carefully screened to ensure that*
5 *events not likely to recur are represented ac-*
6 *curately in all monitoring data and anal-*
7 *yses.*

8 “(B) *REQUIREMENTS.—Regulations pro-*
9 *mulgated under this section shall, at a min-*
10 *imum, provide that—*

11 “(i) *the occurrence of an exceptional*
12 *event must be demonstrated by reliable, ac-*
13 *curate data that is promptly produced and*
14 *provided by Federal, State, or local govern-*
15 *ment agencies;*

16 “(ii) *a clear causal relationship must*
17 *exist between the measured exceedances of a*
18 *national ambient air quality standard and*
19 *the exceptional event to demonstrate that*
20 *the exceptional event caused a specific air*
21 *pollution concentration at a particular air*
22 *quality monitoring location;*

23 “(iii) *there is a public process for de-*
24 *termining whether an event is exceptional;*
25 *and*

1 “(iv) there are criteria and procedures
2 for the Governor of a State to petition the
3 Administrator to exclude air quality moni-
4 toring data that is directly due to excep-
5 tional events from use in determinations by
6 the Environmental Protection Agency with
7 respect to exceedances or violations of the
8 national ambient air quality standards.

9 “(4) *INTERIM PROVISION.*—Until the effective
10 date of a regulation promulgated under paragraph
11 (2), the following guidance issued by the Adminis-
12 trator shall continue to apply:

13 “(A) Guidance on the identification and use
14 of air quality data affected by exceptional events
15 (July 1986).

16 “(B) Areas affected by PM-10 natural
17 events, May 30, 1996.

18 “(C) Appendices I, K, and N to part 50 of
19 title 40, Code of Federal Regulations.”.

20 **SEC. 1619. CONFORMING AMENDMENTS.**

21 Section 176(c)(4) of the Clean Air Act (42 U.S.C.
22 7506(c)(4) is amended—

23 (1) by redesignating subparagraphs (B) through
24 (D) as subparagraphs (D) through (F), respectively;

1 (2) *by striking “(4)(A) No later than one year*
 2 *after the date of enactment of the Clean Air Act*
 3 *Amendments of 1990, the Administrator shall pro-*
 4 *mulgate” and inserting the following:*

5 “(4) *CRITERIA AND PROCEDURES FOR DETER-*
 6 *MINING CONFORMITY.—*

7 “(A) *IN GENERAL.—The Administrator*
 8 *shall promulgate, and periodically update,”;*

9 (3) *in subparagraph (A)—*

10 (A) *in the second sentence, by striking “No*
 11 *later than one year after such date of enactment,*
 12 *the Administrator, with the concurrence of the*
 13 *Secretary of Transportation, shall promulgate”*
 14 *and inserting the following:*

15 “(B) *TRANSPORTATION PLANS, PROGRAMS,*
 16 *AND PROJECTS.—The Administrator, with the*
 17 *concurrence of the Secretary of Transportation,*
 18 *shall promulgate, and periodically update,”; and*

19 (B) *in the third sentence, by striking “A*
 20 *suit” and inserting the following:*

21 “(C) *CIVIL ACTION TO COMPEL PROMULGA-*
 22 *TION.—A civil action”;* and

23 (4) *by striking subparagraph (E) (as redesign-*
 24 *ated by paragraph (1)) and inserting the following:*

1 “(E) *INCLUSION OF CRITERIA AND PROCE-*
 2 *DURES IN SIP.*—Not later than 2 years after the
 3 *date of enactment of the Safe, Accountable, Flexi-*
 4 *ble, and Efficient Transportation Equity Act of*
 5 *2003, the procedures under subparagraph (A)*
 6 *shall include a requirement that each State in-*
 7 *clude in the State implementation plan criteria*
 8 *and procedures for consultation in accordance*
 9 *with the Administrator’s criteria and procedures*
 10 *for consultation required by subparagraph*
 11 *(D)(i).”.*

12 **SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGA-**
 13 **TION PROGRAM.**

14 (a) *HIGHWAY STORMWATER MITIGATION PROJECTS.*—
 15 *Section 133(d) of title 23, United States Code (as amended*
 16 *by section 1401(a)(2)(B)), is amended by adding at the end*
 17 *the following:*

18 “(5) *HIGHWAY STORMWATER DISCHARGE MITI-*
 19 *GATION PROJECTS.*—Of the amount apportioned to a
 20 *State under section 104(b)(3) for a fiscal year, 2 per-*
 21 *cent shall be available only for projects and activities*
 22 *carried out under section 167.”.*

23 (b) *HIGHWAY STORMWATER DISCHARGE MITIGATION*
 24 *PROGRAM.*—Subchapter I of chapter 1 of title 23, United

1 *States Code (as amended by section 1601(a)), is amended*
2 *by adding at the end the following:*

3 **“§ 167. Highway stormwater discharge mitigation pro-**
4 **gram**

5 “(a) *DEFINITIONS.—In this section:*

6 “(1) *ADMINISTRATOR.—The term ‘Adminis-*
7 *trator’ means the Administrator of the Environ-*
8 *mental Protection Agency.*

9 “(2) *ELIGIBLE MITIGATION PROJECT.—The term*
10 *‘eligible mitigation project’ means a practice or tech-*
11 *nique that—*

12 “(A) *improves stormwater discharge water*
13 *quality;*

14 “(B) *attains preconstruction hydrology;*

15 “(C) *promotes infiltration of stormwater*
16 *into groundwater;*

17 “(D) *recharges groundwater;*

18 “(E) *minimizes stream bank erosion;*

19 “(F) *promotes natural filters;*

20 “(G) *otherwise mitigates water quality im-*
21 *pacts of highway stormwater discharges, im-*
22 *proves surface water quality, or enhances*
23 *groundwater recharge; or*

24 “(H) *reduces flooding caused by highway*
25 *stormwater discharge.*

1 “(3) *FEDERAL-AID HIGHWAY AND ASSOCIATED*
2 *FACILITY.*—*The term ‘Federal-aid highway and asso-*
3 *ciated facility’ means—*

4 “(A) *a Federal-aid highway; or*

5 “(B) *a facility or land owned by a State (or*
6 *political subdivision of a State) that is directly*
7 *associated with the Federal-aid highway.*

8 “(4) *HIGHWAY STORMWATER DISCHARGE.*—*The*
9 *term ‘highway stormwater discharge’ means*
10 *stormwater discharge from a Federal-aid highway, or*
11 *a Federal-aid highway and associated facility, that*
12 *was constructed before the date of enactment of this*
13 *section.*

14 “(5) *HIGHWAY STORMWATER DISCHARGE MITI-*
15 *GATION.*—*The term ‘highway stormwater discharge*
16 *mitigation’ means—*

17 “(A) *the reduction of water quality impacts*
18 *of stormwater discharges from Federal-aid high-*
19 *ways or Federal-aid highways and associated fa-*
20 *cilities; or*

21 “(B) *the enhancement of groundwater re-*
22 *charge from stormwater discharges from Federal-*
23 *aid highways or Federal-aid highways and asso-*
24 *ciated facilities.*

1 “(6) *PROGRAM.*—*The term ‘program’ means the*
2 *highway stormwater discharge mitigation program*
3 *established under subsection (b).*

4 “(b) *ESTABLISHMENT.*—*The Secretary shall establish*
5 *a highway stormwater discharge mitigation program—*

6 “(1) *to improve the quality of stormwater dis-*
7 *charge from Federal-aid highways or Federal-aid*
8 *highways and associated facilities; and*

9 “(2) *to enhance groundwater recharge.*

10 “(c) *PRIORITY OF PROJECTS.*—*For projects funded*
11 *from the allocation under section 133(d)(6), a State shall*
12 *give priority to projects sponsored by a State or local gov-*
13 *ernment that assist the State or local government in com-*
14 *plying with the Federal Water Pollution Control Act (33*
15 *U.S.C. 1251 et seq.).*

16 “(d) *GUIDANCE.*—

17 “(1) *IN GENERAL.*—*Not later than 180 days*
18 *after the date of enactment of this section, the Sec-*
19 *retary, in consultation with the Administrator, shall*
20 *issue guidance to assist States in carrying out this*
21 *section.*

22 “(2) *REQUIREMENTS FOR GUIDANCE.*—*The guid-*
23 *ance issued under paragraph (1) shall include infor-*
24 *mation concerning innovative technologies and non-*

1 *structural best management practices to mitigate*
 2 *highway stormwater discharges.”.*

3 (c) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 4 *chapter I of chapter 1 of title 23, United States Code (as*
 5 *amended by section 1601(b), is amended by inserting after*
 6 *the item relating to section 166 the following:*

 “167. *Highway stormwater discharge mitigation program.*”.

7 ***Subtitle G—Operations***

8 ***SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND***
 9 ***OPERATIONS.***

10 (a) *SURFACE TRANSPORTATION PROGRAM ELIGI-*
 11 *BILITY.*—*Section 133(b) of title 23, United States Code (as*
 12 *amended by section 1601(a)(2)), is amended by adding at*
 13 *the end the following:*

14 “(16) *Regional transportation operations col-*
 15 *laboration and coordination activities that are associ-*
 16 *ated with regional improvements, such as traffic inci-*
 17 *dent management, technology deployment, emergency*
 18 *management and response, traveler information, and*
 19 *regional congestion relief.*

20 “(17) *RUSH HOUR CONGESTION RELIEF.*—

21 “(A) *IN GENERAL.*—*Subject to subpara-*
 22 *graph (B), a State may spend not more than 2*
 23 *percent of the funds apportioned under this sec-*
 24 *tion to reduce traffic delays caused by motor ve-*

1 *hicle accidents and breakdowns on highways*
2 *during peak driving times.*

3 “(B) *USE OF FUNDS.—A State, metropoli-*
4 *tan planning organization, or local government*
5 *may use the funds under subparagraph (A)—*

6 “(i) *to develop a region-wide coordi-*
7 *nated plan to mitigate traffic delays caused*
8 *by motor vehicle accidents and breakdowns;*

9 “(ii) *to purchase or lease telecommuni-*
10 *cations equipment for first responders;*

11 “(iii) *to purchase or lease towing and*
12 *recovery services;*

13 “(iv) *to pay contractors for towing and*
14 *recovery;*

15 “(v) *to rent vehicle storage areas adja-*
16 *cent to roadways;*

17 “(vi) *to fund service patrols, equip-*
18 *ment, and operations;*

19 “(vii) *to purchase incident detection*
20 *equipment;*

21 “(viii) *to carry out training.”.*

22 (b) *CONGESTION MITIGATION AND AIR QUALITY IM-*
23 *PROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of*
24 *title 23, United States Code, is amended by inserting “im-*

1 *prove transportation systems management and operations,”*
 2 *after “intersections,”.*

3 *(c) TRANSPORTATION SYSTEMS MANAGEMENT AND OP-*
 4 *ERATIONS.—*

5 *(1) IN GENERAL.—Subchapter I of chapter 1 of*
 6 *title 23, United States Code (as amended by section*
 7 *1620(b)), is amended by adding at the end the fol-*
 8 *lowing:*

9 **“§ 168. Transportation systems management and oper-**
 10 **ations**

11 *“(a) IN GENERAL.—The Secretary shall carry out a*
 12 *transportation systems management and operations pro-*
 13 *gram to—*

14 *“(1) ensure efficient and effective transportation*
 15 *systems management and operations on Federal-aid*
 16 *highways through collaboration, coordination, and*
 17 *real-time information sharing at a regional and*
 18 *Statewide level among—*

19 *“(A) managers and operators of major*
 20 *modes of transportation;*

21 *“(B) public safety officials; and*

22 *“(C) the general public; and*

23 *“(2) manage and operate Federal-aid highways*
 24 *in a coordinated manner to preserve the capacity and*

1 *maximize the performance of highway and transit fa-*
2 *cilities for travelers and carriers.*

3 “(b) *AUTHORIZED ACTIVITIES.*—

4 “(1) *IN GENERAL.*—*In carrying out the program*
5 *under subsection (a), the Secretary may carry out ac-*
6 *tivities to—*

7 “(A) *encourage managers and operators of*
8 *major modes of transportation, public safety offi-*
9 *cial, and transportation planners in urbanized*
10 *areas that are responsible for conducting the*
11 *day-to-day management, operations, public safe-*
12 *ty, and planning of transportation facilities and*
13 *services to collaborate on and coordinate, on a*
14 *regional level and in a continuous and sustained*
15 *manner, improved transportation systems man-*
16 *agement and operations; and*

17 “(B) *encourage States to—*

18 “(i) *establish a system of basic real-*
19 *time monitoring for the surface transpor-*
20 *tation system; and*

21 “(ii) *provide the means to share the*
22 *data gathered under clause (i) among—*

23 “(I) *highway, transit, and public*
24 *safety agencies;*

1 “(II) jurisdictions (including
2 States, cities, counties, and metropoli-
3 tan planning organizations);

4 “(III) private-sector entities; and

5 “(IV) the general public.

6 “(2) *ACTIVITIES*.—Activities to be carried out
7 under paragraph (1) include—

8 “(A) developing a regional concept of oper-
9 ations that defines a regional strategy shared by
10 all transportation and public safety participants
11 with respect to the manner in which the trans-
12 portation systems of the region should be man-
13 aged, operated, and measured;

14 “(B) the sharing of information among op-
15 erators, service providers, public safety officials,
16 and the general public; and

17 “(C) guiding, in a regionally-coordinated
18 manner and in a manner consistent with and
19 integrated into the metropolitan and statewide
20 transportation planning processes and regional
21 intelligent transportation system architecture,
22 the implementation of regional transportation
23 system management and operations initiatives,
24 including—

1 “(i) emergency evacuation and re-
2 sponse;

3 “(ii) traffic incident management;

4 “(iii) technology deployment; and

5 “(iv) traveler information systems de-
6 livery.

7 “(c) COOPERATION.—In carrying out the program
8 under subsection (a), the Secretary may assist and cooper-
9 ate with other Federal agencies, State and local govern-
10 ments, metropolitan planning organizations, private indus-
11 try, and other interested parties to improve regional col-
12 laboration and real-time information sharing between man-
13 agers and operators of major modes of transportation, pub-
14 lic safety officials, emergency managers, and the general
15 public to increase the security, safety, and reliability of
16 Federal-aid highways.

17 “(d) GUIDANCE; REGULATIONS.—

18 “(1) IN GENERAL.—In carrying out the program
19 under subsection (a), the Secretary may issue guid-
20 ance or promulgate regulations for the procurement of
21 transportation system management and operations
22 facilities, equipment, and services, including—

23 “(A) equipment procured in preparation for
24 natural disasters, disasters caused by human ac-
25 tivity, and emergencies;

1 “(B) system hardware;

2 “(C) software; and

3 “(D) software integration services.

4 “(2) *CONSIDERATIONS.*—*In developing the guid-*
5 *ance or regulations under paragraph (1), the Sec-*
6 *retary may consider innovative procurement methods*
7 *that support the timely and streamlined execution of*
8 *transportation system management and operations*
9 *programs and projects.*

10 “(3) *FINANCIAL ASSISTANCE.*—*The Secretary*
11 *may authorize the use of funds made available under*
12 *section 104(b)(3) to provide assistance for regional*
13 *operations collaboration and coordination activities*
14 *that are associated with regional improvements, such*
15 *as—*

16 “(A) traffic incident management;

17 “(B) technology deployment;

18 “(C) emergency management and response;

19 “(D) traveler information; and

20 “(E) congestion relief.”.

21 “(2) *CONFORMING AMENDMENT.*—*The analysis for*
22 *subchapter I of chapter 1 of title 23, United States*
23 *Code (as amended by section 1620(e)), is amended by*
24 *adding at the end:*

“168. *Transportation systems management and operations.*”.

1 **SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMA-**
2 **TION PROGRAM.**

3 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
4 23, United States Code (as amended by section 1701(c)(1)),
5 is amended by adding at the end the following:

6 **“§169. Real-time system management information**
7 **program**

8 “(a) *IN GENERAL.*—The Secretary shall carry out a
9 real-time system management information program to—

10 “(1) provide a nationwide system of basic real-
11 time information for managing and operating the
12 surface transportation system;

13 “(2)(A) identify long-range real-time highway
14 and transit monitoring needs; and

15 “(B) develop plans and strategies for meeting
16 those needs;

17 “(3) provide the capability and means to share
18 the basic real-time information with State and local
19 governments and the traveling public; and

20 “(4) provide the nationwide capability to mon-
21 itor, in real-time, the traffic and travel conditions of
22 major highways in the United States, and to share
23 that information with State and local governments
24 and the traveling public, to—

25 “(A) improve the security of the surface
26 transportation system;

1 “(B) address congestion problems;

2 “(C) support improved response to weather
3 events; and

4 “(D) facilitate the distribution of national
5 and regional traveler information.

6 “(b) *DATA EXCHANGE FORMATS.*—Not later than 1
7 year after the date of enactment of this section, the Sec-
8 retary shall establish data exchange formats to ensure that
9 the data provided by highway and transit monitoring sys-
10 tems (including statewide incident reporting systems) can
11 readily be exchanged between jurisdictions to facilitate the
12 nationwide availability of information on traffic and travel
13 conditions.

14 “(c) *STATEWIDE INCIDENT REPORTING SYSTEM.*—Not
15 later than 2 years after the date of enactment of this section,
16 or not later than 5 years after the date of enactment of this
17 section if the Secretary determines that adequate real-time
18 communications capability will not be available within 2
19 years after the date of enactment of this section, each State
20 shall establish a statewide incident reporting system to fa-
21 cilitate the real-time electronic reporting of highway and
22 transit incidents to a central location for use in—

23 “(1) monitoring an incident;

24 “(2) providing accurate traveler information on
25 the incident; and

1 “(3) responding to the incident as appropriate.

2 “(d) REGIONAL ITS ARCHITECTURE.—

3 “(1) IN GENERAL.—In developing or updating
4 regional intelligent transportation system architec-
5 tures under section 940.9 of title 23, Code of Federal
6 Regulations (or any successor regulation), States and
7 local governments shall address—

8 “(A) the real-time highway and transit in-
9 formation needs of the State or local government,
10 including coverage, monitoring systems, data fu-
11 sion and archiving, and methods of exchanging
12 or sharing information; and

13 “(B) the systems needed to meet those needs.

14 “(2) DATA EXCHANGE FORMATS.—In developing
15 or updating regional intelligent transportation system
16 architectures, States and local governments are en-
17 couraged to incorporate the data exchange formats de-
18 veloped by the Secretary under subsection (b) to en-
19 sure that the data provided by highway and transit
20 monitoring systems can readily be—

21 “(A) exchanged between jurisdictions; and

22 “(B) shared with the traveling public.

23 “(e) ELIGIBLE FUNDING.—Subject to project approval
24 by the Secretary, a State may—

1 “(1) use funds apportioned to the State under
2 section 505(a) to carry out activities relating to the
3 planning of real-time monitoring elements; and

4 “(2) use funds apportioned to the State under
5 paragraphs (1) and (3) of section 104(b) to carry out
6 activities relating to the planning and deployment of
7 real-time monitoring elements.”

8 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
9 *chapter I of chapter 1 of title 23, United States Code (as*
10 *amended by section 1701(c)(2)), is amended adding at the*
11 *end the following:*

 “169. Real-time system management information program.”

12 ***Subtitle H—Federal-Aid***
13 ***Stewardship***

14 ***SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.***

15 *Section 103(c)(4)(B) of title 23, United States Code,*
16 *is amended—*

17 (1) *in clause (ii), by striking “12” and inserting*
18 *“25”; and*

19 (2) *in clause (iii)—*

20 (A) *in subclause (I), by striking “in the*
21 *agreement between the Secretary and the State*
22 *or States”; and*

23 (B) *by adding at the end the following:*

24 “(III) *EXISTING AGREEMENTS.—*

25 *An agreement described in clause (ii)*

1 that is entered into before the date of
 2 enactment of this subparagraph shall
 3 be deemed to include the 25-year time
 4 limitation described in that clause, re-
 5 gardless of any earlier construction
 6 completion date in the agreement.”.

7 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

8 (a) *IN GENERAL.*—Section 106 of title 23, United
 9 States Code, is amended—

10 (1) by striking subsection (e) and inserting the
 11 following:

12 “(e) *VALUE ENGINEERING ANALYSIS.*—

13 “(1) *DEFINITION OF VALUE ENGINEERING ANAL-*
 14 *YSIS.*—

15 “(A) *IN GENERAL.*—In this subsection, the
 16 term ‘value engineering analysis’ means a sys-
 17 tematic process of review and analysis of a
 18 project, during the design phase, by a multidis-
 19 ciplined team of persons not involved in the
 20 project, that is conducted to provide rec-
 21 ommendations such as recommendations de-
 22 scribed in subparagraph (B) for—

23 “(i) reducing the total cost of the
 24 project; and

1 “(ii) improving the quality of the
2 project.

3 “(B) INCLUSIONS.—The recommendations
4 referred to in subparagraph (A) include, with re-
5 spect to a project—

6 “(i) combining or eliminating other-
7 wise inefficient use of expensive parts of the
8 original proposal design for the project; and

9 “(ii) completely redesigning the project
10 using different technologies, materials, or
11 methods so as to accomplish the original
12 purpose of the project.

13 “(2) ANALYSIS.—The State shall provide a value
14 engineering analysis or other cost-reduction analysis
15 for—

16 “(A) each project on the Federal-Aid System
17 with an estimated total cost of \$25,000,000 or
18 more;

19 “(B) a bridge project with an estimated
20 total cost of \$20,000,000 or more; and

21 “(C) any other project the Secretary deter-
22 mines to be appropriate.

23 “(3) MAJOR PROJECTS.—The Secretary may re-
24 quire more than 1 analysis described in paragraph
25 (2) for a major project described in subsection (h).

1 “(4) *REQUIREMENTS.*—Analyses described in
2 paragraph (1) for a bridge project shall—

3 “(A) include bridge substructure require-
4 ments based on construction material; and

5 “(B) be evaluated—

6 “(i) on engineering and economic
7 bases, taking into consideration acceptable
8 designs for bridges; and

9 “(ii) using an analysis of life-cycle
10 costs and duration of project construction.”;

11 and

12 (2) by striking subsections (g) and (h) and in-
13 serting the following:

14 “(g) *OVERSIGHT PROGRAM.*—

15 “(1) *PROGRAM.*—

16 “(A) *IN GENERAL.*—The Secretary shall es-
17 tablish an oversight program to monitor the ef-
18 fective and efficient use of funds made available
19 under this title.

20 “(B) *MINIMUM REQUIREMENTS.*—At a min-
21 imum, the program shall monitor and respond to
22 all areas relating to financial integrity and
23 project delivery.

24 “(2) *FINANCIAL INTEGRITY.*—

25 “(A) *FINANCIAL MANAGEMENT SYSTEMS.*—

1 “(i) *IN GENERAL.*—*The Secretary shall*
2 *perform annual reviews of the financial*
3 *management systems of State transpor-*
4 *tation departments that affect projects ap-*
5 *proved under subsection (a).*

6 “(ii) *REVIEW AREAS.*—*In carrying out*
7 *clause (i), the Secretary shall use risk as-*
8 *essment procedures to identify areas to be*
9 *reviewed.*

10 “(B) *PROJECT COSTS.*—*The Secretary*
11 *shall—*

12 “(i) *develop minimum standards for*
13 *estimating project costs; and*

14 “(ii) *periodically evaluate practices of*
15 *the States for—*

16 “(I) *estimating project costs;*

17 “(II) *awarding contracts; and*

18 “(III) *reducing project costs.*

19 “(C) *RESPONSIBILITY OF THE STATES.*—

20 “(i) *IN GENERAL.*—*Each State shall be*
21 *responsible for ensuring that subrecipients*
22 *of Federal funds within the State under this*
23 *section have—*

1 “(I) *sufficient accounting controls*
2 *to properly manage the Federal funds;*
3 *and*

4 “(II) *adequate project delivery*
5 *systems for projects approved under*
6 *this section.*

7 “(ii) *REVIEW BY SECRETARY.—The*
8 *Secretary shall periodically review moni-*
9 *toring by the States of those subrecipients.*

10 “(3) *PROJECT DELIVERY.—The Secretary shall—*

11 “(A) *perform annual reviews of the project*
12 *delivery system of each State, including analysis*
13 *of 1 or more activities that are involved in the*
14 *life cycle of a project; and*

15 “(B) *employ risk assessment procedures to*
16 *identify areas to be reviewed.*

17 “(4) *SPECIFIC OVERSIGHT RESPONSIBILITIES.—*
18 *Nothing in this section discharges or otherwise affects*
19 *any oversight responsibility of the Secretary—*

20 “(A) *specifically provided for under this*
21 *title or other Federal law; or*

22 “(B) *for the design and construction of all*
23 *Appalachian development highways under sec-*
24 *tion 14501 of title 40 or section 170 of this title.*

25 “(h) *MAJOR PROJECTS.—*

1 “(1) *IN GENERAL.*—*Notwithstanding any other*
2 *provision of this section, a recipient of Federal finan-*
3 *cial assistance for a project under this title with an*
4 *estimated total cost of \$1,000,000,000 or more, and*
5 *recipients for such other projects as may be identified*
6 *by the Secretary, shall submit to the Secretary for*
7 *each project—*

8 “(A) *a project management plan; and*

9 “(B) *an annual financial plan.*

10 “(2) *PROJECT MANAGEMENT PLAN.*—*A project*
11 *management plan shall document—*

12 “(A) *the procedures and processes that are*
13 *in effect to provide timely information to the*
14 *project decisionmakers to effectively manage the*
15 *scope, costs, schedules, and quality of, and the*
16 *Federal requirements applicable to, the project;*
17 *and*

18 “(B) *the role of the agency leadership and*
19 *management team in the delivery of the project.*

20 “(3) *FINANCIAL PLAN.*—*A financial plan shall—*

21 “(A) *be based on detailed estimates of the*
22 *cost to complete the project; and*

23 “(B) *provide for the annual submission of*
24 *updates to the Secretary that are based on rea-*
25 *sonable assumptions, as determined by the Sec-*

1 retary, of future increases in the cost to complete
2 the project.

3 “(i) *OTHER PROJECTS.*—A recipient of Federal finan-
4 cial assistance for a project under this title that receives
5 \$100,000,000 or more in Federal assistance for the project,
6 and that is not covered by subsection (h), shall prepare, and
7 make available to the Secretary at the request of the Sec-
8 retary, an annual financial plan for the project.”.

9 (b) *CONFORMING AMENDMENTS.*—

10 (1) Section 114(a) of title 23, United States
11 Code, is amended—

12 (A) in the first sentence by striking “high-
13 ways or portions of highways located on a Fed-
14 eral-aid system” and inserting “Federal-aid
15 highway or a portion of a Federal-aid highway”;
16 and

17 (B) by striking the second sentence and in-
18 serting “The Secretary shall have the right to
19 conduct such inspections and take such corrective
20 action as the Secretary determines to be appro-
21 priate.”.

22 (2) Section 117 of title 23, United States Code,
23 is amended—

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

1 (B) by redesignating subsections (e) through
2 (h) as subsections (d) through (g), respectively.

3 (c) *CONTRACTOR SUSPENSION AND DEBARMENT POL-*
4 *ICY; SHARING FRAUD MONETARY RECOVERIES.—*

5 (1) *IN GENERAL.—Section 307 of title 49,*
6 *United States Code, is amended to read as follows:*

7 **“§307. Contractor suspension and debarment policy;**
8 ***sharing fraud monetary recoveries***

9 “(a) *MANDATORY ENFORCEMENT POLICY.—*

10 “(1) *IN GENERAL.—Notwithstanding any other*
11 *provision of law, the Secretary—*

12 “(A) *shall debar any contractor or subcon-*
13 *tractor convicted of a criminal or civil offense*
14 *involving fraud relating to a project receiving*
15 *Federal highway or transit funds for such period*
16 *as the Secretary determines to be appropriate;*
17 *and*

18 “(B) *subject to approval by the Attorney*
19 *General—*

20 “(i) *except as provided in paragraph*
21 *(2), shall suspend any contractor or subcon-*
22 *tractor upon indictment for criminal or*
23 *civil offenses involving fraud; and*

24 “(ii) *may exclude nonaffiliated sub-*
25 *sidaries of a debarred business entity.*

1 “(2) *NATIONAL SECURITY EXCEPTION.*—If the
2 Secretary finds that mandatory debarment or suspen-
3 sion of a contractor or subcontractor under paragraph
4 (1) would be contrary to the national security of the
5 United States, the Secretary—

6 “(A) may waive the debarment or suspen-
7 sion; and

8 “(B) in the instance of each waiver, shall
9 provide notification to Congress of the waiver
10 with appropriate details.

11 “(b) *SHARING OF MONETARY RECOVERIES.*—

12 “(1) *IN GENERAL.*—Notwithstanding any other
13 provision of law—

14 “(A) monetary judgments accruing to the
15 Federal Government from judgments in Federal
16 criminal prosecutions and civil judgments per-
17 taining to fraud in highway and transit pro-
18 grams shall be shared with the State or local
19 transit agency involved; and

20 “(B) the State or local transit agency shall
21 use the funds for transportation infrastructure
22 and oversight activities relating to programs au-
23 thorized under title 23 and this title.

1 “(2) *AMOUNT.*—*The amount of recovered funds*
 2 *to be shared with an affected State or local transit*
 3 *agency shall be—*

4 “(A) *determined by the Attorney General,*
 5 *in consultation with the Secretary; and*

6 “(B) *considered to be Federal funds to be*
 7 *used in compliance with other relevant Federal*
 8 *transportation laws (including regulations).*

9 “(3) *FRAUDULENT ACTIVITY.*—*Paragraph (1)*
 10 *shall not apply in any case in which a State or local*
 11 *transit agency is found by the Attorney General, in*
 12 *consultation with the Secretary, to have been involved*
 13 *or negligent with respect to the fraudulent activities.”.*

14 (2) *CONFORMING AMENDMENT.*—*The analysis for*
 15 *chapter 3 of title 49, United States Code, is amended*
 16 *by striking the item relating to section 307 and in-*
 17 *serting the following:*

 “307. *Contractor suspension and debarment policy; sharing fraud monetary recov-*
 eries.”.

18 **SEC. 1803. DESIGN-BUILD CONTRACTING.**

19 *Section 112(b)(3) of title 23, United States Code, is*
 20 *amended by striking subparagraph (C) and inserting the*
 21 *following:*

22 “(C) *QUALIFIED PROJECTS.*—*A qualified*
 23 *project referred to in subparagraph (A) is a*
 24 *project under this chapter (including intermodal*

1 *projects) for which the Secretary has approved*
 2 *the use of design-build contracting under criteria*
 3 *specified in regulations promulgated by the Sec-*
 4 *retary.”.*

5 **SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.**

6 *(a) ADVANCE CONSTRUCTION.—Section 115 of title 23,*
 7 *United States Code, is amended—*

8 *(1) by redesignating subsection (c) as subsection*
 9 *(d);*

10 *(2) by redesignating subsections (a)(2),*
 11 *(a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1),*
 12 *and (c)(2), respectively, and indenting appropriately;*

13 *(3) by striking “(a) CONGESTION.—” and all*
 14 *that follows through subsection (a)(1)(B);*

15 *(4) by striking subsection (b); and*

16 *(5) by inserting after the section heading the fol-*
 17 *lowing:*

18 *“(a) IN GENERAL.—The Secretary may authorize a*
 19 *State to proceed with a project authorized under this title—*

20 *“(1) without the use of Federal funds; and*

21 *“(2) in accordance with all procedures and re-*
 22 *quirements applicable to the project other than those*
 23 *procedures and requirements that limit the State to*
 24 *implementation of a project—*

1 “(A) with the aid of Federal funds pre-
2 viously apportioned or allocated to the State; or

3 “(B) with obligation authority previously
4 allocated to the State.

5 “(b) OBLIGATION OF FEDERAL SHARE.—The Sec-
6 retary, on the request of a State and execution of a project
7 agreement, may obligate all or a portion of the Federal
8 share of the project authorized under this section from any
9 category of funds for which the project is eligible.”.

10 (b) OBLIGATION AND RELEASE OF FUNDS.—Section
11 118 of title 23, United States Code, is amended by striking
12 subsection (d) and inserting the following:

13 “(d) OBLIGATION AND RELEASE OF FUNDS.—

14 “(1) IN GENERAL.—Funds apportioned or allo-
15 cated to a State for a particular purpose for any fis-
16 cal year shall be considered to be obligated if a sum
17 equal to the total of the funds apportioned or allo-
18 cated to the State for that purpose for that fiscal year
19 and previous fiscal years is obligated.

20 “(2) RELEASED FUNDS.—Any funds released by
21 the final payment for a project, or by modifying the
22 project agreement for a project, shall be—

23 “(A) credited to the same class of funds pre-
24 viously apportioned or allocated to the State;
25 and

1 “(B) immediately available for obligation.

2 “(3) *NET OBLIGATIONS*.—Notwithstanding any
3 other provision of law (including a regulation), obli-
4 gations recorded against funds made available under
5 this section shall be recorded and reported as net obli-
6 gations.”.

7 **SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY**
8 **PROJECTS.**

9 Section 118(c)(1) of title 23, United States Code, is
10 amended—

11 (1) by striking “\$50,000,000” and all that
12 follows through “2003” and inserting
13 “\$100,000,000 for each of fiscal years 2004
14 through 2009”; and

15 (2) by striking “Transportation Equity Act
16 for the 21st Century” and inserting “Safe, Ac-
17 countable, Flexible, and Efficient Transportation
18 Equity Act of 2003”.

19 **SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.**

20 (a) *FEDERAL SHARE PAYABLE*.—

21 (1) *IN GENERAL*.—Section 120(k) of title 23,
22 United States Code, is amended—

23 (A) by striking “Federal-aid highway”; and

24 (B) by striking “section 104” and inserting
25 “this title or chapter 53 of title 49”.

1 (2) *TECHNICAL REFERENCES.*—Section 120(l) of
2 title 23, United States Code, is amended by striking
3 “section 104” and inserting “this title or chapter 53
4 of title 49”.

5 (b) *PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-*
6 *AID PROJECTS.*—Section 132 of title 23, United States
7 *Code, is amended—*

8 (1) *by striking the first 2 sentences and inserting*
9 *the following:*

10 “(a) *IN GENERAL.*—In a case in which a proposed
11 *Federal-aid project is to be undertaken by a Federal agency*
12 *in accordance with an agreement between a State and the*
13 *Federal agency, the State may—*

14 “(1) *direct the Secretary to transfer the funds for*
15 *the Federal share of the project directly to the Federal*
16 *agency; or*

17 “(2) *make such deposit with, or payment to, the*
18 *Federal agency as is required to meet the obligation*
19 *of the State under the agreement for the work under-*
20 *taken or to be undertaken by the Federal agency.*

21 “(b) *REIMBURSEMENT.*—On execution of a project
22 *agreement with a State described in subsection (a), the Sec-*
23 *retary may reimburse the State, using any available funds,*
24 *for the estimated Federal share under this title of the obliga-*

1 tion of the State deposited or paid under subsection
2 (a)(2).”; and

3 (2) in the last sentence, by striking “Any sums”
4 and inserting the following:

5 “(c) *RECOVERY AND CREDITING OF FUNDS.—Any*
6 *sums*”.

7 (c) *ALLOCATIONS.—Section 202 of title 23, United*
8 *States Code, is amended—*

9 (1) in subsection (a), by striking “(a) On Octo-
10 ber 1” and all that follows through “Such allocation”
11 and inserting the following:

12 “(a) *ALLOCATION BASED ON NEED.—*

13 “(1) *IN GENERAL.—On October 1 of each fiscal*
14 *year, the Secretary shall allocate sums authorized to*
15 *be appropriated for the fiscal year for forest develop-*
16 *ment roads and trails according to the relative needs*
17 *of the various national forests and grassland.*

18 “(2) *PLANNING.—The allocation under para-*
19 *graph (1)*”;

20 (2) by striking subsection (b) and inserting the
21 following:

22 “(b) *ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—*

23 “(1) *PUBLIC LANDS HIGHWAYS.—*

24 “(A) *IN GENERAL.—On October 1 of each*
25 *fiscal year, the Secretary shall allocate 33¹/₃ per-*

1 *cent of the sums authorized to be appropriated*
2 *for that fiscal year for public lands highways*
3 *among those States having unappropriated or*
4 *unreserved public lands, or nontaxable Indian*
5 *lands or other Federal reservations, on the basis*
6 *of need in the States, respectively, as determined*
7 *by the Secretary, on application of the State*
8 *transportation departments of the respective*
9 *States.*

10 “(B) *PREFERENCE.*—*In making the alloca-*
11 *tion under subparagraph (A), the Secretary shall*
12 *give preference to those projects that are signifi-*
13 *cantly impacted by Federal land and resource*
14 *management activities that are proposed by a*
15 *State that contains at least 3 percent of the total*
16 *public land in the United States.*

17 “(2) *NATIONAL FOREST SYSTEM.*—

18 “(A) *IN GENERAL.*—*On October 1 of each*
19 *fiscal year, the Secretary shall allocate 66²/₃ per-*
20 *cent of the funds authorized to be appropriated*
21 *for public lands highways for forest highways in*
22 *accordance with section 134 of the Federal-Aid*
23 *Highway Act of 1987 (23 U.S.C. 202 note; 101*
24 *Stat. 173).*

1 “(B) *PUBLIC ACCESS TO AND WITHIN NA-*
2 *TIONAL FOREST SYSTEM.—In making the alloca-*
3 *tion under subparagraph (A), the Secretary shall*
4 *give equal consideration to projects that provide*
5 *access to and within the National Forest System,*
6 *as identified by the Secretary of Agriculture*
7 *through—*

8 “(i) *renewable resource and land use*
9 *planning; and*

10 “(ii) *assessments of the impact of that*
11 *planning on transportation facilities.”;*

12 (3) *in subsection (c)—*

13 (A) *by striking “(c) On” and inserting the*
14 *following:*

15 “(c) *PARK ROADS AND PARKWAYS.—*

16 “(1) *IN GENERAL.—On”; and*

17 (B) *by adding at the end the following:*

18 “(2) *PRIORITY.—*

19 “(A) *DEFINITION OF QUALIFYING NATIONAL*
20 *PARK.—In this paragraph, the term “qualifying*
21 *national park” means a National Park that is*
22 *used more than 1,000,000 recreational visitor*
23 *days per year, based on an average of the 3 most*
24 *recent years of available data from the National*
25 *Park Service.*

1 “(B) *PRIORITY.*—*Notwithstanding any*
 2 *other provision of law, with respect to funds au-*
 3 *thorized for park roads and parkways, the Sec-*
 4 *retary shall give priority in the allocation of*
 5 *funds to projects for highways that—*

6 “(i) *are located in, or provide access*
 7 *to, a qualifying National Park; and*

8 “(ii) *were initially constructed before*
 9 *1940.*

10 “(C) *PRIORITY CONFLICTS.*—*If there is a*
 11 *conflict between projects described in subpara-*
 12 *graph (B), the Secretary shall give highest pri-*
 13 *ority to projects that—*

14 “(i) *are in, or that provide access to,*
 15 *parks that are adjacent to a National Park*
 16 *of a foreign country; or*

17 “(ii) *are located in more than 1*
 18 *State;”;*

19 (4) *in subsection (d)—*

20 (A) *in paragraph (1)—*

21 (i) *in the paragraph heading, by strik-*
 22 *ing “1999” and inserting “2005”; and*

23 (ii) *by striking “1999” and inserting*
 24 *“2005”;*

25 (B) *in paragraph (2)—*

1 (i) *in the paragraph heading, by striking*
2 *“2000” and inserting “2005”;*

3 (ii) *in subparagraphs (A), (B), and*
4 *(D), by striking “2000” each place it ap-*
5 *pears and inserting “2005”;*

6 (iii) *in subparagraph (B), by striking*
7 *“1999” each place it appears and inserting*
8 *“2004”; and*

9 (iv) *by adding at the end the following:*
10 *“(E) TRANSFERRED FUNDS.—*

11 *“(i) IN GENERAL.—Not later than 30*
12 *days after the date on which funds are*
13 *made available to the Secretary of the Inte-*
14 *rior under this paragraph, the funds shall*
15 *be distributed to, and available for imme-*
16 *diante use by, the eligible Indian tribes, in*
17 *accordance with the formula applicable for*
18 *each fiscal year.*

19 (ii) *FORMULA.—If the Secretary of*
20 *the Interior has not promulgated final regu-*
21 *lations for the distribution of funds under*
22 *clause (i) for a fiscal year by the date on*
23 *which the funds for the fiscal year are re-*
24 *quired to be distributed under that clause,*
25 *the Secretary of the Interior shall distribute*

1 the funds under clause (i) in accordance
2 with the applicable funding formula for the
3 preceding year.”;

4 (C) in paragraph (3)(A)—

5 (i) by striking “under this title” and
6 inserting “under this chapter and section
7 125(e)”; and

8 (ii) by inserting “and the approved In-
9 dian reservation road transportation im-
10 provement program” before the period at
11 the end; and

12 (D) in paragraph (4)—

13 (i) in subparagraph (B)—

14 (I) by striking “(B) RESERVA-
15 TION.—Of the amounts” and all that
16 follows through “to replace,” and in-
17 serting the following:

18 “(B) FUNDING.—

19 “(i) RESERVATION OF FUNDS.—Of the
20 amounts authorized to be appropriated for
21 Indian reservation roads for each fiscal
22 year, the Secretary, in cooperation with the
23 Secretary of the Interior, shall reserve not
24 less than \$15,000,000 for each of fiscal
25 years 2004 through 2009 to carry out plan-

1 *ning, design, engineering, preconstruction,*
2 *construction, and inspection of projects to*
3 *replace,”; and*

4 *(II) by adding at the end the fol-*
5 *lowing:*

6 *“(ii) AVAILABILITY.—Funds made*
7 *available to carry out this subparagraph*
8 *shall be available for obligation in the same*
9 *manner as if the funds were apportioned*
10 *under chapter 1.”; and*

11 *(ii) by striking subparagraph (D) and*
12 *inserting the following:*

13 *“(D) APPROVAL REQUIREMENT.—*

14 *“(i) IN GENERAL.—Subject to clause*
15 *(ii), on request by an Indian tribe or the*
16 *Secretary of the Interior, the Secretary may*
17 *make funds available under this subsection*
18 *for preliminary engineering for Indian res-*
19 *ervation road bridge projects.*

20 *“(ii) CONSTRUCTION AND CONSTRUC-*
21 *TION ENGINEERING.—The Secretary may*
22 *make funds available under clause (i) for*
23 *construction and construction engineering*
24 *only after approval by the Secretary of ap-*

1 *plicable plans, specifications, and esti-*
2 *mates.”; and*

3 *(5) by adding at the end the following:*

4 “*(f) ADMINISTRATION OF INDIAN RESERVATION*
5 *ROADS.—Notwithstanding any other provision of law, for*
6 *any fiscal year not more than 6 percent of the contract au-*
7 *thority amounts made available from the Highway Trust*
8 *Fund to the Bureau of Indian Affairs under this title shall*
9 *be used to pay the expenses incurred by the Bureau in ad-*
10 *ministering the Indian reservation roads program (includ-*
11 *ing the administrative expenses relating to individual*
12 *projects associated with the Indian reservation roads pro-*
13 *gram).”.*

14 *(d) PLANNING AND AGENCY COORDINATION.—Section*
15 *204 of title 23, United States Code, is amended—*

16 *(1) in subsection (a)(1), by inserting “refuge*
17 *roads,” after “parkways,”;*

18 *(2) by striking subsection (b) and inserting the*
19 *following:*

20 “*(b) USE OF FUNDS.—*

21 “*(1) IN GENERAL.—Funds available for public*
22 *lands highways, recreation roads, park roads and*
23 *parkways, forest highways, and Indian reservation*
24 *roads shall be used by the Secretary and the Secretary*
25 *of the appropriate Federal land management agency*

1 to pay the cost of transportation planning, research,
2 engineering, operation and maintenance of transit fa-
3 cilities, and construction of the highways, roads,
4 parkways, forest highways, and transit facilities lo-
5 cated on public land, national parks, and Indian res-
6 ervations.

7 “(2) *CONTRACT.*—In connection with an activity
8 described in paragraph (1), the Secretary and the
9 Secretary of the appropriate Federal land manage-
10 ment agency may enter into a construction contract
11 or other appropriate agreement with—

12 “(A) a State (including a political subdivi-
13 sion of a State); or

14 “(B) an Indian tribe.

15 “(3) *INDIAN RESERVATION ROADS.*—In the case
16 of an Indian reservation road—

17 “(A) Indian labor may be used, in accord-
18 ance with such rules and regulations as may be
19 promulgated by the Secretary of the Interior, to
20 carry out any construction or other activity de-
21 scribed in paragraph (1); and

22 “(B) funds made available to carry out this
23 section may be used to pay bridge
24 preconstruction costs (including planning, de-
25 sign, and engineering).

1 “(4) *FEDERAL EMPLOYMENT.*—*No maximum on*
 2 *Federal employment shall be applicable to construc-*
 3 *tion or improvement of Indian reservation roads.*

4 “(5) *AVAILABILITY OF FUNDS.*—*Funds available*
 5 *under this section for each class of Federal lands*
 6 *highway shall be available for any kind of transpor-*
 7 *tation project eligible for assistance under this title*
 8 *that is within or adjacent to, or that provides access*
 9 *to, the areas served by the particular class of Federal*
 10 *lands highway.*

11 “(6) *RESERVATION OF FUNDS.*—*The Secretary of*
 12 *the Interior may reserve funds from administrative*
 13 *funds of the Bureau of Indian Affairs that are associ-*
 14 *ated with the Indian reservation road program to fi-*
 15 *nance the Indian technical centers authorized under*
 16 *section 504(b).”; and*

17 (3) *in subsection (k)(1)—*

18 (A) *in subparagraph (B)—*

19 (i) *by striking “(2), (5),” and inserting*
 20 *“(2), (3), (5),”; and*

21 (ii) *by striking “and” after the semi-*
 22 *colon;*

23 (B) *in subparagraph (C), by striking the*
 24 *period at the end and inserting a semicolon; and*

25 (C) *by adding at the end the following:*

1 “(D) maintenance of public roads in na-
2 tional fish hatcheries under the jurisdiction of
3 the United States Fish and Wildlife Service;

4 “(E) the non-Federal share of the cost of
5 any project funded under this title or chapter 53
6 of title 49 that provides access to or within a
7 wildlife refuge; and

8 “(F) maintenance and improvement of rec-
9 reational trails (except that expenditures on
10 trails under this subparagraph shall not exceed
11 5 percent of available funds for each fiscal
12 year).”.

13 (e) SAFETY.—

14 (1) ALLOCATIONS.—Section 202 of title 23,
15 United States Code (as amended by subsection (c)(5)),
16 is amended by adding at the end the following:

17 “(g) SAFETY.—Subject to paragraph (2), on October
18 1 of each fiscal year, the Secretary shall allocate the sums
19 authorized to be appropriated for the fiscal year for safety
20 as follows:

21 “(1) 12 percent to the Bureau of Reclamation.

22 “(2) 18 percent to the Bureau of Indian Affairs.

23 “(3) 17 percent to the Bureau of Land Manage-
24 ment.

25 “(4) 17 percent to the Forest Service.

1 “(5) 7 percent to the United States Fish and
2 *Wildlife Service.*

3 “(6) 17 percent to the National Park Service.

4 “(7) 12 percent to the Corps of Engineers.”.

5 (2) *AVAILABILITY OF FUNDS.*—Section 203 of
6 *title 23, United States Code, is amended by inserting*
7 *“safety projects or activities,” after “refuge roads,”*
8 *each place it appears.*

9 (3) *USE OF FUNDING.*—Section 204 of title 23,
10 *United States Code, is amended by adding at the end*
11 *the following:*

12 “(l) *SAFETY ACTIVITIES.*—

13 “(1) *IN GENERAL.*—Notwithstanding any other
14 *provision of this title, funds made available for safety*
15 *under this title shall be used by the Secretary and the*
16 *head of the appropriate Federal land management*
17 *agency only to pay the costs of carrying out—*

18 “(A) *transportation safety improvement ac-*
19 *tivities;*

20 “(B) *activities to eliminate high-accident*
21 *locations;*

22 “(C) *projects to implement protective meas-*
23 *ures at, or eliminate, at-grade railway-highway*
24 *crossings;*

25 “(D) *collection of safety information;*

1 “(E) transportation planning projects or
2 activities;

3 “(F) bridge inspection;

4 “(G) development and operation of safety
5 management systems;

6 “(H) highway safety education programs;
7 and

8 “(I) other eligible safety projects and activi-
9 ties authorized under chapter 4.

10 “(2) *CONTRACTS.*—In carrying out paragraph
11 (1), the Secretary and the Secretary of the appro-
12 priate Federal land management agency may enter
13 into contracts or agreements with—

14 “(A) a State;

15 “(B) a political subdivision of a State; or

16 “(C) an Indian tribe.

17 “(3) *EXCEPTION.*—The cost sharing requirements
18 under the Federal Water Project Recreation Act (16
19 U.S.C. 460l–12 et seq.) shall not apply to funds made
20 available to the Bureau of Reclamation under this
21 subsection.”.

22 (f) *RECREATION ROADS.*—

23 (1) *AUTHORIZATIONS.*—Section 201 of title 23,
24 United States Code, is amended in the first sentence

1 *by inserting “recreation roads,” after “public lands*
2 *highways,”.*

3 (2) *ALLOCATIONS.—Section 202 of title 23,*
4 *United States Code (as amended by subsection (e)(1)),*
5 *is amended by adding at the end the following:*

6 *“(h) RECREATION ROADS.—*

7 *“(1) IN GENERAL.—Subject to paragraphs (2)*
8 *and (3), on October 1 of each fiscal year, the Sec-*
9 *retary, after completing the transfer under subsection*
10 *204(i), shall allocate the sums authorized to be appro-*
11 *priated for the fiscal year for recreation roads as fol-*
12 *lows:*

13 *“(A) 8 percent to the Bureau of Reclama-*
14 *tion.*

15 *“(B) 9 percent to the Corps of Engineers.*

16 *“(C) 13 percent to the Bureau of Land*
17 *Management.*

18 *“(D) 70 percent to the Forest Service.*

19 *“(2) ALLOCATION WITHIN AGENCIES.—Recre-*
20 *ation road funds allocated to a Federal agency under*
21 *paragraph (1) shall be allocated for projects and ac-*
22 *tivities of the Federal agency according to the relative*
23 *needs of each area served by recreation roads under*
24 *the jurisdiction of the Federal agency, as indicated in*

1 *the approved transportation improvement program*
2 *for each Federal agency.”.*

3 (3) *AVAILABILITY OF FUNDS.—Section 203 of*
4 *title 23, United States Code, is amended—*

5 (A) *in the first sentence, by inserting*
6 *“recreation roads,” after “Indian reservation*
7 *roads,”; and*

8 (B) *in the fourth sentence, by inserting “,*
9 *recreation roads,” after “Indian roads”.*

10 (4) *USE OF FUNDING.—Section 204 of title 23,*
11 *United States Code (as amended by subsection (e)(3)),*
12 *is amended by adding at the end the following:*

13 *“(m) RECREATION ROADS.—*

14 (1) *IN GENERAL.—Notwithstanding any other*
15 *provision of this title, funds made available for recre-*
16 *ation roads under this title shall be used by the Sec-*
17 *retary and the Secretary of the appropriate Federal*
18 *land management agency only to pay the cost of—*

19 (A) *maintenance or improvements of exist-*
20 *ing recreation roads;*

21 (B) *maintenance and improvements of eli-*
22 *gible projects described in paragraph (1), (2),*
23 *(3), (5), or (6) of subsection (h) that are located*
24 *in or adjacent to Federal land under the juris-*
25 *isdiction of—*

1 “(i) the Department of Agriculture

2 “(ii) the Department of Defense; or

3 “(iii) the Department of the Interior;

4 “(C) transportation planning and adminis-
5 trative activities associated with those mainte-
6 nance and improvements; and

7 “(D) the non-Federal share of the cost of
8 any project funded under this title or chapter 53
9 of title 49 that provides access to or within Fed-
10 eral land described in subparagraph (B).

11 “(2) *CONTRACTS.*—In carrying out paragraph
12 (1), the Secretary and the Secretary of the appro-
13 priate Federal land management agency may enter
14 into contracts or agreements with—

15 “(A) a State;

16 “(B) a political subdivision of a State; or

17 “(C) an Indian tribe.

18 “(3) *NEW ROADS.*—No funds made available
19 under this section shall be used to pay the cost of the
20 design or construction of new recreation roads.

21 “(4) *COMPLIANCE WITH OTHER ENVIRONMENTAL*
22 *LAWS.*—A maintenance or improvement project that
23 is funded under this subsection, and that is consistent
24 with or has been identified in a land use plan for an
25 area under the jurisdiction of a Federal agency, shall

1 *not require any additional environmental reviews or*
2 *assessments under the National Environmental Policy*
3 *Act of 1969 (42 U.S.C. 4321 et seq.) if—*

4 *“(A) the Federal agency that promulgated*
5 *the land use plan analyzed the specific proposal*
6 *for the maintenance or improvement project*
7 *under that Act; and*

8 *“(B) as of the date on which the funds are*
9 *to be expended, there are—*

10 *“(i) no significant changes to the pro-*
11 *posal bearing on environmental concerns;*
12 *and*

13 *“(ii) no significant new information.*

14 *“(5) EXCEPTION.—The cost sharing requirements*
15 *under the Federal Water Project Recreation Act (16*
16 *U.S.C. 460l–12 et seq.) shall not apply to funds made*
17 *available to the Bureau of Reclamation under this*
18 *subsection.”.*

19 *(g) CONFORMING AMENDMENTS.—*

20 *(1) Sections 120(e) and 125(e) of title 23, United*
21 *States Code, are amended by striking “public lands*
22 *highways,” each place it appears and inserting “pub-*
23 *lic lands highways, recreation roads,”.*

24 *(2) Sections 120(e), 125(e), 201, 202(a), and 203*
25 *of title 23, United States Code, are amended by strik-*

1 *ing “forest development roads” each place it appears*
2 *and inserting “National Forest System roads”.*

3 (3) *Section 202(e) of title 23, United States*
4 *Code, is amended by striking “Refuge System,” and*
5 *inserting “Refuge System and the various national*
6 *fish hatcheries,”.*

7 (4) *Section 204 of title 23, United States Code,*
8 *is amended—*

9 (A) *in subsection (a)(1), by striking “public*
10 *lands highways,” and inserting “public lands*
11 *highways, recreation roads, forest highways,”;*
12 *and*

13 (B) *in subsection (i), by striking “public*
14 *lands highways” each place it appears and in-*
15 *serting “public lands highways, recreation roads,*
16 *and forest highways”.*

17 (5) *Section 205 of title 23, United States Code,*
18 *is amended—*

19 (A) *by striking the section heading and in-*
20 *serting the following:*

21 **“§ 205. National Forest System roads and trails”;**

22 *and*

23 (B) *in subsections (a) and (d), by striking*
24 *“forest development roads” each place it appears*
25 *and inserting “National Forest System roads”.*

1 (6) *The analysis for chapter 2 of title 23, United*
 2 *States Code, is amended by striking the item relating*
 3 *to section 205 and inserting the following:*

“205. National Forest System roads and trails.”.

4 (7) *Section 217(c) of title 23, United States*
 5 *Code, is amended by inserting “refuge roads,” after*
 6 *“Indian reservation roads,”.*

7 **SEC. 1807. EMERGENCY RELIEF.**

8 *Section 125(c)(1) of title 23, United States Code, is*
 9 *amended by striking “\$100,000,000” and inserting*
 10 *“\$300,000,000”.*

11 **SEC. 1808. HIGHWAY BRIDGE PROGRAM.**

12 (a) *IN GENERAL.*—*Section 144 of title 23, United*
 13 *States Code, is amended—*

14 (1) *by striking the section heading and all that*
 15 *follows through subsection (a) and inserting the fol-*
 16 *lowing:*

17 **“§ 144. Highway bridge program**

18 “(a) *CONGRESSIONAL STATEMENT.*—*Congress finds*
 19 *and declares that it is in the vital interest of the United*
 20 *States that a highway bridge program be established to en-*
 21 *able States to improve the condition of their bridges through*
 22 *replacement, rehabilitation, and systematic preventative*
 23 *maintenance on highway bridges over waterways, other top-*
 24 *ographical barriers, other highways, or railroads at any*
 25 *time at which the States and the Secretary determine that*

1 *a bridge is unsafe because of structural deficiencies, phys-*
2 *ical deterioration, or functional obsolescence.”;*

3 (2) *by striking subsection (d) and inserting the*
4 *following:*

5 “(d) *PARTICIPATION IN PROGRAM.—*

6 “(1) *IN GENERAL.—On application by a State to*
7 *the Secretary for assistance in replacing or rehabili-*
8 *tating a highway bridge that has been determined to*
9 *be eligible for replacement or rehabilitation under*
10 *subsection (b) or (c), the Secretary may approve Fed-*
11 *eral participation in—*

12 “(A) *replacing the bridge with a com-*
13 *parable bridge; or*

14 “(B) *rehabilitating the bridge.*

15 “(2) *SPECIFIC KINDS OF REHABILITATION.—On*
16 *application by a State to the Secretary for assistance*
17 *in painting, seismic retrofit, or preventative mainte-*
18 *nance of, or installation of scour countermeasures or*
19 *applying calcium magnesium acetate, sodium acetate/*
20 *formate, or other environmentally acceptable, mini-*
21 *minally corrosive anti-icing and de-icing compositions*
22 *to, the structure of a highway bridge, the Secretary*
23 *may approve Federal participation in the painting,*
24 *seismic retrofit, or preventative maintenance of, or*
25 *installation of scour countermeasures or application*

1 of acetate or sodium acetate/formate or such anti-
2 icing or de-icing composition to, the structure.

3 “(3) *ELIGIBILITY*.—

4 “(A) *IN GENERAL*.—Except as provided in
5 subparagraph (B), the Secretary shall determine
6 the eligibility of highway bridges for replacement
7 or rehabilitation for each State based on the
8 number of unsafe highway bridges in the State.

9 “(B) *PREVENTATIVE MAINTENANCE*.—A
10 State may carry out a project for preventative
11 maintenance on a bridge, seismic retrofit of a
12 bridge, or installation of scour countermeasures
13 to a bridge under this section without regard to
14 whether the bridge is eligible for replacement or
15 rehabilitation under this section.”;

16 (3) in subsection (e)—

17 (A) in the third sentence, by striking
18 “square footage” and inserting “area”;

19 (B) in the fourth sentence—

20 (i) by striking “by the total cost of any
21 highway bridges constructed under sub-
22 section (m) in such State, relating to re-
23 placement of destroyed bridges and ferry-
24 boat services, and,”; and

1 (ii) by striking “1997” and inserting
2 “2003”; and

3 (C) in the seventh sentence, by striking “the
4 Federal-aid primary system” and inserting
5 “Federal-aid highways”;

6 (4) by striking subsections (f) and (g) and in-
7 serting the following:

8 “(f) SET ASIDES.—

9 “(1) DISCRETIONARY BRIDGE PROGRAM.—

10 “(A) IN GENERAL.—Of the amounts author-
11 ized to be appropriated to carry out the bridge
12 program under this section for each of fiscal
13 years 2004 through 2009, all but \$150,000,000
14 shall be apportioned as provided in subsection
15 (e).

16 “(B) AVAILABILITY.—The \$150,000,000 re-
17 ferred to in subparagraph (A) shall be available
18 at the discretion of the Secretary, except that not
19 to exceed \$25,000,000 of that amount shall be
20 available only for projects for the seismic retrofit
21 of bridges.

22 “(C) SET ASIDES.—For fiscal year 2004,
23 the Secretary shall provide—

24 “(i) \$50,000,000 to the State of Nevada
25 for construction of a replacement of the fed-

1 *erally-owned bridge over the Hoover Dam*
2 *in the Lake Mead National Recreation*
3 *Area; and*

4 *“(ii) \$50,000,000 to the State of Mis-*
5 *souri for construction of a structure over the*
6 *Mississippi River to connect the city of St.*
7 *Louis, Missouri, to the State of Illinois.*

8 *“(2) OFF-SYSTEM BRIDGES.—*

9 *“(A) IN GENERAL.—Not less than 15 per-*
10 *cent of the amount apportioned to each State in*
11 *each of fiscal years 2004 through 2009 shall be*
12 *expended for projects to replace, rehabilitate, per-*
13 *form systematic preventative maintenance or*
14 *seismic retrofit, or apply calcium magnesium ac-*
15 *etate, sodium acetate/formate, or other environ-*
16 *mentally acceptable, minimally corrosive anti-*
17 *icing and de-icing compositions or install scour*
18 *countermeasures to highway bridges located on*
19 *public roads, other than those on a Federal-aid*
20 *highway.*

21 *“(B) REDUCTION OF EXPENDITURES.—The*
22 *Secretary, after consultation with State and*
23 *local officials, may, with respect to the State, re-*
24 *duce the requirement for expenditure for bridges*
25 *not on a Federal-aid highway if the Secretary*

1 *determines that the State has inadequate needs*
2 *to justify the expenditure.”;*

3 *(5) in subsection (i)—*

4 *(A) in paragraph (3), by striking “and”;*

5 *(B) in paragraph (4), by striking the period*
6 *at the end and inserting “; and”;*

7 *(C) by striking “Such reports” and all that*
8 *follows through “to Congress.”; and*

9 *(D) by adding at the end the following:*

10 *“(5) biennially submit such reports as are re-*
11 *quired under this subsection to the appropriate com-*
12 *mittees of Congress simultaneously with the report re-*
13 *quired by section 502(g).”;*

14 *(6) in the first sentence of subsection (n), by*
15 *striking “all standards” and inserting “all general*
16 *engineering standards”;*

17 *(7) in subsection (o)—*

18 *(A) in paragraph (3)—*

19 *(i) by striking “title (including this*
20 *section)” and inserting “section”;* and

21 *(ii) by inserting “200 percent of” after*
22 *“shall not exceed”;* and

23 *(B) in paragraph (4)(B)—*

24 *(i) in the second sentence, by inserting*
25 *“200 percent of” after “not to exceed”;* and

1 (ii) in the last sentence, by striking
2 “title” and inserting “section”;

3 (8) by redesignating subsections (h) through (q)
4 as subsections (g) through (p), respectively; and

5 (9) by adding at the end the following:

6 “(q) *FEDERAL SHARE*.—The Federal share of the cost
7 of a project payable from funds made available to carry
8 out this section shall be the share applicable under section
9 120(b), as adjusted under subsection (d) of that section.”.

10 (b) *CONFORMING AMENDMENT*.—The analysis for sub-
11 chapter I of chapter 1 of title 23, United States Code, is
12 amended by striking the item relating to section 144 and
13 inserting the following:

 “144. Highway bridge program.”.

14 **SEC. 1809. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

15 (a) *IN GENERAL*.—Subchapter I of chapter 1 of title
16 23, United States Code (as amended by section 1702(a)),
17 is amended by adding at the end the following:

18 **“§ 170. Appalachian development highway system**

19 “(a) *APPORTIONMENT*.—

20 “(1) *IN GENERAL*.—The Secretary shall appor-
21 tion funds made available under section 1101(a)(7) of
22 the Safe, Accountable, Flexible, and Efficient Trans-
23 portation Equity Act of 2003 for fiscal years 2004
24 through 2009 among States based on the latest avail-
25 able estimate of the cost to construct highways and

1 *access roads for the Appalachian development high-*
2 *way system program prepared by the Appalachian*
3 *Regional Commission under section 14501 of title 40.*

4 “(2) *AVAILABILITY.*—*Funds described in para-*
5 *graph (1) shall be available to construct highways*
6 *and access roads under chapter 145 of title 40.*

7 “(b) *APPLICABILITY OF TITLE.*—*Funds made avail-*
8 *able under section 1101(a)(7) of the Safe, Accountable,*
9 *Flexible, and Efficient Transportation Equity Act of 2003*
10 *for the Appalachian development highway system shall be*
11 *available for obligation in the same manner as if the funds*
12 *were apportioned under this chapter, except that—*

13 “(1) *the Federal share of the cost of any project*
14 *under this section shall be determined in accordance*
15 *with subtitle IV of title 40; and*

16 “(2) *the funds shall remain available until ex-*
17 *pended.*”.

18 (b) *CONFORMING AMENDMENTS.*—

19 (1) *USE OF TOLL CREDITS.*—*Section 120(j)(1) of*
20 *title 23, United States Code is amended by inserting*
21 *“and the Appalachian development highway system*
22 *program under subtitle IV of title 40” after “(other*
23 *than the emergency relief program authorized by sec-*
24 *tion 125”.*

1 (2) *ANALYSIS.*—*The analysis of chapter 1 of title*
 2 *23, United States Code (as amended by section*
 3 *1702(b)), is amended by adding at the end the fol-*
 4 *lowing:*

“170. Appalachian development highway system.”.

5 **SEC. 1810. MULTISTATE CORRIDOR PROGRAM.**

6 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
 7 *23, United States Code (as amended by 1809(a)), is amend-*
 8 *ed by adding at the end the following:*

9 **“§ 171. Multistate corridor program**

10 “(a) *ESTABLISHMENT AND PURPOSE.*—*The Secretary*
 11 *shall carry out a program to—*

12 “(1) *support and encourage multistate transpor-*
 13 *tation planning and development; and*

14 “(2) *facilitate transportation decisionmaking*
 15 *and coordinate project delivery involving multistate*
 16 *corridors.*

17 “(b) *ELIGIBLE RECIPIENTS.*—*A State transportation*
 18 *department and a metropolitan planning organization may*
 19 *receive and administer funds provided under this section.*

20 “(c) *ELIGIBLE ACTIVITIES.*—*The Secretary shall make*
 21 *allocations under this program for multistate highway and*
 22 *multimodal planning studies and construction.*

23 “(d) *OTHER PROVISIONS REGARDING ELIGIBILITY.*—

24 “(1) *STUDIES.*—*All studies funded under this*
 25 *program shall be consistent with the continuing, coop-*

1 *erative, and comprehensive planning processes re-*
2 *quired by sections 134 and 135.*

3 “(2) *CONSTRUCTION.*—*All construction funded*
4 *under this program shall be consistent with section*
5 *133(b)(1).*

6 “(e) *SELECTION CRITERIA.*—*The Secretary shall select*
7 *studies and projects to be carried out under the program*
8 *based on—*

9 “(1) *the existence and significance of signed and*
10 *binding multijurisdictional agreements;*

11 “(2) *endorsement of the study or project by ap-*
12 *plicable elected State and local representatives;*

13 “(3) *prospects for early completion of the study*
14 *or project; or*

15 “(4) *whether the projects to be studied or con-*
16 *structed are located on corridors identified by section*
17 *1105(c) of the Intermodal Surface Transportation Ef-*
18 *iciency Act of 1991 (Public Law 102-240; 105 Stat.*
19 *2032).*

20 “(f) *PROGRAM PRIORITIES.*—*In administering the*
21 *program, the Secretary shall—*

22 “(1) *encourage and enable States and other ju-*
23 *risdictions to work together to develop plans for*
24 *multimodal and multijurisdictional transportation*
25 *decisionmaking; and*

1 “(2) give priority to studies or projects that em-
 2 phasize multimodal planning, including planning for
 3 operational improvements that—

4 “(A) increase—

5 “(i) mobility;

6 “(ii) freight productivity;

7 “(iii) access to marine or inland ports;

8 “(iv) safety and security; and

9 “(v) reliability; and

10 “(B) enhance the environment.

11 “(g) *FEDERAL SHARE*.—*The Federal share of the cost*
 12 *of a study or project carried out under the program, using*
 13 *funds from all Federal sources, shall be 80 percent.*

14 “(h) *APPLICABILITY*.—*Funds authorized to be appro-*
 15 *priated under section 1101(10) of the Safe, Accountable,*
 16 *Flexible, and Efficient Transportation Equity Act of 2003*
 17 *to carry out this section shall be available for obligation*
 18 *in the same manner as if the funds were apportioned under*
 19 *this chapter.*”.

20 “(b) *CONFORMING AMENDMENT*.—*The analysis for sub-*
 21 *chapter I of chapter 1 of title 23, United States Code (as*
 22 *amended by section 1810(b)) is amended by adding at the*
 23 *end the following:*

“171. *Multistate corridor program.*”.

1 **SEC. 1811. BORDER PLANNING, OPERATIONS, TECHNOLOGY,**
2 **AND CAPACITY PROGRAM.**

3 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
4 23, United States Code (as amended by section 1810(a)),
5 is amended by adding at the end the following:

6 **“§ 172. Border planning, operations, technology, and**
7 **capacity program**

8 “(a) *DEFINITIONS.*—In this section:

9 “(1) *BORDER STATE.*—The term ‘border State’
10 means any of the States of Alaska, Arizona, Cali-
11 fornia, Idaho, Maine, Michigan, Minnesota, Montana,
12 New Hampshire, New Mexico, New York, North Da-
13 kota, Texas, Vermont, and Washington.

14 “(2) *PROGRAM.*—The term ‘program’ means the
15 border planning, operations, technology, and capacity
16 program established under subsection (b).

17 “(b) *ESTABLISHMENT AND PURPOSE.*—The Secretary
18 shall establish and carry out a border planning, operations,
19 technology, and capacity improvement program to support
20 coordination and improvement in bi-national transpor-
21 tation planning, operations, efficiency, information ex-
22 change, safety, and security at the international borders of
23 the United States with Canada and Mexico.

24 “(c) *ELIGIBLE RECIPIENTS.*—State transportation de-
25 partments and metropolitan planning organizations at or

1 *near an international land border in a border State may*
2 *receive and administer funds allocated under the program.*

3 “(d) *ELIGIBLE ACTIVITIES.*—

4 “(1) *IN GENERAL.*—*The Secretary shall make al-*
5 *locations under the program for projects to carry out*
6 *eligible activities described in paragraph (2) at or*
7 *near international land borders in border States.*

8 “(2) *ELIGIBLE ACTIVITIES.*—*The eligible activi-*
9 *ties referred to in paragraph (1) are—*

10 “(A) *highway and multimodal planning or*
11 *environmental studies;*

12 “(B) *cross-border port of entry and safety*
13 *inspection improvements, including operational*
14 *enhancements and technology applications;*

15 “(C) *technology and information exchange*
16 *activities; and*

17 “(D) *right-of-way acquisition, design, and*
18 *construction, as needed—*

19 “(i) *to implement the enhancements or*
20 *applications described in subparagraphs*
21 *(B) and (C);*

22 “(ii) *to decrease air pollution emis-*
23 *sions from vehicles or inspection facilities at*
24 *border crossings; or*

1 “(iii) to increase highway capacity at
2 or near international borders.

3 “(e) *OTHER PROVISIONS REGARDING ELIGIBILITY.*—

4 “(1) *IN GENERAL.*—Each project funded under
5 the program shall be carried out in accordance with
6 the continuing, cooperative, and comprehensive plan-
7 ning processes required by sections 134 and 135.

8 “(2) *REGIONALLY SIGNIFICANT PROJECTS.*—To
9 be funded under the program, a regionally significant
10 project shall be included on the applicable transpor-
11 tation plan and program required by sections 134
12 and 135.

13 “(f) *SELECTION CRITERIA.*—The Secretary shall select
14 projects to be carried out under the program based on—

15 “(1) expected benefits, including air quality ben-
16 efits, of the project in relation to the cost of the
17 project;

18 “(2) prospects for early completion of the project;

19 “(3) endorsement of the project by formally con-
20 stituted bi-national organizations with Federal and
21 State or provincial representation;

22 “(4) the existence and significance of signed and
23 binding multijurisdictional agreements;

24 “(5) contributions, in amounts at least equal to
25 required minimums, of—

1 “(A) *Federal funds made available for other*
2 *programs under this title; and*

3 “(B) *Federal funds made available under a*
4 *provision of law other than this title; and*

5 “(6) *the extent to which the benefits of the project*
6 *are multimodal.*

7 “(g) *PROGRAM PRIORITIES.—In administering the*
8 *program, the Secretary shall give priority to projects that*
9 *emphasize—*

10 “(1) *multimodal planning;*

11 “(2) *improvements in infrastructure; and*

12 “(3) *operational improvements that—*

13 “(A) *increase safety, security, freight capac-*
14 *ity, or highway access to rail, marine, and air*
15 *services; and*

16 “(B) *enhance the environment.*

17 “(h) *FEDERAL SHARE.—The Federal share of the cost*
18 *of a project carried out under the program shall be 80 per-*
19 *cent.*

20 “(i) *OBLIGATION.—Funds made available under sec-*
21 *tion 1101(11) of the Safe, Accountable, Flexible, and Effi-*
22 *cient Transportation Equity Act of 2003 to carry out the*
23 *program shall be available for obligation in the same man-*
24 *ner as if the funds were apportioned under this chapter.*

1 “(j) *INFORMATION EXCHANGE.*—No individual project
2 *the scope of work of which is limited to information ex-*
3 *change shall receive an allocation under the program in an*
4 *amount that exceeds \$500,000 for any fiscal year.*

5 “(k) *PROJECTS IN CANADA OR MEXICO.*—A project in
6 *Canada or Mexico, proposed by a border State to directly*
7 *and predominantly facilitate cross-border vehicle and com-*
8 *mercial cargo movements at an international gateway or*
9 *port of entry into the border region of the State, may be*
10 *constructed using funds made available under the program*
11 *if, before obligation of those funds, Canada or Mexico, or*
12 *the political subdivision of Canada or Mexico that is re-*
13 *sponsible for the operation of the facility to be constructed,*
14 *provides assurances satisfactory to the Secretary that any*
15 *facility constructed under this subsection will be—*

16 “(1) *constructed in accordance with standards*
17 *equivalent to applicable standards in the United*
18 *States; and*

19 “(2) *properly maintained and used over the use-*
20 *ful life of the facility for the purpose for which the*
21 *Secretary allocated funds to the project.*

22 “(l) *TRANSFER OF FUNDS TO THE GENERAL SERVICES*
23 *ADMINISTRATION.*—

24 “(1) *STATE FUNDS.*—At the request of a border
25 *State, funds made available under the program may*

1 *be transferred to the General Services Administration*
2 *for the purpose of funding 1 or more specific projects*
3 *if—*

4 “(A) *the Secretary determines, after con-*
5 *sultation with the State transportation depart-*
6 *ment of the border State, that the General Serv-*
7 *ices Administration should carry out the project;*
8 *and*

9 “(B) *the General Services Administration*
10 *agrees to accept the transfer of, and to admin-*
11 *ister, those funds.*

12 “(2) *NON-FEDERAL SHARE.—*

13 “(A) *IN GENERAL.—A border State that*
14 *makes a request under paragraph (1) shall pro-*
15 *vide directly to the General Services Administra-*
16 *tion, for each project covered by the request, the*
17 *non-Federal share of the cost of each project de-*
18 *scribed in subsection (h).*

19 “(B) *NO AUGMENTATION OF APPROPRIA-*
20 *TIONS.—Funds provided by a border State under*
21 *subparagraph (A)—*

22 “(i) *shall not be considered to be an*
23 *augmentation of the appropriations made*
24 *available to the General Services Adminis-*
25 *tration; and*

1 “(i) shall be—

2 “(I) administered in accordance
3 with the procedures of the General
4 Services Administration; but

5 “(II) available for obligation in
6 the same manner as if the funds were
7 apportioned under this chapter.

8 “(C) OBLIGATION AUTHORITY.—Obligation
9 authority shall be transferred to the General
10 Services Administration in the same manner
11 and amount as the funds provided for projects
12 under subparagraph (A).

13 “(3) DIRECT TRANSFER OF AUTHORIZED
14 FUNDS.—

15 “(A) IN GENERAL.—In addition to alloca-
16 tions to States and metropolitan planning orga-
17 nizations under subsection (c), the Secretary
18 may transfer funds made available to carry out
19 this section to the General Services Administra-
20 tion for construction of transportation infra-
21 structure projects at or near the border in border
22 States, if—

23 “(i) the Secretary determines that the
24 transfer is necessary to effectively carry out
25 the purposes of this program; and

1 “(ii) the General Services Administra-
2 tion agrees to accept the transfer of, and to
3 administer, those funds.

4 “(B) NO AUGMENTATION OF APPROPRIA-
5 TIONS.—Funds transferred by the Secretary
6 under subparagraph (A)—

7 “(i) shall not be considered to be an
8 augmentation of the appropriations made
9 available to the General Services Adminis-
10 tration; and

11 “(ii) shall be—

12 “(I) administered in accordance
13 with the procedures of the General
14 Services Administration; but

15 “(II) available for obligation in
16 the same manner as if the funds were
17 apportioned under this chapter.

18 “(C) OBLIGATION AUTHORITY.—Obligation
19 authority shall be transferred to the General
20 Services Administration in the same manner
21 and amount as the funds transferred under sub-
22 paragraph (A).

23 “(D) NONAPPLICABILITY OF CERTAIN PROVI-
24 SION.—Section 120 shall not apply to the trans-
25 fer of funds under this paragraph.”.

1 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 2 *chapter I of chapter 1 of title 23, United States Code (as*
 3 *amended by section 1810(b)), is amended by adding at the*
 4 *end the following:*

“172. Border planning, operations, and technology program.”.

5 **SEC. 1812. PUERTO RICO HIGHWAY PROGRAM.**

6 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
 7 *23, United States Code (as amended by section 1811(a)),*
 8 *is amended by adding at the end the following:*

9 **“§ 173. Puerto Rico highway program**

10 “(a) *IN GENERAL.*—*The Secretary shall allocate funds*
 11 *authorized by section 1101(a)(15) of the Safe, Accountable,*
 12 *Flexible, and Efficient Transportation Equity Act of 2003*
 13 *for each of fiscal years 2004 through 2009 to the Common-*
 14 *wealth of Puerto Rico to carry out a highway program in*
 15 *the Commonwealth.*

16 “(b) *APPLICABILITY OF TITLE.*—

17 “(1) *IN GENERAL.*—*Amounts made available by*
 18 *section 1101(a)(15) of the Safe, Accountable, Flexible,*
 19 *and Efficient Transportation Equity Act of 2003*
 20 *shall be available for obligation in the same manner*
 21 *as if such funds were apportioned under this chapter.*

22 “(2) *LIMITATION ON OBLIGATIONS.*—*The*
 23 *amounts shall be subject to any limitation on obliga-*
 24 *tions for Federal-aid highway and highway safety*
 25 *construction programs.*

1 “(c) *TREATMENT OF FUNDS.*—Amounts made avail-
2 able to carry out this section for a fiscal year shall be ad-
3 ministered as follows:

4 “(1) *APPORTIONMENT.*—For purposes of this sec-
5 tion, the amounts shall be treated as being appor-
6 tioned to Puerto Rico under sections 104(b), 144, and
7 206, for each program funded under those sections in
8 an amount determined by multiplying—

9 “(A) the aggregate of the amounts for the
10 fiscal year; by

11 “(B) the ratio that—

12 “(i) the amount of funds apportioned
13 to Puerto Rico for each such program for
14 fiscal year 2003; bears to

15 “(ii) the total amount of funds appor-
16 tioned to Puerto Rico for all such programs
17 for fiscal year 2003.

18 “(2) *PENALTY.*—The amounts treated as being
19 apportioned to Puerto Rico under each section re-
20 ferred to in paragraph (1) shall be deemed to be re-
21 quired to be apportioned to Puerto Rico under that
22 section for purposes of the imposition of any penalty
23 under this title and title 49.

24 “(3) *EFFECT ON ALLOCATIONS AND APPORTION-*
25 *MENTS.*—Subject to paragraph (2), nothing in this

1 “(3) *conduct research on the history of historic*
2 *covered bridges; and*

3 “(4) *conduct research on, and study techniques*
4 *for, protecting historic covered bridges from rot, fire,*
5 *natural disasters, or weight-related damage.*

6 “(c) *GRANTS.—*

7 “(1) *IN GENERAL.—Subject to the availability of*
8 *appropriations, the Secretary shall make a grant to*
9 *a State that submits an application to the Secretary*
10 *that demonstrates a need for assistance in carrying*
11 *out 1 or more historic covered bridge projects de-*
12 *scribed in paragraph (2).*

13 “(2) *ELIGIBLE PROJECTS.—A grant under para-*
14 *graph (1) may be made for a project—*

15 “(A) *to rehabilitate or repair a historic cov-*
16 *ered bridge; or*

17 “(B) *to preserve a historic covered bridge,*
18 *including through—*

19 “(i) *installation of a fire protection*
20 *system, including a fireproofing or fire de-*
21 *tection system and sprinklers;*

22 “(ii) *installation of a system to pre-*
23 *vent vandalism and arson; or*

24 “(iii) *relocation of a bridge to a pres-*
25 *ervation site.*

1 “(3) *AUTHENTICITY REQUIREMENTS.*—A grant
2 under paragraph (1) may be made for a project only
3 if—

4 “(A) to the maximum extent practicable, the
5 project—

6 “(i) is carried out in the most histori-
7 cally appropriate manner; and

8 “(ii) preserves the existing structure of
9 the historic covered bridge; and

10 “(B) the project provides for the replace-
11 ment of wooden components with wooden compo-
12 nents, unless the use of wood is impracticable for
13 safety reasons.

14 “(4) *FEDERAL SHARE.*—The Federal share of the
15 cost of a project carried out with a grant under this
16 subsection shall be 80 percent.

17 “(d) *FUNDING.*—There is authorized to be appro-
18 priated to carry out this section \$14,000,000 for each of
19 fiscal years 2004 through 2009, to remain available until
20 expended.”.

21 (b) *CONFORMING AMENDMENT.*—The analysis for sub-
22 chapter I of chapter 1 of title 23, United States Code (as
23 amended by section 1812(b)), is amended by adding at the
24 end the following:

“174. National historic covered bridge preservation.”.

1 **SEC. 1814. TRANSPORTATION AND COMMUNITY AND SYS-**
2 **TEM PRESERVATION PILOT PROGRAM.**

3 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
4 23, United States Code (as amended by section 1813(a)),
5 is amended by adding at the end the following:

6 **“§175. Transportation and community and system**
7 **preservation pilot program**

8 “(a) *ESTABLISHMENT.*—The Secretary shall establish
9 a comprehensive program to facilitate the planning, devel-
10 opment, and implementation of strategies by States, metro-
11 politan planning organizations, federally-recognized Indian
12 tribes, and local governments to integrate transportation,
13 community, and system preservation plans and practices
14 that address the goals described in subsection (b).

15 “(b) *GOALS.*—The goals of the program are—

16 “(1) to improve the efficiency of the transpor-
17 tation system in the United States;

18 “(2) to reduce the impacts of transportation on
19 the environment;

20 “(3) reduce the need for costly future investments
21 in public infrastructure;

22 “(4) to provide efficient access to jobs, services,
23 and centers of trade; and

24 “(5) to examine development patterns, and to
25 identify strategies, to encourage private sector devel-

1 *opment patterns that achieve the goals identified in*
2 *paragraphs (1) through (4).*

3 “(c) *ALLOCATION OF FUNDS FOR IMPLEMENTATION.*—

4 “(1) *IN GENERAL.*—*The Secretary shall allocate*
5 *funds made available to carry out this subsection to*
6 *States, metropolitan planning organizations, and*
7 *local governments to carry out projects to address*
8 *transportation efficiency and community and system*
9 *preservation.*

10 “(2) *CRITERIA.*—*In allocating funds made avail-*
11 *able to carry out this subsection, the Secretary shall*
12 *give priority to applicants that—*

13 “(A) *have instituted preservation or devel-*
14 *opment plans and programs that—*

15 “(i) *meet the requirements of this title*
16 *and chapter 53 of title 49, United States*
17 *Code; and*

18 “(ii)(I) *are coordinated with State and*
19 *local adopted preservation or development*
20 *plans;*

21 “(II) *are intended to promote cost-ef-*
22 *fective and strategic investments in trans-*
23 *portation infrastructure that minimize ad-*
24 *verse impacts on the environment; or*

1 “(III) are intended to promote innova-
2 tive private sector strategies.

3 “(B) have instituted other policies to inte-
4 grate transportation and community and system
5 preservation practices, such as—

6 “(i) spending policies that direct funds
7 to high-growth areas;

8 “(ii) urban growth boundaries to guide
9 metropolitan expansion;

10 “(iii) ‘green corridors’ programs that
11 provide access to major highway corridors
12 for areas targeted for efficient and compact
13 development; or

14 “(iv) other similar programs or poli-
15 cies as determined by the Secretary;

16 “(C) have preservation or development poli-
17 cies that include a mechanism for reducing po-
18 tential impacts of transportation activities on
19 the environment;

20 “(D) examine ways to encourage private
21 sector investments that address the purposes of
22 this section; and

23 “(E) propose projects for funding that ad-
24 dress the purposes described in subsection (b)(2).

1 “(3) *EQUITABLE DISTRIBUTION.*—*In allocating*
2 *funds to carry out this subsection, the Secretary shall*
3 *ensure the equitable distribution of funds to a diver-*
4 *sity of populations and geographic regions.*

5 “(4) *USE OF ALLOCATED FUNDS.*—

6 “(A) *IN GENERAL.*—*An allocation of funds*
7 *made available to carry out this subsection shall*
8 *be used by the recipient to implement the*
9 *projects proposed in the application to the Sec-*
10 *retary.*

11 “(B) *TYPES OF PROJECTS.*—*The allocation*
12 *of funds shall be available for obligation for—*

13 “(i) *any project eligible for funding*
14 *under this title or chapter 53 of title 49,*
15 *United States Code; or*

16 “(ii) *any other activity relating to*
17 *transportation and community and system*
18 *preservation that the Secretary determines*
19 *to be appropriate, including corridor pres-*
20 *ervation activities that are necessary to im-*
21 *plement—*

22 “(I) *transit-oriented development*
23 *plans;*

24 “(II) *traffic calming measures; or*

1 “(III) *other coordinated transpor-*
2 *tation and community and system*
3 *preservation practices.*

4 “(d) *FUNDING.—*

5 “(1) *IN GENERAL.—There is authorized to be ap-*
6 *propriated from the Highway Trust Fund (other than*
7 *the Mass Transit Account) to carry out this section*
8 *\$50,000,000 for each of fiscal years 2004 through*
9 *2009.*

10 “(2) *CONTRACT AUTHORITY.—Funds authorized*
11 *under this subsection shall be available for obligation*
12 *in the same manner as if the funds were apportioned*
13 *under this chapter.”.*

14 “(b) *ELIGIBLE PROJECTS.—Section 133(b) of title 23,*
15 *United States Code (as amended by section 1701(a)), is*
16 *amended by adding at the end the following:*

17 “(18) *Transportation and community system*
18 *preservation to facilitate the planning, development,*
19 *and implementation of strategies of metropolitan*
20 *planning organizations and local governments to in-*
21 *tegrate transportation, community, and system pres-*
22 *ervation plans and practices that address the fol-*
23 *lowing:*

24 “(A) *Improvement of the efficiency of the*
25 *transportation system in the United States.*

1 “(B) *Reduction of the impacts of transpor-*
2 *tation on the environment.*

3 “(C) *Reduction of the need for costly future*
4 *investments in public infrastructure.*

5 “(D) *Provision of efficient access to jobs,*
6 *services, and centers of trade.*

7 “(E) *Examination of development patterns,*
8 *and identification of strategies to encourage pri-*
9 *vate sector development patterns, that achieve the*
10 *goals identified in subparagraphs (A) through*
11 *(D).*

12 “(19) *Projects relating to intersections, including*
13 *intersections—*

14 “(A) *that—*

15 “(i) *have disproportionately high acci-*
16 *dent rates;*

17 “(ii) *have high levels of congestion, as*
18 *evidenced by—*

19 “(I) *interrupted traffic flow at the*
20 *intersection; and*

21 “(II) *a level of service rating,*
22 *issued by the Transportation Research*
23 *Board of the National Academy of*
24 *Sciences in accordance with the High-*
25 *way Capacity Manual, that is not bet-*

1 *ter than ‘F’ during peak travel hours;*

2 *and*

3 *“(iii) are directly connected to or lo-*

4 *cated on a Federal-aid highway; and*

5 *“(B) improvements that are approved in the*

6 *regional plan of the appropriate local metropoli-*

7 *tan planning organization.”.*

8 *(c) CONFORMING AMENDMENT.—The analysis for sub-*
 9 *chapter I of chapter 1 of title 23, United States Code (as*
 10 *amended by section 1813(b)), is amended by adding at the*
 11 *end the following:*

“175. Transportation and community and system preservation pilot program.”.

12 **SEC. 1815. TRIBAL-STATE ROAD MAINTENANCE AGREE-**
 13 **MENTS.**

14 *Section 204 of title 23, United States Code (as amend-*
 15 *ed by section 1806(f)(4)), is amended by adding at the end*
 16 *the following:*

17 *“(n) TRIBAL-STATE ROAD MAINTENANCE AGREE-*
 18 *MENTS.—*

19 *“(1) IN GENERAL.—Notwithstanding any other*
 20 *provision of law, regulation, policy, or guideline, an*
 21 *Indian tribe and a State may enter into a road*
 22 *maintenance agreement under which an Indian tribe*
 23 *assumes the responsibilities of the State for—*

24 *“(A) Indian reservation roads; and*

1 “(B) roads providing access to Indian res-
2 ervation roads.

3 “(2) *TRIBAL-STATE AGREEMENTS*.—Agreements
4 entered into under paragraph (1)—

5 “(A) shall be negotiated between the State
6 and the Indian tribe; and

7 “(B) shall not require the approval of the
8 Secretary.

9 “(3) *ANNUAL REPORT*.—Effective beginning with
10 fiscal year 2004, the Secretary shall prepare and sub-
11 mit to Congress an annual report that identifies—

12 “(A) the Indian tribes and States that have
13 entered into agreements under paragraph (1);

14 “(B) the number of miles of roads for which
15 Indian tribes have assumed maintenance respon-
16 sibilities; and

17 “(C) the amount of funding transferred to
18 Indian tribes for the fiscal year under agree-
19 ments entered into under paragraph (1).”.

20 **SEC. 1816. FOREST HIGHWAYS.**

21 Section 204 of title 23, United States Code (as amend-
22 ed by section 1815), is amended by adding at the end the
23 following:

24 “(o) *FOREST HIGHWAYS*.—Of the amounts made
25 available for forest highways, \$15,000,000 for each fiscal

1 *year shall be used to repair culverts and bridges on forest*
 2 *highways to—*

3 “(1) *facilitate appropriate fish passage and en-*
 4 *sure reasonable flows; and*

5 “(2) *maintain and remove such culverts and*
 6 *bridges as appropriate.*”.

7 **SEC. 1817. TERRITORIAL HIGHWAY PROGRAM.**

8 (a) *IN GENERAL.*—Chapter 2 of title 23, United States
 9 Code, is amended by striking section 215 and inserting the
 10 following:

11 **“§ 215. Territorial highway program**

12 “(a) *DEFINITIONS.*—In this section:

13 “(1) *PROGRAM.*—The term ‘program’ means the
 14 territorial highway program established under sub-
 15 section (b).

16 “(2) *TERRITORY.*—The term ‘territory’ means
 17 the any of the following territories of the United
 18 States:

19 “(A) *American Samoa.*

20 “(B) *The Commonwealth of the Northern*
 21 *Mariana Islands.*

22 “(C) *Guam.*

23 “(D) *The United States Virgin Islands.*

24 “(b) *PROGRAM.*—

1 “(1) *IN GENERAL.*—*Recognizing the mutual ben-*
2 *efits that will accrue to the territories and the United*
3 *States from the improvement of highways in the terri-*
4 *tories, the Secretary may carry out a program to as-*
5 *sist each territorial government in the construction*
6 *and improvement of a system of arterial and collector*
7 *highways, and necessary inter-island connectors, that*
8 *is—*

9 “(A) *designated by the Governor or chief ex-*
10 *ecutive officer of each territory; and*

11 “(B) *approved by the Secretary.*

12 “(2) *FEDERAL ASSISTANCE.*—*The Secretary shall*
13 *provide Federal financial assistance to territories*
14 *under this section in accordance with section 120(h).*

15 “(c) *TECHNICAL ASSISTANCE.*—

16 “(1) *IN GENERAL.*—*To continue a long-range*
17 *highway development program, the Secretary may*
18 *provide technical assistance to the governments of the*
19 *territories to enable the territories to, on a continuing*
20 *basis—*

21 “(A) *engage in highway planning;*

22 “(B) *conduct environmental evaluations;*

23 “(C) *administer right-of-way acquisition*
24 *and relocation assistance programs; and*

1 “(D) design, construct, operate, and main-
2 tain a system of arterial and collector highways,
3 including necessary inter-island connectors.

4 “(2) *FORM AND TERMS OF ASSISTANCE.*—*Tech-*
5 *nical assistance provided under paragraph (1), and*
6 *the terms for the sharing of information among terri-*
7 *teries receiving the technical assistance, shall be in-*
8 *cluded in the agreement required by subsection (e).*

9 “(d) *NONAPPLICABILITY OF CERTAIN PROVISIONS.*—

10 “(1) *IN GENERAL.*—*Except to the extent that*
11 *provisions of chapter 1 are determined by the Sec-*
12 *retary to be inconsistent with the needs of the terri-*
13 *teries and the intent of the program, chapter 1 (other*
14 *than provisions of chapter 1 relating to the appor-*
15 *tionment and allocation of funds) shall apply to*
16 *funds authorized to be appropriated for the program.*

17 “(2) *APPLICABLE PROVISIONS.*—*The specific sec-*
18 *tions of chapter 1 that are applicable to each terri-*
19 *tory, and the extent of the applicability of those sec-*
20 *tion, shall be identified in the agreement required by*
21 *subsection (e).*

22 “(e) *AGREEMENT.*—

23 “(1) *IN GENERAL.*—*Except as provided in para-*
24 *graph (3), none of the funds made available for the*
25 *program shall be available for obligation or expendi-*

1 *ture with respect to any territory until the Governor*
2 *or chief executive officer of the territory enters into a*
3 *new agreement with the Secretary (which new agree-*
4 *ment shall be entered into not later than 1 year after*
5 *the date of enactment of the Safe, Accountable, Flexi-*
6 *ble, and Efficient Transportation Equity Act of*
7 *2003), providing that the government of the territory*
8 *shall—*

9 *“(A) implement the program in accordance*
10 *with applicable provisions of chapter 1 and sub-*
11 *section (d);*

12 *“(B) design and construct a system of arte-*
13 *rial and collector highways, including necessary*
14 *inter-island connectors, in accordance with*
15 *standards that are—*

16 *“(i) appropriate for each territory; and*

17 *“(ii) approved by the Secretary;*

18 *“(C) provide for the maintenance of facili-*
19 *ties constructed or operated under this section in*
20 *a condition to adequately serve the needs of*
21 *present and future traffic; and*

22 *“(D) implement standards for traffic oper-*
23 *ations and uniform traffic control devices that*
24 *are approved by the Secretary.*

1 “(2) *TECHNICAL ASSISTANCE.*—*The new agree-*
2 *ment required by paragraph (1) shall—*

3 “(A) *specify the kind of technical assistance*
4 *to be provided under the program;*

5 “(B) *include appropriate provisions regard-*
6 *ing information sharing among the territories;*
7 *and*

8 “(C) *delineate the oversight role and respon-*
9 *sibilities of the territories and the Secretary.*

10 “(3) *REVIEW AND REVISION OF AGREEMENT.*—
11 *The new agreement entered into under paragraph (1)*
12 *shall be reevaluated and, as necessary, revised, at*
13 *least every 2 years.*

14 “(4) *EXISTING AGREEMENTS.*—*With respect to*
15 *an agreement between the Secretary and the Governor*
16 *or chief executive officer of a territory that is in effect*
17 *as of the date of enactment of the Safe, Accountable,*
18 *Flexible, and Efficient Transportation Equity Act of*
19 *2003—*

20 “(A) *the agreement shall continue in force*
21 *until replaced by a new agreement in accordance*
22 *with paragraph (1); and*

23 “(B) *amounts made available for the pro-*
24 *gram under the agreement shall be available for*
25 *obligation or expenditure so long as the agree-*

1 *ment, or a new agreement under paragraph (1),*
2 *is in effect.*

3 “(f) *PERMISSIBLE USES OF FUNDS.—*

4 “(1) *IN GENERAL.—Funds made available for*
5 *the program may be used only for the following*
6 *projects and activities carried out in a territory:*

7 “(A) *Eligible surface transportation pro-*
8 *gram projects described in section 133(b).*

9 “(B) *Cost-effective, preventive maintenance*
10 *consistent with section 116.*

11 “(C) *Ferry boats, terminal facilities, and*
12 *approaches, in accordance with subsections (b)*
13 *and (c) of section 129.*

14 “(D) *Engineering and economic surveys*
15 *and investigations for the planning, and the fi-*
16 *nancing, of future highway programs.*

17 “(E) *Studies of the economy, safety, and*
18 *convenience of highway use.*

19 “(F) *The regulation and equitable taxation*
20 *of highway use.*

21 “(G) *Such research and development as are*
22 *necessary in connection with the planning, de-*
23 *sign, and maintenance of the highway system.*

24 “(2) *PROHIBITION ON USE OF FUNDS FOR ROU-*
25 *TINE MAINTENANCE.—None of the funds made avail-*

1 *able for the program shall be obligated or expended*
 2 *for routine maintenance.*

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

7 (b) *CONFORMING AMENDMENTS.*—

8 (1) *ELIGIBLE PROJECTS.*—*Section 103(b)(6) of*
 9 *title 23, United States Code, is amended by striking*
 10 *subparagraph (P) and inserting the following:*

11 “(P) *Projects eligible for assistance under the ter-*
 12 *ritorial highway program under section 215.”.*

13 (2) *FUNDING.*—*Section 104(b)(1)(A) of title 23,*
 14 *United States Code, is amended by striking “to the*
 15 *Virgin Islands, Guam, American Samoa, and the*
 16 *Commonwealth of Northern Mariana Islands” and*
 17 *inserting “for the territorial highway program au-*
 18 *thorized under section 215”.*

19 (3) *ANALYSIS.*—*The analysis for chapter 2 of*
 20 *title 23, United States Code, is amended by striking*
 21 *the item relating to section 215 and inserting the fol-*
 22 *lowing:*

“215. *Territorial highway program.”.*

1 **SEC. 1818. MAGNETIC LEVITATION TRANSPORTATION TECH-**
2 **NOLOGY DEPLOYMENT PROGRAM.**

3 *Section 322 of title 23, United States Code, is amend-*
4 *ed—*

5 *(1) in subsection (c)—*

6 *(A) by striking “Not later than” and insert-*
7 *ing the following:*

8 *“(1) INITIAL SOLICITATION.—Not later than”;*
9 *and*

10 *(B) by adding at the end the following:*

11 *“(2) ADDITIONAL SOLICITATION.—Not later than*
12 *1 year after the date of enactment of this paragraph,*
13 *the Secretary may solicit additional applications*
14 *from States, or authorities designated by 1 or more*
15 *States, for financial assistance authorized by sub-*
16 *section (b) for planning, design, and construction of*
17 *eligible MAGLEV projects.”;*

18 *(2) in subsection (e), by striking “Prior to solic-*
19 *iting applications, the Secretary” and inserting “The*
20 *Secretary”;*

21 *(3) in subsection (h)—*

22 *(A) in subparagraph (A), by striking clause*
23 *(i) and inserting the following:*

24 *“(i) IN GENERAL.—There is authorized*
25 *to be appropriated from the Highway Trust*
26 *Fund (other than the Mass Transit Ac-*

1 count) to carry out this section \$15,000,000
 2 for each of fiscal years 2004 through 2009.”;
 3 and

4 (B) in subparagraph (B), by striking clause
 5 (i) and inserting the following:

6 “(i) *IN GENERAL.*—There are author-
 7 ized to be appropriated from the Highway
 8 Trust Fund (other than the Mass Transit
 9 Account) to carry out this section—

10 “(I) \$375,000,000 for fiscal year
 11 2004;

12 “(II) \$400,000,000 for fiscal year
 13 2005;

14 “(III) \$415,000,000 for fiscal year
 15 2006;

16 “(IV) \$425,000,000 for fiscal year
 17 2007;

18 “(V) \$435,000,000 for fiscal year
 19 2008; and

20 “(VI) \$450,000,000 for fiscal year
 21 2009.”; and

22 (4) by striking subsection (i).

23 **SEC. 1819. DONATIONS AND CREDITS.**

24 Section 323 of title 23, United States Code, is amend-
 25 ed—

1 (1) *in the first sentence of subsection (c), by in-*
 2 *serting “, or a local government from offering to do-*
 3 *nate funds, materials, or services performed by local*
 4 *government employees,” after “services”; and*

5 (2) *striking subsection (e).*

6 **SEC. 1820. DISADVANTAGED BUSINESS ENTERPRISES.**

7 (a) *GENERAL RULE.—Except to the extent that the*
 8 *Secretary determines otherwise, not less than 10 percent of*
 9 *the amounts made available for any program under titles*
 10 *I, III, and V of this Act shall be expended with small busi-*
 11 *ness concerns owned and controlled by socially and eco-*
 12 *nomically disadvantaged individuals.*

13 (b) *DEFINITIONS.—In this section:*

14 (1) *SMALL BUSINESS CONCERN.—*

15 (A) *IN GENERAL.—The term “small busi-*
 16 *ness concern” has the meaning given the term*
 17 *under section 3 of the Small Business Act (15*
 18 *U.S.C. 632).*

19 (B) *EXCLUSION.—The term “small business*
 20 *concern” does not include any concern or group*
 21 *of concerns controlled by the same socially and*
 22 *economically disadvantaged individual or indi-*
 23 *viduals that has average annual gross receipts*
 24 *over the preceding 3 fiscal years in excess of*

1 \$17,420,000, as adjusted by the Secretary for in-
2 flation.

3 (2) *SOCIALLY AND ECONOMICALLY DISADVAN-*
4 *TAGED INDIVIDUALS.*—*The term “socially and eco-*
5 *nomically disadvantaged individuals” has the mean-*
6 *ing given the term under section 8(d) of the Small*
7 *Business Act (15 U.S.C. 637(d)) and relevant subcon-*
8 *tracting regulations promulgated under that section,*
9 *except that women shall be presumed to be socially*
10 *and economically disadvantaged individuals for the*
11 *purposes of this section.*

12 (c) *ANNUAL LISTING OF DISADVANTAGED BUSINESS*
13 *ENTERPRISES.*—*Each State shall annually survey and*
14 *compile a list of the small business concerns referred to in*
15 *subsection (a) and the location of such concerns in the State*
16 *and notify the Secretary, in writing, of the percentage of*
17 *such concerns which are controlled by women, by socially*
18 *and economically disadvantaged individuals (other than*
19 *women), and by individuals who are women and are other-*
20 *wise socially and economically disadvantaged individuals.*

21 (d) *UNIFORM CERTIFICATION.*—*The Secretary shall es-*
22 *tablish minimum uniform criteria for State governments*
23 *to use in certifying whether a concern qualifies for purposes*
24 *of this subsection. Such minimum uniform criteria shall*
25 *include on-site visits, personal interviews, licenses, analysis*

1 of stock ownership, listing of equipment, analysis of bond-
 2 ing capacity, listing of work completed, resume of principal
 3 owners, financial capacity, and type of work preferred.

4 (e) *COMPLIANCE WITH COURT ORDERS.*—Nothing in
 5 this section limits the eligibility of an entity or person to
 6 receive funds made available under titles I, III, and V of
 7 this Act, if the entity or person is prevented, in whole or
 8 in part, from complying with subsection (a) because a Fed-
 9 eral court issues a final order in which the court finds that
 10 the requirement of subsection (a), or the program estab-
 11 lished under subsection (a), is unconstitutional.

12 ***Subtitle I—Technical Corrections***

13 ***SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.***

14 (a) *LETTING OF CONTRACTS.*—Section 112 of title 23,
 15 United States Code, is amended—

16 (1) by striking subsection (f); and

17 (2) by redesignating subsection (g) as subsection
 18 (f).

19 (b) *FRINGE AND CORRIDOR PARKING FACILITIES.*—
 20 Section 137(a) of title 23, United States Code, is amended
 21 in the first sentence by striking “on the Federal-aid urban
 22 system” and inserting “on a Federal-aid highway”.

23 ***SEC. 1902. CLARIFICATION OF DATE.***

24 Section 109(g) of title 23, United States Code, is
 25 amended in the first sentence by striking “The Secretary”

1 *and all that follows through “of 1970” and inserting “Not*
 2 *later than January 30, 1971, the Secretary shall issue”.*

3 **SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.**

4
 5 (a) *IN GENERAL.*—Section 154 of the Federal-Aid
 6 Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209)
 7 *is—*

8 (1) *transferred to title 23, United States Code;*

9 (2) *redesignated as section 321;*

10 (3) *moved to appear after section 320 of that*
 11 *title; and*

12 (4) *amended by striking the section heading and*
 13 *inserting the following:*

14 **“§ 321. Signs identifying funding sources”.**

15 (b) *CONFORMING AMENDMENT.*—The analysis for
 16 chapter 3 of title 23, United States Code, is amended by
 17 inserting after the item relating to section 320 the following:
 “321. Signs identifying funding sources.”.

18 **SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN**
 19 **TITLE 23.**

20 (a) *IN GENERAL.*—Section 165 of the Highway Im-
 21 provement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136)
 22 *is—*

23 (1) *transferred to title 23, United States Code;*

24 (2) *redesignated as section 313;*

1 (3) moved to appear after section 312 of that
2 title; and

3 (4) amended by striking the section heading and
4 inserting the following:

5 **“§ 313. Buy America”.**

6 (b) CONFORMING AMENDMENTS.—

7 (1) The analysis for chapter 3 of title 23, United
8 States Code, is amended by inserting after the item
9 relating to section 312 the following:

“313. Buy America.”.

10 (2) Section 313 of title 23, United States Code
11 (as added by subsection (a)), is amended—

12 (A) in subsection (a), by striking “by this
13 Act” the first place it appears and all that fol-
14 lows through “of 1978” and inserting “to carry
15 out the Surface Transportation Assistance Act of
16 1982 (96 Stat. 2097) or this title”;

17 (B) in subsection (b), by redesignating
18 paragraph (4) as paragraph (3);

19 (C) in subsection (d), by striking “this
20 Act,” and all that follows through “Code, which”
21 and inserting “the Surface Transportation As-
22 sistance Act of 1982 (96 Stat. 2097) or this title
23 that”;

24 (D) by striking subsection (e); and

1 (E) by redesignating subsections (f) and (g)
2 as subsections (e) and (f), respectively.

3 **SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINA-**
4 **TION SECTION.**

5 Section 140 of title 23, United States Code, is amend-
6 ed—

7 (1) in subsection (a)—

8 (A) in the first sentence, by striking “sub-
9 section (a) of section 105 of this title” and in-
10 serting “section 135”;

11 (B) in the second sentence, by striking “He”
12 and inserting “The Secretary”;

13 (C) in the third sentence, by striking “where
14 he considers it necessary to assure” and insert-
15 ing “if necessary to ensure”; and

16 (D) in the last sentence—

17 (i) by striking “him” and inserting
18 “the Secretary” and

19 (ii) by striking “he” and inserting “the
20 Secretary”;

21 (2) in subsection (b)—

22 (A) in the first sentence, by striking “high-
23 way construction” and inserting “surface trans-
24 portation”; and

25 (B) in the second sentence—

- 1 (i) by striking “as he may deem nec-
 2 essary” and inserting “as necessary”; and
 3 (ii) by striking “not to exceed
 4 \$2,500,000 for the transition quarter ending
 5 September 30, 1976, and”;
 6 (3) in the second sentence of subsection (c)—
 7 (A) by striking “subsection 104(b)(3) of this
 8 title” and inserting “section 104(b)(3)”; and
 9 (B) by striking “he may deem”; and
 10 (4) in the heading of subsection (d), by striking
 11 “AND CONTRACTING”.

12 **TITLE II—TRANSPORTATION**
 13 **RESEARCH**
 14 **Subtitle A—Funding**

15 **SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) *IN GENERAL.*—The following sums are authorized
 17 to be appropriated out of the Highway Trust Fund (other
 18 than the Mass Transit Account):

- 19 (1) *SURFACE TRANSPORTATION RESEARCH.*—
 20 (A) *IN GENERAL.*—For carrying out sec-
 21 tions 502, 503, 506, 507, 508, and 511 of title
 22 23, United States Code—
 23 (i) \$211,000,000 for each of fiscal
 24 years 2004 and 2005;
 25 (ii) \$215,000,000 for fiscal year 2006;

1 (iii) \$218,000,000 for fiscal year 2007;

2 (iv) \$220,000,000 for fiscal year 2008;

3 and

4 (v) \$223,000,000 for fiscal year 2009.

5 (B) *SURFACE TRANSPORTATION-ENVIRON-*
6 *MENTAL COOPERATIVE RESEARCH PROGRAM.—*

7 *For each of fiscal years 2004 through 2009, the*
8 *Secretary shall set aside \$20,000,000 of the funds*
9 *apportioned under subparagraph (A) to carry*
10 *out the surface transportation-environmental co-*
11 *operative research program.*

12 (2) *TRAINING AND EDUCATION.—For carrying*
13 *out section 504 of title 23, United States Code—*

14 (A) \$27,000,000 for fiscal year 2004;

15 (B) \$28,000,000 for fiscal year 2005;

16 (C) \$29,000,000 for fiscal year 2006;

17 (D) \$30,000,000 for fiscal year 2007;

18 (E) \$31,000,000 for fiscal year 2008; and

19 (F) \$32,000,000 for fiscal year 2009.

20 (3) *BUREAU OF TRANSPORTATION STATISTICS.—*

21 *For the Bureau of Transportation Statistics to carry*
22 *out section 111 of title 49, United States Code,*
23 *\$28,000,000 for each of fiscal years 2004 through*
24 *2009.*

1 (4) *ITS STANDARDS, RESEARCH, OPERATIONAL*
2 *TESTS, AND DEVELOPMENT.*—*For carrying out sec-*
3 *tions 524, 525, 526, 527, 528, and 529 of title 23,*
4 *United States Code—*

5 (A) *\$120,000,000 for fiscal year 2004;*

6 (B) *\$123,000,000 for fiscal year 2005;*

7 (C) *\$126,000,000 for fiscal year 2006;*

8 (D) *\$129,000,000 for fiscal year 2007;*

9 (E) *\$132,000,000 for fiscal year 2008; and*

10 (F) *\$135,000,000 for fiscal year 2009.*

11 (5) *UNIVERSITY TRANSPORTATION CENTERS.*—
12 *For carrying out section 510 of title 23, United States*
13 *Code—*

14 (A) *\$40,000,000 for fiscal year 2004; and*

15 (B) *\$45,000,000 for each of fiscal years*
16 *2005 through 2009.*

17 (b) *APPLICABILITY OF TITLE 23, UNITED STATES*
18 *CODE.*—*Funds authorized to be appropriated by subsection*

19 (i) —

20 (1) *shall be available for obligation in the same*
21 *manner as if the funds were apportioned under chap-*
22 *ter 1 of title 23, United States Code, except that the*
23 *Federal share of the cost of a project or activity car-*
24 *ried out using the funds shall be the share applicable*
25 *under section 120(b) of title 23, United States Code,*

1 *as adjusted under subsection (d) of that section (un-*
2 *less otherwise specified or otherwise determined by the*
3 *Secretary); and*

4 *(2) shall remain available until expended.*

5 *(c) ALLOCATIONS.—*

6 *(1) SURFACE TRANSPORTATION RESEARCH.—Of*
7 *the amounts made available under subsection (a)(1)—*

8 *(A) \$27,000,000 for each of fiscal years*
9 *2004 through 2009 shall be available to carry*
10 *out advanced, high-risk, long-term research*
11 *under section 502(d) of title 23, United States*
12 *Code; and*

13 *(B) \$18,000,000 for fiscal years 2004 and*
14 *2005, \$17,000,000 for fiscal year 2006,*
15 *\$15,000,000 for fiscal year 2007, \$12,000,000 for*
16 *fiscal year 2008, and \$10,00,000 for fiscal year*
17 *2009 shall be available to carry out the long-*
18 *term pavement performance program under sec-*
19 *tion 502(e) of that title.*

20 *(2) TECHNOLOGY APPLICATION PROGRAM.—Of*
21 *the amounts made available under subsection (a)(1),*
22 *\$60,000,000 for each of fiscal years 2004 through*
23 *2009 shall be available to carry out section 503 of*
24 *title 23, United States Code.*

1 (3) *TRAINING AND EDUCATION.*—*Of the amounts*
2 *made available under subsection (a)(2)—*

3 (A) *\$12,000,000 for fiscal year 2004,*
4 *\$12,500,000 for fiscal year 2005, \$13,000,000 for*
5 *fiscal year 2006, \$13,500,000 for fiscal year*
6 *2007, \$14,000,000 for fiscal year 2008, and*
7 *\$14,500,000 for fiscal year 2009 shall be avail-*
8 *able to carry out section 504(a) of title 23,*
9 *United States Code (relating to the National*
10 *Highway Institute);*

11 (B) *\$12,000,000 for fiscal year 2004,*
12 *\$12,500,000 for fiscal year 2005, \$13,000,000 for*
13 *fiscal year 2006, \$13,500,000 for fiscal year*
14 *2007, \$14,000,000 for fiscal year 2008, and*
15 *\$14,500,000 for fiscal year 2009 shall be avail-*
16 *able to carry out section 504(b) of that title (re-*
17 *lating to local technical assistance); and*

18 (C) *\$3,000,000 for each of fiscal years 2004*
19 *through 2009 shall be available to carry out sec-*
20 *tion 504(c)(2) of that title (relating to the Eisen-*
21 *hower Transportation Fellowship Program).*

22 (4) *INTERNATIONAL HIGHWAY TRANSPORTATION*
23 *OUTREACH PROGRAM.*—*Of the amounts made avail-*
24 *able under subsection (a)(1), \$500,000 for each of fis-*

1 *cal years 2004 through 2009 shall be available to*
2 *carry out section 506 of title 23, United States Code.*

3 (5) *NEW STRATEGIC HIGHWAY RESEARCH PRO-*
4 *GRAM.—For each of fiscal years 2004 through 2009,*
5 *to carry out section 509 of title 23, United States*
6 *Code, the Secretary shall set aside—*

7 (A) *\$15,000,000 of the amounts made avail-*
8 *able to carry out the interstate maintenance pro-*
9 *gram under section 119 of title 23, United States*
10 *Code, for the fiscal year;*

11 (B) *\$19,000,000 of the amounts made avail-*
12 *able for the National Highway System under*
13 *section 101 of title 23, United States Code, for*
14 *the fiscal year;*

15 (C) *\$13,000,000 of the amounts made avail-*
16 *able to carry out the bridge program under sec-*
17 *tion 144 of title 23, United States Code, for the*
18 *fiscal year;*

19 (D) *\$20,000,000 of the amounts made avail-*
20 *able to carry out the surface transportation pro-*
21 *gram under section 133 of title 23, United States*
22 *Code, for the fiscal year;*

23 (E) *\$5,000,000 of the amounts made avail-*
24 *able to carry out the congestion mitigation and*
25 *air quality improvement program under section*

1 149 of title 23, United States Code, for the fiscal
2 year; and

3 (F) \$3,000,000 of the amounts made avail-
4 able to carry out the highway safety improve-
5 ment program under section 148 of title 23,
6 United States Code, for the fiscal year.

7 (6) *COMMERCIAL VEHICLE INTELLIGENT TRANS-*
8 *PORTATION SYSTEM INFRASTRUCTURE PROGRAM.*—Of
9 the amounts made available under subsection (a)(4),
10 not less than \$30,000,000 for each of fiscal years 2004
11 through 2009 shall be available to carry out section
12 527 of title 23, United States Code.

13 (d) *TRANSFERS OF FUNDS.*—The Secretary may
14 transfer—

15 (1) to an amount made available under para-
16 graphs (1), (2), or (4) of subsection (c), not to exceed
17 10 percent of the amount allocated for a fiscal year
18 under any other of those paragraphs; and

19 (2) to an amount made available under subpara-
20 graphs (A), (B), or (C) of subsection (c)(3), not to ex-
21 ceed 10 percent of the amount allocated for a fiscal
22 year under any other of those subparagraphs.

23 **SEC. 2002. OBLIGATION CEILING.**

24 Notwithstanding any other provision of law, the total
25 of all obligations from amounts made available from the

1 *Highway Trust Fund (other than the Mass Transit Ac-*
2 *count) by section 2001(a) shall not exceed—*

3 (1) \$496,000,000 for fiscal year 2004;

4 (2) \$510,000,000 for fiscal year 2005;

5 (3) \$518,000,000 for fiscal year 2006;

6 (4) \$525,000,000 for fiscal year 2007;

7 (5) \$531,000,000 for fiscal year 2008; and

8 (6) \$538,000,000 for fiscal year 2009.

9 **SEC. 2003. NOTICE.**

10 (a) *NOTICE OF REPROGRAMMING.*—*If any funds au-*
11 *thorized for carrying out this title or the amendments made*
12 *by this title are subject to a reprogramming action that re-*
13 *quires notice to be provided to the Committee on Appropria-*
14 *tions of the House of Representatives and the Committee*
15 *on Appropriations of the Senate, notice of that action shall*
16 *be concurrently provided to the Committee on Transpor-*
17 *tation and Infrastructure and the Committee on Science of*
18 *the House of Representatives and the Committee on Envi-*
19 *ronment and Public Works of the Senate.*

20 (b) *NOTICE OF REORGANIZATION.*—*On or before the*
21 *15th day preceding the date of any major reorganization*
22 *of a program, project, or activity of the Department of*
23 *Transportation for which funds are authorized by this title*
24 *or the amendments made by this title, the Secretary shall*
25 *provide notice of the reorganization to the Committee on*

1 *Transportation and Infrastructure and the Committee on*
 2 *Science of the House of Representatives and the Committee*
 3 *on Environment and Public Works of the Senate.*

4 ***Subtitle B—Research and***
 5 ***Technology***

6 ***SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.***

7 *(a) IN GENERAL.—Chapter 5 of title 23, United States*
 8 *Code, is amended to read as follows:*

9 ***“CHAPTER 5—RESEARCH AND***
 10 ***TECHNOLOGY***

“Subchapter I—Surface Transportation

“Sec.

“501. Definitions.

“502. Surface transportation research.

“503. Technology application program.

“504. Training and education.

“505. State planning and research.

“506. International highway transportation outreach program.

“507. Surface transportation-environment cooperative research program.

“508. Surface transportation research technology deployment and strategic plan-
ning.

“509. New strategic highway research program.

“510. University transportation centers.

“SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM
RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

“521. Finding.

“522. Goals and purposes.

“523. Definitions.

“524. General authorities and requirements.

“525. National ITS Program Plan.

“526. National ITS architecture and standards.

“527. Commercial vehicle intelligent transportation system infrastructure pro-
gram.

“528. Research and development.

“529. Use of funds.

1 “SUBCHAPTER I—SURFACE TRANSPORTATION

2 “§ 501. *Definitions*3 *In this subchapter:*4 “(1) *FEDERAL LABORATORY*.—*The term ‘Federal*
5 *laboratory’ includes—*6 “(A) *a Government-owned, Government-op-*
7 *erated laboratory; and*8 “(B) *a Government-owned, contractor-oper-*
9 *ated laboratory.*10 “(2) *SAFETY*.—*The term ‘safety’ includes high-*
11 *way and traffic safety systems, research, and develop-*
12 *ment relating to—*13 “(A) *vehicle, highway, driver, passenger, bi-*
14 *cyclist, and pedestrian characteristics;*15 “(B) *accident investigations;*16 “(C) *communications;*17 “(D) *emergency medical care; and*18 “(E) *transportation of the injured.*19 “§ 502. *Surface transportation research*20 “(a) *IN GENERAL*.—21 “(1) *RESEARCH, DEVELOPMENT, AND TECH-*
22 *NOLOGY TRANSFER ACTIVITIES*.—*The Secretary may*
23 *carry out research, development, and technology*
24 *transfer activities with respect to—*

1 “(A) all phases of transportation planning
2 and development (including new technologies,
3 construction, transportation systems manage-
4 ment and operations development, design, main-
5 tenance, safety, security, financing, data collec-
6 tion and analysis, demand forecasting,
7 multimodal assessment, and traffic conditions);
8 and

9 “(B) the effect of State laws on the activities
10 described in subparagraph (A).

11 “(2) TESTS AND DEVELOPMENT.—The Secretary
12 may test, develop, or assist in testing and developing,
13 any material, invention, patented article, or process.

14 “(3) COOPERATION, GRANTS, AND CONTRACTS.—

15 “(A) IN GENERAL.—The Secretary may
16 carry out this section—

17 “(i) independently;

18 “(ii) in cooperation with—

19 “(I) any other Federal agency or
20 instrumentality; and

21 “(II) any Federal laboratory; or

22 “(iii) by making grants to, or entering
23 into contracts, cooperative agreements, and
24 other transactions with—

1 “(I) *the National Academy of*
2 *Sciences;*

3 “(II) *the American Association of*
4 *State Highway and Transportation*
5 *Officials;*

6 “(III) *planning organizations;*

7 “(IV) *a Federal laboratory;*

8 “(V) *a State agency;*

9 “(VI) *an authority, association,*
10 *institution, or organization;*

11 “(VII) *a for-profit or nonprofit*
12 *corporation;*

13 “(VIII) *a foreign country; or*

14 “(IX) *any other person.*

15 “(B) *COMPETITION; REVIEW.—All parties*
16 *entering into contracts, cooperative agreements*
17 *or other transactions with the Secretary, or re-*
18 *ceiving grants, to perform research or provide*
19 *technical assistance under this section shall be*
20 *selected, to the maximum extent practicable—*

21 “(i) *on a competitive basis; and*

22 “(ii) *on the basis of the results of peer*
23 *review of proposals submitted to the Sec-*
24 *retary.*

1 “(4) *TECHNOLOGICAL INNOVATION.*—*The pro-*
2 *grams and activities carried out under this section*
3 *shall be consistent with the surface transportation re-*
4 *search and technology development strategic plan de-*
5 *veloped under section 508(c).*

6 “(5) *FUNDS.*—

7 “(A) *SPECIAL ACCOUNT.*—*In addition to*
8 *other funds made available to carry out this sec-*
9 *tion, the Secretary shall use such funds as may*
10 *be deposited by any cooperating organization or*
11 *person in a special account of the Treasury es-*
12 *tablished for this purpose.*

13 “(B) *USE OF FUNDS.*—*The Secretary shall*
14 *use funds made available to carry out this sec-*
15 *tion to develop, administer, communicate, and*
16 *promote the use of products of research, develop-*
17 *ment, and technology transfer programs under*
18 *this section.*

19 “(b) *COLLABORATIVE RESEARCH AND DEVELOP-*
20 *MENT.*—

21 “(1) *IN GENERAL.*—*To encourage innovative so-*
22 *lutions to surface transportation problems and stimu-*
23 *late the deployment of new technology, the Secretary*
24 *may carry out, on a cost-shared basis, collaborative*
25 *research and development with—*

1 “(A) *non-Federal entities (including State*
2 *and local governments, foreign governments, col-*
3 *leges and universities, corporations, institutions,*
4 *partnerships, sole proprietorships, and trade as-*
5 *sociations that are incorporated or established*
6 *under the laws of any State); and*

7 “(B) *Federal laboratories.*

8 “(2) *AGREEMENTS.—In carrying out this sub-*
9 *section, the Secretary may enter into cooperative re-*
10 *search and development agreements (as defined in sec-*
11 *tion 12 of the Stevenson-Wydler Technology Innova-*
12 *tion Act of 1980 (15 U.S.C. 3710a)).*

13 “(3) *FEDERAL SHARE.—*

14 “(A) *IN GENERAL.—The Federal share of*
15 *the cost of activities carried out under a coopera-*
16 *tive research and development agreement entered*
17 *into under this subsection shall not exceed 50*
18 *percent, except that if there is substantial public*
19 *interest or benefit, the Secretary may approve a*
20 *greater Federal share.*

21 “(B) *NON-FEDERAL SHARE.—All costs di-*
22 *rectly incurred by the non-Federal partners, in-*
23 *cluding personnel, travel, and hardware develop-*
24 *ment costs, shall be credited toward the non-Fed-*

1 *eral share of the cost of the activities described*
 2 *in subparagraph (A).*

3 “(4) *USE OF TECHNOLOGY.—The research, devel-*
 4 *opment, or use of a technology under a cooperative re-*
 5 *search and development agreement entered into under*
 6 *this subsection, including the terms under which the*
 7 *technology may be licensed and the resulting royalties*
 8 *may be distributed, shall be subject to the Stevenson-*
 9 *Wylder Technology Innovation Act of 1980 (15 U.S.C.*
 10 *3701 et seq.).*

11 “(5) *WAIVER OF ADVERTISING REQUIRE-*
 12 *MENTS.—Section 3709 of the Revised Statutes (41*
 13 *U.S.C. 5) shall not apply to a contract or agreement*
 14 *entered into under this chapter.*

15 “(c) *CONTENTS OF RESEARCH PROGRAM.—The Sec-*
 16 *retary shall include as priority areas of effort within the*
 17 *surface transportation research program—*

18 “(1) *the development of new technologies and*
 19 *methods in materials, pavements, structures, design,*
 20 *and construction, with the objectives of—*

21 “(A)(i) *increasing to 50 years the expected*
 22 *life of pavements;*

23 “(ii) *increasing to 100 years the expected*
 24 *life of bridges; and*

1 “(iii) significantly increasing the durability
2 of other infrastructure;

3 “(B) lowering the life-cycle costs, includ-
4 ing—

5 “(i) construction costs;

6 “(ii) maintenance costs;

7 “(iii) operations costs; and

8 “(vi) user costs.

9 “(2) the development, and testing for effective-
10 ness, of nondestructive evaluation technologies for
11 civil infrastructure using existing and new tech-
12 nologies;

13 “(3) the investigation of—

14 “(A) the application of current natural haz-
15 ard mitigation techniques to manmade hazards;
16 and

17 “(B) the continuation of hazard mitigation
18 research combining manmade and natural haz-
19 ards;

20 “(4) the improvement of safety—

21 “(A) at intersections;

22 “(B) with respect to accidents involving ve-
23 hicles run off the road; and

24 “(C) on rural roads;

1 “(5) the reduction of work zone incursions and
2 improvement of work zone safety;

3 “(6) the improvement of geometric design of
4 roads for the purpose of safety;

5 “(7) the examination of data collected through
6 the national bridge inventory conducted under section
7 144 using the national bridge inspection standards
8 established under section 151, with the objectives of
9 determining whether—

10 “(A) the most useful types of data are being
11 collected; and

12 “(B) any improvement could be made in the
13 types of data collected and the manner in which
14 the data is collected, with respect to bridges in
15 the United States;

16 “(8) the improvement of the infrastructure in-
17 vestment needs report described in subsection (g)
18 through—

19 “(A) the study and implementation of new
20 methods of collecting better quality data, par-
21 ticularly with respect to performance, congestion,
22 and infrastructure conditions;

23 “(B) monitoring of the surface transpor-
24 tation system in a system-wide manner, through
25 the use of—

1 “(i) *intelligent transportation system*
2 *technologies of traffic operations centers;*
3 *and*

4 “(ii) *other new data collection tech-*
5 *nologies as sources of better quality per-*
6 *formance data;*

7 “(C) *the determination of the critical*
8 *metrics that should be used to determine the con-*
9 *dition and performance of the surface transpor-*
10 *tation system; and*

11 “(D) *the study and implementation of new*
12 *methods of statistical analysis and computer*
13 *models to improve the prediction of future infra-*
14 *structure investment requirements;*

15 “(9) *the development of methods to improve the*
16 *determination of benefits from infrastructure im-*
17 *provements, including—*

18 “(A) *more accurate calculations of benefit-*
19 *to-cost ratios, considering benefits and impacts*
20 *throughout local and regional transportation sys-*
21 *tems;*

22 “(B) *improvements in calculating life-cycle*
23 *costs; and*

24 “(C) *valuation of assets;*

1 “(10) the improvement of planning processes to
2 better predict outcomes of transportation projects, in-
3 cluding the application of computer simulations in
4 the planning process to predict outcomes of planning
5 decisions;

6 “(11) the multimodal applications of Geographic
7 Information Systems and remote sensing, including
8 such areas of application as—

9 “(A) planning;

10 “(B) environmental decisionmaking and
11 project delivery; and

12 “(C) freight movement;

13 “(12) the development and application of meth-
14 ods of providing revenues to the Highway Trust Fund
15 with the objective of offsetting potential reductions in
16 fuel tax receipts;

17 “(13) the development of tests and methods to de-
18 termine the benefits and costs to communities of
19 major transportation investments and projects;

20 “(14) the conduct of extreme weather research,
21 including research to—

22 “(A) reduce contraction and expansion
23 damage;

24 “(B) reduce or repair road damage caused
25 by freezing and thawing;

1 “(C) improve deicing or snow removal tech-
2 niques;

3 “(D) develop better methods to reduce the
4 risk of thermal collapse, including collapse from
5 changes in underlying permafrost;

6 “(E) improve concrete and asphalt installa-
7 tion in extreme weather conditions; and

8 “(F) make other improvements to protect
9 highway infrastructure or enhance highway safe-
10 ty or performance;

11 “(15) the improvement of planning processes and
12 project development through the development and ap-
13 plication of collaboration tools and strategies for find-
14 ing transportation solutions; and

15 “(16) any other surface transportation research
16 topics that the Secretary determines, in accordance
17 with the strategic planning process under section 508,
18 to be critical.

19 “(d) *ADVANCED, HIGH-RISK RESEARCH.*—

20 “(1) *IN GENERAL.*—The Secretary shall establish
21 and carry out, in accordance with the surface trans-
22 portation research and technology development stra-
23 tegic plan developed under section 508(c) and re-
24 search priority areas described in subsection (c), an
25 advanced research program that addresses longer-

1 *term, higher-risk research with potentially dramatic*
2 *breakthroughs for improving the durability, efficiency,*
3 *environmental impact, productivity, and safety (in-*
4 *cluding bicycle and pedestrian safety) aspects of high-*
5 *way and intermodal transportation systems.*

6 “(2) *PARTNERSHIPS.*—*In carrying out the pro-*
7 *gram, the Secretary shall seek to develop partnerships*
8 *with the public and private sectors.*

9 “(3) *REPORT.*—*The Secretary shall include in*
10 *the strategic plan required under section 508(c) a de-*
11 *scription of each of the projects, and the amount of*
12 *funds expended for each project, carried out under*
13 *this subsection during the fiscal year.*

14 “(e) *LONG-TERM PAVEMENT PERFORMANCE PRO-*
15 *GRAM.*—

16 “(1) *AUTHORITY.*—*The Secretary shall continue,*
17 *through September 30, 2009, the long-term pavement*
18 *performance program tests, monitoring, and data*
19 *analysis.*

20 “(2) *GRANTS, COOPERATIVE AGREEMENTS, AND*
21 *CONTRACTS.*—*Under the program, the Secretary shall*
22 *make grants and enter into cooperative agreements*
23 *and contracts to—*

1 “(A) monitor, material-test, and evaluate
2 highway test sections in existence as of the date
3 of the grant, agreement, or contract;

4 “(B) analyze the data obtained in carrying
5 out subparagraph (A); and

6 “(C) prepare products to fulfill program ob-
7 jectives and meet future pavement technology
8 needs.

9 “(3) CONCLUSION OF PROGRAM.—

10 “(A) SUMMARY REPORT.—The Secretary
11 shall include in the strategic plan required under
12 section 508(c) a report on the initial conclusions
13 of the long-term pavement performance program
14 that includes—

15 “(i) an analysis of any research objec-
16 tives that remain to be achieved under the
17 program;

18 “(ii) an analysis of other associated
19 longer-term expenditures under the program
20 that are in the public interest;

21 “(iii) a detailed plan regarding the
22 storage, maintenance, and user support of
23 the database, information management sys-
24 tem, and materials reference library of the
25 program;

1 “(iv) a schedule for continued imple-
2 mentation of the necessary data collection
3 and analysis and project plan under the
4 program; and

5 “(v) an estimate of the costs of car-
6 rying out each of the activities described in
7 clauses (i) through (iv) for each fiscal year
8 during which the program is carried out.

9 “(B) *DEADLINE; USEFULNESS OF AD-*
10 *VANCES.—The Secretary shall, to the maximum*
11 *extent practicable—*

12 “(i) ensure that the long-term pave-
13 ment performance program is concluded not
14 later than September 30, 2009; and

15 “(ii) make such allowances as are nec-
16 essary to ensure the usefulness of the techno-
17 logical advances resulting from the pro-
18 gram.

19 “(f) *SEISMIC RESEARCH.—The Secretary shall—*

20 “(1) in consultation and cooperation with Fed-
21 eral agencies participating in the National Earth-
22 quake Hazards Reduction Program established by sec-
23 tion 5 of the Earthquake Hazards Reduction Act of
24 1977 (42 U.S.C. 7704), coordinate the conduct of seis-
25 mic research; and

1 “(2) take such actions as are necessary to ensure
2 that the coordination of the research is consistent
3 with—

4 “(A) planning and coordination activities
5 of the Director of the Federal Emergency Man-
6 agement Agency under section 5(b)(1) of that Act
7 (42 U.S.C. 7704(b)(1)); and

8 “(B) the plan developed by the Director of
9 the Federal Emergency Management Agency
10 under section 8(b) of that Act (42 U.S.C.
11 7705b(b)).

12 “(g) *INFRASTRUCTURE INVESTMENT NEEDS RE-*
13 *PORT.*—

14 “(1) *IN GENERAL.*—Not later than July 31,
15 2004, and July 31 of every second year thereafter, the
16 Secretary shall submit to the Committee on Environ-
17 ment and Public Works of the Senate and the Com-
18 mittee on Transportation and Infrastructure of the
19 House of Representatives a report that describes—

20 “(A) estimates of the future highway and
21 bridge needs of the United States; and

22 “(B) the backlog of current highway and
23 bridge needs.

24 “(2) *COMPARISON WITH PRIOR REPORTS.*—Each
25 report under paragraph (1) shall provide the means,

1 *including all necessary information, to relate and*
 2 *compare the conditions and service measures used in*
 3 *the previous biennial reports.*

4 “(h) *SECURITY RELATED RESEARCH AND TECH-*
 5 *NOLOGY TRANSFER ACTIVITIES.*—

6 “(1) *IN GENERAL.*—*Not later than 180 days*
 7 *after the date of enactment of the Safe, Accountable,*
 8 *Flexible, and Efficient Transportation Equity Act of*
 9 *2003, the Secretary, in consultation with the Sec-*
 10 *retary of Homeland Security, with key stakeholder*
 11 *input (including State transportation departments)*
 12 *shall develop a 5-year strategic plan for research and*
 13 *technology transfer and deployment activities per-*
 14 *taining to the security aspects of highway infrastruc-*
 15 *ture and operations.*

16 “(2) *COMPONENTS OF PLAN.*—*The plan shall in-*
 17 *clude—*

18 “(A) *an identification of which agencies are*
 19 *responsible for the conduct of various research*
 20 *and technology transfer activities;*

21 “(B) *a description of the manner in which*
 22 *those activities will be coordinated; and*

23 “(C) *a description of the process to be used*
 24 *to ensure that the advances derived from relevant*
 25 *activities supported by the Federal Highway Ad-*

1 *ministration are consistent with the operational*
2 *guidelines, policies, recommendations, and regu-*
3 *lations of the Department of Homeland Security;*
4 *and*

5 “(D) *a systematic evaluation of the research*
6 *that should be conducted to address, at a min-*
7 *imum—*

8 “(i) *vulnerabilities of, and measures*
9 *that may be taken to improve, emergency*
10 *response capabilities and evacuations;*

11 “(ii) *recommended upgrades of traffic*
12 *management during crises;*

13 “(iii) *enhanced communications*
14 *among the public, the military, law enforce-*
15 *ment, fire and emergency medical services,*
16 *and transportation agencies;*

17 “(iv) *protection of critical, security-re-*
18 *lated infrastructure; and*

19 “(v) *structural reinforcement of key fa-*
20 *cilities.*

21 “(3) *SUBMISSION.—On completion of the plan*
22 *under this subsection, the Secretary shall submit to*
23 *the Committee on Environment and Public Works of*
24 *the Senate and the Committee on Transportation and*
25 *Infrastructure of the House of Representatives—*

1 “(A) a copy of the plan developed under
2 paragraph (1); and

3 “(B) a copy of a memorandum of under-
4 standing specifying coordination strategies and
5 assignment of responsibilities covered by the plan
6 that is signed by the Secretary and the Secretary
7 of Homeland Security.

8 **“§ 503. Technology application program**

9 “(a) *TECHNOLOGY APPLICATION INITIATIVES AND*
10 *PARTNERSHIPS PROGRAM.—*

11 “(1) *ESTABLISHMENT.—The Secretary, in con-*
12 *sultation with interested stakeholders, shall develop*
13 *and administer a national technology application*
14 *initiatives and partnerships program.*

15 “(2) *PURPOSE.—The purpose of the program*
16 *shall be to significantly accelerate the adoption of in-*
17 *novative technologies by the surface transportation*
18 *community.*

19 “(3) *APPLICATION GOALS.—*

20 “(A) *ESTABLISHMENT.—Not later than 180*
21 *days after the date of enactment of the Safe, Ac-*
22 *countable, Flexible, and Efficient Transportation*
23 *Equity Act of 2003, the Secretary, in consulta-*
24 *tion with the Surface Transportation Research*
25 *Technology Advisory Committee, State transpor-*

1 *tation departments, and other interested stake-*
2 *holders, shall establish, as part of the surface*
3 *transportation research and technology develop-*
4 *ment strategic plan under section 508(c), goals*
5 *to carry out paragraph (1).*

6 *“(B) DESIGN.—Each of the goals and the*
7 *program developed to achieve the goals shall be*
8 *designed to provide tangible benefits, with respect*
9 *to transportation systems, in the areas of effi-*
10 *ciency, safety, reliability, service life, environ-*
11 *mental protection, and sustainability.*

12 *“(C) STRATEGIES FOR ACHIEVEMENT.—For*
13 *each goal, the Secretary, in cooperation with rep-*
14 *resentatives of the transportation community,*
15 *such as States, local governments, the private*
16 *sector, and academia, shall use domestic and*
17 *international technology to develop strategies*
18 *and initiatives to achieve the goal, including*
19 *technical assistance in deploying technology and*
20 *mechanisms for sharing information among pro-*
21 *gram participants.*

22 *“(4) INTEGRATION WITH OTHER PROGRAMS.—*
23 *The Secretary shall integrate activities carried out*
24 *under this subsection with the efforts of the Secretary*
25 *to—*

1 “(A) disseminate the results of research
2 sponsored by the Secretary; and

3 “(B) facilitate technology transfer.

4 “(5) *LEVERAGING OF FEDERAL RESOURCES.*—In
5 selecting projects to be carried out under this sub-
6 section, the Secretary shall give preference to projects
7 that leverage Federal funds with other significant
8 public or private resources.

9 “(6) *GRANTS, COOPERATIVE AGREEMENTS, AND*
10 *CONTRACTS.*—Under the program, the Secretary may
11 make grants and enter into cooperative agreements
12 and contracts to foster alliances and support efforts to
13 stimulate advances in transportation technology.

14 “(7) *REPORTS.*—The results and progress of ac-
15 tivities carried out under this section shall be pub-
16 lished as part of the annual transportation research
17 report prepared by the Secretary under section
18 508(c)(5).

19 “(8) *ALLOCATION.*—To the extent appropriate to
20 achieve the goals established under paragraph (3), the
21 Secretary may further allocate funds made available
22 to carry out this section to States for use by those
23 States.

24 “(b) *INNOVATIVE SURFACE TRANSPORTATION INFRA-*
25 *STRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.*—

1 “(1) *IN GENERAL.*—*The Secretary shall establish*
2 *and carry out a program for the application of inno-*
3 *vative material, design, and construction technologies*
4 *in the construction, preservation, and rehabilitation*
5 *of elements of surface transportation infrastructure.*

6 “(2) *GOALS.*—*The goals of the program shall in-*
7 *clude—*

8 “(A) *the development of new, cost-effective,*
9 *and innovative materials;*

10 “(B) *the reduction of maintenance costs and*
11 *life-cycle costs of elements of infrastructure, in-*
12 *cluding the costs of new construction, replace-*
13 *ment, and rehabilitation;*

14 “(C) *the development of construction tech-*
15 *niques to increase safety and reduce construction*
16 *time and traffic congestion;*

17 “(D) *the development of engineering design*
18 *criteria for innovative products and materials*
19 *for use in surface transportation infrastructure;*

20 “(E) *the development of highway bridges*
21 *and structures that will withstand natural disas-*
22 *ters and disasters caused by human activity; and*

23 “(F) *the development of new, nondestructive*
24 *technologies and techniques for the evaluation of*
25 *elements of transportation infrastructure.*

1 “(3) *GRANTS, COOPERATIVE AGREEMENTS, AND*
2 *CONTRACTS.—*

3 “(A) *IN GENERAL.—Under the program, the*
4 *Secretary shall make grants to, and enter into*
5 *cooperative agreements and contracts with—*

6 “(i) *States, other Federal agencies,*
7 *universities and colleges, private sector enti-*
8 *ties, and nonprofit organizations, to pay the*
9 *Federal share of the cost of research, devel-*
10 *opment, and technology transfer concerning*
11 *innovative materials and methods; and*

12 “(ii) *States, to pay the Federal share*
13 *of the cost of repair, rehabilitation, replace-*
14 *ment, and new construction of elements of*
15 *surface transportation infrastructure that*
16 *demonstrate the application of innovative*
17 *materials and methods.*

18 “(B) *APPLICATIONS.—*

19 “(i) *IN GENERAL.—To receive a grant*
20 *under this subsection, an entity described in*
21 *subparagraph (A) shall submit to the Sec-*
22 *retary an application in such form and*
23 *containing such information as the Sec-*
24 *retary may require.*

1 “(ii) *APPROVAL.*—*The Secretary shall*
 2 *select and approve an application based on*
 3 *whether the proposed project that is the sub-*
 4 *ject of the application would meet the goals*
 5 *described in paragraph (2).*

6 “(4) *TECHNOLOGY AND INFORMATION TRANS-*
 7 *FER.*—*The Secretary shall take such action as is nec-*
 8 *essary to—*

9 “(A) *ensure that the information and tech-*
 10 *nology resulting from research conducted under*
 11 *paragraph (3) is made available to State and*
 12 *local transportation departments and other in-*
 13 *terested parties, as specified by the Secretary;*
 14 *and*

15 “(B) *encourage the use of the information*
 16 *and technology.*

17 “(5) *FEDERAL SHARE.*—*The Federal share of the*
 18 *cost of a project under this section shall be determined*
 19 *by the Secretary.*

20 **“§ 504. Training and education**

21 “(a) *NATIONAL HIGHWAY INSTITUTE.*—

22 “(1) *IN GENERAL.*—*The Secretary shall—*

23 “(A) *operate, in the Federal Highway Ad-*
 24 *ministration, a National Highway Institute (re-*

1 *ferred to in this subsection as the ‘Institute’);*
2 *and*

3 *“(B) administer, through the Institute, the*
4 *authority vested in the Secretary by this title or*
5 *by any other law for the development and con-*
6 *duct of education and training programs relat-*
7 *ing to highways.*

8 *“(2) DUTIES OF THE INSTITUTE.—In coopera-*
9 *tion with State transportation departments, indus-*
10 *tries in the United States, and national or inter-*
11 *national entities, the Institute shall develop and ad-*
12 *minister education and training programs of instruc-*
13 *tion for—*

14 *“(A) Federal Highway Administration,*
15 *State, and local transportation agency employ-*
16 *ees;*

17 *“(B) regional, State, and metropolitan*
18 *planning organizations;*

19 *“(C) State and local police, public safety,*
20 *and motor vehicle employees; and*

21 *“(D) United States citizens and foreign na-*
22 *tionals engaged or to be engaged in surface*
23 *transportation work of interest to the United*
24 *States.*

25 *“(3) COURSES.—*

- 1 “(A) *IN GENERAL.*—*The Institute shall—*
- 2 “(i) *develop or update existing courses*
- 3 *in asset management, including courses that*
- 4 *include such components as—*
- 5 “(I) *the determination of life-cycle*
- 6 *costs;*
- 7 “(II) *the valuation of assets;*
- 8 “(III) *benefit-to-cost ratio calcula-*
- 9 *tions; and*
- 10 “(IV) *objective decisionmaking*
- 11 *processes for project selection; and*
- 12 “(ii) *continually develop courses relat-*
- 13 *ing to the application of emerging tech-*
- 14 *nologies for—*
- 15 “(I) *transportation infrastructure*
- 16 *applications and asset management;*
- 17 “(II) *intelligent transportation*
- 18 *systems;*
- 19 “(III) *operations (including secu-*
- 20 *rity operations);*
- 21 “(IV) *the collection and archiving*
- 22 *of data;*
- 23 “(V) *expediting the planning and*
- 24 *development of transportation projects;*
- 25 *and*

1 “(VI) *the intermodal movement of*
2 *individuals and freight.*

3 “(B) *ADDITIONAL COURSES.—In addition*
4 *to the courses developed under subparagraph (A),*
5 *the Institute, in consultation with State trans-*
6 *portation departments, metropolitan planning*
7 *organizations, and the American Association of*
8 *State Highway and Transportation Officials,*
9 *may develop courses relating to technology, meth-*
10 *ods, techniques, engineering, construction, safety,*
11 *maintenance, environmental mitigation and*
12 *compliance, regulations, management, inspec-*
13 *tion, and finance.*

14 “(C) *REVISION OF COURSES OFFERED.—*
15 *The Institute shall periodically—*

16 “(i) *review the course inventory of the*
17 *Institute; and*

18 “(ii) *revise or cease to offer courses*
19 *based on course content, applicability, and*
20 *need.*

21 “(4) *ELIGIBILITY; FEDERAL SHARE.—The funds*
22 *apportioned to a State under section 104(b)(3) for the*
23 *surface transportation program shall be expended by*
24 *the State transportation department for the payment*
25 *of not to exceed 80 percent of the cost of tuition and*

1 *direct educational expenses (excluding salaries) in*
2 *connection with the education and training of em-*
3 *ployees of State and local transportation agencies in*
4 *accordance with this subsection.*

5 “(5) *FEDERAL RESPONSIBILITY.*—

6 “(A) *IN GENERAL.*—*Except as provided in*
7 *subparagraph (B), education and training of*
8 *employees of Federal, State, and local transpor-*
9 *tation (including highway) agencies authorized*
10 *under this subsection may be provided—*

11 “(i) *by the Secretary, at no cost to the*
12 *States and local governments, if the Sec-*
13 *retary determines that provision at no cost*
14 *is in the public interest; or*

15 “(ii) *by the State, through grants, co-*
16 *operative agreements, and contracts with*
17 *public and private agencies, institutions,*
18 *individuals, and the Institute.*

19 “(B) *PAYMENT OF FULL COST BY PRIVATE*
20 *PERSONS.*—*Private agencies, international or*
21 *foreign entities, and individuals shall pay the*
22 *full cost of any education and training (includ-*
23 *ing the cost of course development) received by*
24 *the agencies, entities, and individuals, unless the*
25 *Secretary determines that payment of a lesser*

1 *amount of the cost is of critical importance to*
2 *the public interest.*

3 “(6) *TRAINING FELLOWSHIPS; COOPERATION.*—

4 *The Institute may—*

5 “(A) *engage in training activities author-*
6 *ized under this subsection, including the grant-*
7 *ing of training fellowships; and*

8 “(B) *exercise the authority of the Institute*
9 *independently or in cooperation with any—*

10 “(i) *other Federal or State agency;*

11 “(ii) *association, authority, institu-*
12 *tion, or organization;*

13 “(iii) *for-profit or nonprofit corpora-*
14 *tion;*

15 “(iv) *national or international entity;*

16 “(v) *foreign country; or*

17 “(vi) *person.*

18 “(7) *COLLECTION OF FEES.*—

19 “(A) *IN GENERAL.*—*In accordance with this*
20 *subsection, the Institute may assess and collect*
21 *fees to defray the costs of the Institute in devel-*
22 *oping or administering education and training*
23 *programs under this subsection.*

1 “(B) *PERSONS SUBJECT TO FEES.*—*Fees*
2 *may be assessed and collected under this sub-*
3 *section only with respect to—*

4 “(i) *persons and entities for whom edu-*
5 *cation or training programs are developed*
6 *or administered under this subsection; and*

7 “(ii) *persons and entities to whom edu-*
8 *cation or training is provided under this*
9 *subsection.*

10 “(C) *AMOUNT OF FEES.*—*The fees assessed*
11 *and collected under this subsection shall be estab-*
12 *lished in a manner that ensures that the liability*
13 *of any person or entity for a fee is reasonably*
14 *based on the proportion of the costs referred to*
15 *in subparagraph (A) that relate to the person or*
16 *entity.*

17 “(D) *USE.*—*All fees collected under this*
18 *subsection shall be used, without further appro-*
19 *priation, to defray costs associated with the de-*
20 *velopment or administration of education and*
21 *training programs authorized under this sub-*
22 *section.*

23 “(8) *RELATION TO FEES.*—*The funds made*
24 *available to carry out this subsection may be com-*

1 *bined with or held separate from the fees collected*
2 *under—*

3 *“(A) paragraph (7);*

4 *“(B) memoranda of understanding;*

5 *“(C) regional compacts; and*

6 *“(D) other similar agreements.*

7 *“(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—*

8 *“(1) AUTHORITY.—The Secretary shall carry out*
9 *a local technical assistance program that will provide*
10 *access to surface transportation technology to—*

11 *“(A) highway and transportation agencies*
12 *in urbanized areas;*

13 *“(B) highway and transportation agencies*
14 *in rural areas;*

15 *“(C) contractors that perform work for the*
16 *agencies; and*

17 *“(D) infrastructure security.*

18 *“(2) GRANTS, COOPERATIVE AGREEMENTS, AND*
19 *CONTRACTS.—The Secretary may make grants and*
20 *enter into cooperative agreements and contracts to*
21 *provide education and training, technical assistance,*
22 *and related support services to—*

23 *“(A) assist rural, local transportation agen-*
24 *cies and tribal governments, and the consultants*

1 *and construction personnel working for the agen-*
2 *cies and governments, to—*

3 “(i) *develop and expand expertise in*
4 *road and transportation areas (including*
5 *pavement, bridge, concrete structures, inter-*
6 *modal connections, safety management sys-*
7 *tems, intelligent transportation systems, in-*
8 *cident response, operations, and traffic safe-*
9 *ty countermeasures);*

10 “(ii) *improve roads and bridges;*

11 “(iii) *enhance—*

12 “(I) *programs for the movement of*
13 *passengers and freight; and*

14 “(II) *intergovernmental transpor-*
15 *tation planning and project selection;*
16 *and*

17 “(iv) *deal effectively with special*
18 *transportation-related problems by pre-*
19 *paring and providing training packages,*
20 *manuals, guidelines, and technical resource*
21 *materials;*

22 “(B) *develop technical assistance for tour-*
23 *ism and recreational travel;*

24 “(C) *identify, package, and deliver trans-*
25 *portation technology and traffic safety informa-*

1 *tion to local jurisdictions to assist urban trans-*
2 *portation agencies in developing and expanding*
3 *their ability to deal effectively with transpor-*
4 *tation-related problems (particularly the pro-*
5 *motion of regional cooperation);*

6 *“(D) operate, in cooperation with State*
7 *transportation departments and universities—*

8 *“(i) local technical assistance program*
9 *centers designated to provide transportation*
10 *technology transfer services to rural areas*
11 *and to urbanized areas; and*

12 *“(ii) local technical assistance program*
13 *centers designated to provide transportation*
14 *technical assistance to tribal governments;*
15 *and*

16 *“(E) allow local transportation agencies*
17 *and tribal governments, in cooperation with the*
18 *private sector, to enhance new technology imple-*
19 *mentation.*

20 *“(c) RESEARCH FELLOWSHIPS.—*

21 *“(1) GENERAL AUTHORITY.—The Secretary, act-*
22 *ing independently or in cooperation with other Fed-*
23 *eral agencies and instrumentalities, may make grants*
24 *for research fellowships for any purpose for which re-*
25 *search is authorized by this chapter.*

1 “(2) *DWIGHT DAVID EISENHOWER TRANSPOR-*
2 *TATION FELLOWSHIP PROGRAM.—The Secretary shall*
3 *establish and implement a transportation research fel-*
4 *lowship program, to be known as the ‘Dwight David*
5 *Eisenhower Transportation Fellowship Program’, for*
6 *the purpose of attracting qualified students to the*
7 *field of transportation.*

8 **“§ 505. State planning and research**

9 “(a) *IN GENERAL.—Two percent of the sums appor-*
10 *tioned to a State for fiscal year 2004 and each fiscal year*
11 *thereafter under sections 104 (other than subsections (f) and*
12 *(h)) and 144 shall be available for expenditure by the State,*
13 *in consultation with the Secretary, only for—*

14 “(1) *the conduct of engineering and economic*
15 *surveys and investigations;*

16 “(2) *the planning of—*

17 “(A) *future highway programs and local*
18 *public transportation systems; and*

19 “(B) *the financing of those programs and*
20 *systems, including metropolitan and statewide*
21 *planning under sections 134 and 135;*

22 “(3) *the development and implementation of*
23 *management systems under section 303;*

24 “(4) *the conduct of studies on—*

1 “(A) *the economy, safety, and convenience*
2 *of surface transportation systems; and*

3 “(B) *the desirable regulation and equitable*
4 *taxation of those systems;*

5 “(5) *research, development, and technology trans-*
6 *fer activities necessary in connection with the plan-*
7 *ning, design, construction, management, and mainte-*
8 *nance of highway, public transportation, and inter-*
9 *modal transportation systems;*

10 “(6) *the conduct of studies, research, and train-*
11 *ing relating to the engineering standards and con-*
12 *struction materials for surface transportation systems*
13 *described in paragraph (5) (including the evaluation*
14 *and accreditation of inspection and testing and the*
15 *regulation of and charging for the use of the stand-*
16 *ards and materials); and*

17 “(7) *the conduct of activities relating to the*
18 *planning of real-time monitoring elements.*

19 “(b) *MINIMUM EXPENDITURES ON RESEARCH, DEVEL-*
20 *OPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—*

21 “(1) *IN GENERAL.—Subject to paragraph (2),*
22 *not less than 25 percent of the funds subject to sub-*
23 *section (a) that are apportioned to a State for a fiscal*
24 *year shall be expended by the State for research, de-*
25 *velopment, and technology transfer activities that—*

1 “(A) are described in subsection (a); and

2 “(B) relate to highway, public transpor-
3 tation, and intermodal transportation systems.

4 “(2) *WAIVERS.*—*The Secretary may waive the*
5 *application of paragraph (1) with respect to a State*
6 *for a fiscal year if—*

7 “(A) *the State certifies to the Secretary for*
8 *the fiscal year that total expenditures by the*
9 *State for transportation planning under sections*
10 *134 and 135 will exceed 75 percent of the funds*
11 *described in paragraph (1); and*

12 “(B) *the Secretary accepts the certification*
13 *of the State.*

14 “(3) *NONAPPLICABILITY OF ASSESSMENT.*—
15 *Funds expended under paragraph (1) shall not be*
16 *considered to be part of the extramural budget of the*
17 *agency for the purpose of section 9 of the Small Busi-*
18 *ness Act (15 U.S.C. 638).*

19 “(c) *FEDERAL SHARE.*—*The Federal share of the cost*
20 *of a project carried out using funds subject to subsection*
21 *(a) shall be the share applicable under section 120(b), as*
22 *adjusted under subsection (d) of that section.*

23 “(d) *ADMINISTRATION OF SUMS.*—*Funds subject to*
24 *subsection (a) shall be—*

1 “(1) combined and administered by the Sec-
2 retary as a single fund; and

3 “(2) available for obligation for the period de-
4 scribed in section 118(b)(2).

5 “(e) *ELIGIBLE USE OF STATE PLANNING AND RE-*
6 *SEARCH FUNDS.*—A State, in coordination with the Sec-
7 retary, may obligate funds made available to carry out this
8 section for any purpose authorized under section 506(a).

9 “**§ 506. International highway transportation out-**
10 **reach program**

11 “(a) *ESTABLISHMENT.*—The Secretary may establish
12 an international highway transportation outreach pro-
13 gram—

14 “(1) to inform the United States highway com-
15 munity of technological innovations in foreign coun-
16 tries that could significantly improve highway trans-
17 portation in the United States;

18 “(2) to promote United States highway transpor-
19 tation expertise, goods, and services in foreign coun-
20 tries; and

21 “(3) to increase transfers of United States high-
22 way transportation technology to foreign countries.

23 “(b) *ACTIVITIES.*—Activities carried out under the
24 program may include—

1 “(1) the development, monitoring, assessment,
2 and dissemination in the United States of informa-
3 tion about highway transportation innovations in
4 foreign countries that could significantly improve
5 highway transportation in the United States;

6 “(2) research, development, demonstration, train-
7 ing, and other forms of technology transfer and ex-
8 change;

9 “(3) the provision to foreign countries, through
10 participation in trade shows, seminars, expositions,
11 and other similar activities, of information relating
12 to the technical quality of United States highway
13 transportation goods and services;

14 “(4) the offering of technical services of the Fed-
15 eral Highway Administration that cannot be readily
16 obtained from private sector firms in the United
17 States for incorporation into the proposals of those
18 firms undertaking highway transportation projects
19 outside the United States, if the costs of the technical
20 services will be recovered under the terms of the
21 project;

22 “(5) the conduct of studies to assess the need for,
23 or feasibility of, highway transportation improve-
24 ments in foreign countries; and

1 “(6) *the gathering and dissemination of informa-*
2 *tion on foreign transportation markets and indus-*
3 *tries.*

4 “(c) *COOPERATION.—The Secretary may carry out*
5 *this section in cooperation with any appropriate—*

6 “(1) *Federal, State, or local agency;*

7 “(2) *authority, association, institution, or orga-*
8 *nization;*

9 “(3) *for-profit or nonprofit corporation;*

10 “(4) *national or international entity;*

11 “(5) *foreign country; or*

12 “(6) *person.*

13 “(d) *FUNDS.—*

14 “(1) *CONTRIBUTIONS.—Funds available to carry*
15 *out this section shall include funds deposited by any*
16 *cooperating organization or person into a special ac-*
17 *count of the Treasury established for this purpose.*

18 “(2) *ELIGIBLE USES OF FUNDS.—The funds de-*
19 *posited into the account, and other funds available to*
20 *carry out this section, shall be available to cover the*
21 *cost of any activity eligible under this section, includ-*
22 *ing the cost of—*

23 “(A) *promotional materials;*

24 “(B) *travel;*

1 “(C) reception and representation expenses;

2 and

3 “(D) salaries and benefits.

4 “(3) *REIMBURSEMENTS FOR SALARIES AND BEN-*
5 *EFITS.*—Reimbursements for salaries and benefits of
6 *Department of Transportation employees providing*
7 *services under this section shall be credited to the ac-*
8 *count.*

9 “(e) *REPORT*—For each fiscal year, the Secretary shall
10 *submit to the Committee on Environment and Public Works*
11 *of the Senate and the Committee on Transportation and*
12 *Infrastructure of the House of Representatives a report that*
13 *describes the destinations and individual trip costs of inter-*
14 *national travel conducted in carrying out activities de-*
15 *scribed in this section.*

16 “§507. **Surface transportation-environment coopera-**
17 **tive research program**

18 “(a) *IN GENERAL.*—The Secretary shall establish and
19 *carry out a surface transportation-environment cooperative*
20 *research program.*

21 “(b) *CONTENTS.*—The program carried out under this
22 *section may include research—*

23 “(1) *to develop more accurate models for evalu-*
24 *ating transportation control measures and transpor-*
25 *tation system designs that are appropriate for use by*

1 *State and local governments (including metropolitan*
2 *planning organizations) in designing implementation*
3 *plans to meet Federal, State, and local environmental*
4 *requirements;*

5 *“(2) to improve understanding of the factors that*
6 *contribute to the demand for transportation;*

7 *“(3) to develop indicators of economic, social,*
8 *and environmental performance of transportation sys-*
9 *tems to facilitate analysis of potential alternatives;*

10 *“(4) to meet additional priorities as determined*
11 *by the Secretary in the strategic planning process*
12 *under section 508; and*

13 *“(5) to refine, through the conduct of workshops,*
14 *symposia, and panels, and in consultation with stake-*
15 *holders (including the Department of Energy, the En-*
16 *vironmental Protection Agency, and other appro-*
17 *priate Federal and State agencies and associations)*
18 *the scope and research emphases of the program.*

19 *“(c) PROGRAM ADMINISTRATION.—The Secretary*
20 *shall—*

21 *“(1) administer the program established under*
22 *this section; and*

23 *“(2) ensure, to the maximum extent practicable,*
24 *that—*

1 “(A) the best projects and researchers are se-
2 lected to conduct research in the priority areas
3 described in subsection (b)—

4 “(i) on the basis of merit of each sub-
5 mitted proposal; and

6 “(ii) through the use of open sollicita-
7 tions and selection by a panel of appro-
8 priate experts;

9 “(B) a qualified, permanent core staff with
10 the ability and expertise to manage a large
11 multiyear budget is used;

12 “(C) the stakeholders are involved in the
13 governance of the program, at the executive, over-
14 all program, and technical levels, through the use
15 of expert panels and committees; and

16 “(D) there is no duplication of research ef-
17 fort between the program established under this
18 section and the new strategic highway research
19 program established under section 509.

20 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
21 retary may make grants to, and enter into cooperative
22 agreements with, the National Academy of Sciences to carry
23 out such activities relating to the research, technology, and
24 technology transfer activities described in subsections (b)
25 and (c) as the Secretary determines to be appropriate.

1 **“§ 508. Surface transportation research technology de-**
2 **ployment and strategic planning**

3 “(a) *PLANNING.*—

4 “(1) *ESTABLISHMENT.*—*The Secretary shall—*

5 “(A) *establish, in accordance with section*
6 *306 of title 5, a strategic planning process*
7 *that—*

8 “(i) *enhances effective implementation*
9 *of this section through the establishment in*
10 *accordance with paragraph (2) of the Sur-*
11 *face Transportation Research Technology*
12 *Advisory Committee; and*

13 “(ii) *focuses on surface transportation*
14 *research funded through paragraphs (1),*
15 *(2), (4), and (5) of section 2001(a) of the*
16 *Safe, Accountable, Flexible, and Efficient*
17 *Transportation Equity Act of 2003, taking*
18 *into consideration national surface trans-*
19 *portation system needs and intermodality*
20 *requirements;*

21 “(B) *coordinate Federal surface transpor-*
22 *tation research, technology development, and de-*
23 *ployment activities;*

24 “(C) *at such intervals as are appropriate*
25 *and practicable, measure the results of those ac-*
26 *tivities and the ways in which the activities af-*

1 *fect the performance of the surface transportation*
2 *systems of the United States; and*

3 “(D) ensure, to the maximum extent prac-
4 *ticable, that planning and reporting activities*
5 *carried out under this section are coordinated*
6 *with all other surface transportation planning*
7 *and reporting requirements.*

8 “(2) *SURFACE TRANSPORTATION RESEARCH*
9 *TECHNOLOGY ADVISORY COMMITTEE.—*

10 “(A) *ESTABLISHMENT.—Not later than 90*
11 *days after the date of enactment of the Safe, Ac-*
12 *countable, Flexible, and Efficient Transportation*
13 *Equity Act of 2003, the Secretary shall establish*
14 *a committee to be known as the ‘Surface Trans-*
15 *portation Research Technology Advisory Com-*
16 *mittee’ (referred to in this section as the ‘Com-*
17 *mittee’).*

18 “(B) *MEMBERSHIP.—The Committee shall*
19 *be composed of 12 members appointed by the*
20 *Secretary—*

21 “(i) *each of which shall have expertise*
22 *in a particular area relating to Federal*
23 *surface transportation programs, includ-*
24 *ing—*

25 “(I) *safety;*

1 “(II) operations;

2 “(III) infrastructure (including
3 pavements and structures);

4 “(IV) planning and environment;

5 “(V) policy; and

6 “(VI) asset management; and

7 “(ii) of which—

8 “(I) 3 members shall be individ-
9 uals representing the Federal Govern-
10 ment;

11 “(II) 3 members—

12 “(aa) shall be exceptionally
13 qualified to serve on the Com-
14 mittee, as determined by the Sec-
15 retary, based on education, train-
16 ing, and experience; and

17 “(bb) shall not be officers or
18 employees of the United States;

19 “(III) 3 members—

20 “(aa) shall represent the
21 transportation industry (includ-
22 ing the pavement industry); and

23 “(bb) shall not be officers or
24 employees of the United States;
25 and

1 “(IV) 3 members shall represent
2 State transportation departments from
3 3 different geographical regions of the
4 United States.

5 “(C) MEETINGS.—The advisory subcommit-
6 tees shall meet on a regular basis, but not less
7 than twice each year.

8 “(D) DUTIES.—The Committee shall pro-
9 vide to the Secretary, on a continuous basis, ad-
10 vice and guidance relating to—

11 “(i) the determination of surface trans-
12 portation research priorities;

13 “(ii) the improvement of the research
14 planning and implementation process;

15 “(iii) the design and selection of re-
16 search projects;

17 “(iv) the review of research results;

18 “(v) the planning and implementation
19 of technology transfer activities and

20 “(vi) the formulation of the surface
21 transportation research and technology de-
22 ployment and deployment strategic plan re-
23 quired under subsection (c).

24 “(E) AUTHORIZATION OF APPROPRIA-
25 TIONS.—There is authorized to be appropriated

1 *from the Highway Trust Fund (other than the*
 2 *Mass Transit Account) to carry out this para-*
 3 *graph \$200,000 for each fiscal year.*

4 “(b) *IMPLEMENTATION.—The Secretary shall—*

5 “(1) *provide for the integrated planning, coordi-*
 6 *nation, and consultation among the operating admin-*
 7 *istrations of the Department of Transportation, all*
 8 *other Federal agencies with responsibility for surface*
 9 *transportation research and technology development,*
 10 *State and local governments, institutions of higher*
 11 *education, industry, and other private and public sec-*
 12 *tor organizations engaged in surface transportation-*
 13 *related research and development activities; and*

14 “(2) *ensure that the surface transportation re-*
 15 *search and technology development programs of the*
 16 *Department do not duplicate other Federal, State, or*
 17 *private sector research and development programs.*

18 “(c) *SURFACE TRANSPORTATION RESEARCH AND*
 19 *TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—*

20 “(1) *IN GENERAL.—After receiving, and based*
 21 *on, extensive consultation and input from stakeholders*
 22 *representing the transportation community and the*
 23 *Surface Transportation Research Advisory Com-*
 24 *mittee, the Secretary shall, not later than 1 year after*
 25 *the date of enactment of the Safe, Accountable, Flexi-*

1 *ble, and Efficient Transportation Equity Act of 2003,*
 2 *complete, and shall periodically update thereafter, a*
 3 *strategic plan for each of the core surface transpor-*
 4 *tation research areas, including—*

5 *“(A) safety;*

6 *“(B) operations;*

7 *“(C) infrastructure (including pavements*
 8 *and structures);*

9 *“(D) planning and environment; and*

10 *“(E) policy.*

11 *“(2) COMPONENTS.—The strategic plan shall*
 12 *specify—*

13 *“(A) surface transportation research objec-*
 14 *tives and priorities;*

15 *“(B) specific highway research projects to be*
 16 *conducted;*

17 *“(C) recommended technology transfer ac-*
 18 *tivities to promote the deployment of advances*
 19 *resulting from the highway research conducted;*
 20 *and*

21 *“(D) short- and long-term technology devel-*
 22 *opment and deployment activities.*

23 *“(3) REVIEW AND SUBMISSION OF FINDINGS.—*
 24 *The Secretary shall enter into a contract with the*
 25 *Transportation Research Board of the National Acad-*

1 *emy of Sciences, on behalf of the Research and Tech-*
2 *nology Coordinating Committee of the National Re-*
3 *search Council, under which—*

4 *“(A) the Transportation Research Board*
5 *shall—*

6 *“(i) review the research and technology*
7 *planning and implementation process used*
8 *by Federal Highway Administration; and*

9 *“(ii) evaluate each of the strategic*
10 *plans prepared under this subsection—*

11 *“(I) to ensure that sufficient*
12 *stakeholder input is being solicited and*
13 *considered throughout the preparation*
14 *process; and*

15 *“(II) to offer recommendations*
16 *relevant to research priorities, project*
17 *selection, and deployment strategies;*
18 *and*

19 *“(B) the Secretary shall ensure that the Re-*
20 *search and Technology Coordinating Committee,*
21 *in a timely manner, informs the Committee on*
22 *Environment and Public Works of the Senate*
23 *and the Committee on Transportation and Infra-*
24 *structure of the House of Representatives of the*

1 *findings of the review and evaluation under sub-*
2 *paragraph (A).*

3 “(4) *RESPONSES OF SECRETARY.*—*Not later*
4 *than 60 days after the date of completion of the stra-*
5 *tegic plan under this subsection, the Secretary shall*
6 *submit to the Committee on Environment and Public*
7 *Works of the Senate and the Committee on Transpor-*
8 *tation and Infrastructure of the House of Representa-*
9 *tives written responses to each of the recommenda-*
10 *tions of the Research and Technology Coordinating*
11 *Committee under paragraph (3)(A)(i)(II).*

12 “(d) *CONSISTENCY WITH GOVERNMENT PERFORM-*
13 *ANCE AND RESULTS ACT OF 1993.*—*The plans and reports*
14 *developed under this section shall be consistent with and*
15 *incorporated as part of the plans developed under section*
16 *306 of title 5 and sections 1115 and 1116 of title 31.*

17 “§ 509. ***New strategic highway research program***

18 “(a) *IN GENERAL.*—*The National Research Council*
19 *shall establish and carry out, through fiscal year 2009, a*
20 *new strategic highway research program.*

21 “(b) *BASIS; PRIORITIES.*—*With respect to the program*
22 *established under subsection (a)—*

23 “(1) *the program shall be based on—*

1 “(A) *National Research Council Special Re-*
2 *port No. 260, entitled ‘Strategic Highway Re-*
3 *search’; and*

4 “(B) *the results of the detailed planning*
5 *work subsequently carried out to scope the re-*
6 *search areas through National Cooperative Re-*
7 *search Program Project 20–58.*

8 “(2) *the scope and research priorities of the pro-*
9 *gram shall—*

10 “(A) *be refined through stakeholder input in*
11 *the form of workshops, symposia, and panels;*
12 *and*

13 “(B) *include an examination of—*

14 “(i) *the roles of highway infrastruc-*
15 *ture, drivers, and vehicles in fatalities on*
16 *public roads;*

17 “(ii) *high-risk areas and activities as-*
18 *sociated with the greatest numbers of high-*
19 *way fatalities;*

20 “(iii) *the roles of various levels of gov-*
21 *ernment agencies and non-governmental or-*
22 *ganizations in reducing highway fatalities*
23 *(including recommendations for methods of*
24 *strengthening highway safety partnerships);*

1 “(iv) measures that may save the
2 greatest number of lives in the short- and
3 long-term;

4 “(v) renewal of aging infrastructure
5 with minimum impact on users of facilities;

6 “(vi) driving behavior and likely crash
7 causal factors to support improved counter-
8 measures;

9 “(vii) reduction in congestion due to
10 nonrecurring congestion;

11 “(viii) planning and designing of new
12 road capacity to meet mobility, economic,
13 environmental, and community needs;

14 “(3) the program shall consider, at a minimum,
15 the results of studies relating to the implementation
16 of the Strategic Highway Safety Plan prepared by the
17 American Association of State Highway and Trans-
18 portation Officials; and

19 “(4) the research results of the program, ex-
20 pressed in terms of technologies, methodologies, and
21 other appropriate categorizations, shall be dissemi-
22 nated to practicing engineers as soon as practicable
23 for their use.

1 “(c) *PROGRAM ADMINISTRATION.*—*In carrying out the*
2 *program under this section, the National Research Council*
3 *shall ensure, to the maximum extent practicable, that—*

4 “(1) *the best projects and researchers are selected*
5 *to conduct research for the program and priorities de-*
6 *scribed in subsection (b)—*

7 “(A) *on the basis of the merit of each sub-*
8 *mitted proposal; and*

9 “(B) *through the use of open solicitations*
10 *and selection by a panel of appropriate experts;*

11 “(2) *the National Research Council acquires a*
12 *qualified, permanent core staff with the ability and*
13 *expertise to manage a large research program and*
14 *multiyear budget;*

15 “(3) *the stakeholders are involved in the govern-*
16 *ance of the program, at the executive, overall pro-*
17 *gram, and technical levels, through the use of expert*
18 *panels and committees; and*

19 “(4) *there is no duplication of research effort be-*
20 *tween the program established under this section and*
21 *the surface transportation-environment cooperative*
22 *research program established under section 507 or*
23 *any other research effort of the Department.*

24 “(d) *NATIONAL ACADEMY OF SCIENCES.*—*The Sec-*
25 *retary may make grants to, and enter into cooperative*

1 *agreements with, the National Academy of Sciences to carry*
2 *out such activities relating to research, technology, and tech-*
3 *nology transfer described in subsections (b) and (c) as the*
4 *Secretary determines to be appropriate.*

5 “(e) *REPORT ON IMPLEMENTATION OF RESULTS.*—

6 “(1) *IN GENERAL.*—*Not later than October 1,*
7 *2007, the Secretary shall enter into a contract with*
8 *the Transportation Research Board of the National*
9 *Academy of Sciences under which the Transportation*
10 *Research Board shall complete a report on the strate-*
11 *gies and administrative structure to be used for im-*
12 *plementation of the results of new strategic highway*
13 *research program.*

14 “(2) *COMPONENTS.*—*The report under para-*
15 *graph (1) shall include, with respect to the new stra-*
16 *tegic highway research program—*

17 “(A) *an identification of the most prom-*
18 *ising results of research under the program (in-*
19 *cluding the persons most likely to use the re-*
20 *sults);*

21 “(B) *a discussion of potential incentives for,*
22 *impediments to, and methods of, implementing*
23 *those results;*

1 “(C) an estimate of costs that would be in-
2 curred in expediting implementation of those re-
3 sults; and

4 “(D) recommendations for the way in which
5 implementation of the results of the program
6 under this section should be conducted, coordi-
7 nated, and supported in future years, including
8 a discussion of the administrative structure and
9 organization best suited to carry out those re-
10 sponsibilities.

11 “(3) CONSULTATION.—In developing the report,
12 the Transportation Research Board shall consult with
13 a wide variety of stakeholders, including—

14 “(A) the American Association of State
15 highway Officials;

16 “(B) the Federal Highway Administration;
17 and

18 “(C) the Surface Transportation Research
19 Technology Advisory Committee.

20 “(4) SUBMISSION.—Not later than February 1,
21 2009, the Secretary shall submit to the Committee on
22 Environment and Public Works of the Senate and the
23 Committee on Transportation and Infrastructure of
24 the House of Representatives the report under this
25 subsection.

1 **“§ 510. University transportation centers**

2 “(a) *CENTERS.*—

3 “(1) *IN GENERAL.*—During fiscal year 2004, the
4 Secretary shall provide grants to 40 nonprofit institu-
5 tions of higher learning (or consortia of institutions
6 of higher learning) to establish centers to address
7 transportation design, management, research, develop-
8 ment, and technology matters, especially the edu-
9 cation and training of greater numbers of individuals
10 to enter into the professional field of transportation.

11 “(2) *DISTRIBUTION OF CENTERS.*—Not more
12 than 1 university transportation center (or lead uni-
13 versity in a consortia of institutions of higher learn-
14 ing), other than a center or university selected
15 through a competitive process, may be located in any
16 State.

17 “(3) *IDENTIFICATION OF CENTERS.*—The univer-
18 sity transportation centers established under this sec-
19 tion shall—

20 “(A) comply with applicable requirements
21 under subsection (c); and

22 “(B) be located at the institutions of higher
23 learning specified in paragraph (4).

24 “(4) *IDENTIFICATION OF GROUPS.*—For the pur-
25 pose of making grants under this subsection, the fol-
26 lowing grants are identified:

1 “(A) GROUP A.—Group A shall consist of
2 the 10 regional centers selected under subsection
3 (b).

4 “(B) GROUP B.—Group B shall consist of
5 the following:

6 “(i) [_____].

7 “(ii) [_____].

8 “(iii) [_____].

9 “(iv) [_____].

10 “(v) [_____].

11 “(vi) [_____].

12 “(vii) [_____].

13 “(viii) [_____].

14 “(ix) [_____].

15 “(x) [_____].

16 “(xi) [_____].

17 “(C) GROUP C.—Group C shall consist of
18 the following:

19 “(i) [_____].

20 “(ii) [_____].

21 “(iii) [_____].

22 “(iv) [_____].

23 “(v) [_____].

24 “(vi) [_____].

25 “(vii) [_____].

1 “(viii) [_____].

2 “(ix) [_____].

3 “(x) [_____].

4 “(xi) [_____].

5 “(D) *GROUP D.*—Group D shall consist of
6 *the following:*

7 “(i) [_____].

8 “(ii) [_____].

9 “(iii) [_____].

10 “(iv) [_____].

11 “(v) [_____].

12 “(vi) [_____].

13 “(vii) [_____].

14 “(viii) [_____].

15 “(b) *REGIONAL CENTERS.*—

16 “(1) *IN GENERAL.*—Not later than September 30,
17 2004, the Secretary shall provide to nonprofit institu-
18 tions of higher learning (or consortia of institutions
19 of higher learning) grants to be used during the pe-
20 riod of fiscal years 2005 through 2009 to establish
21 and operate 1 university transportation center in
22 each of the 10 Federal regions that comprise the
23 Standard Federal Regional Boundary System.

24 “(2) *SELECTION OF REGIONAL CENTERS.*—

1 “(A) *PROPOSALS.*—*In order to be eligible to*
2 *receive a grant under this subsection, an institu-*
3 *tion described in paragraph (1) shall submit to*
4 *the Secretary a proposal, in response to any re-*
5 *quest for proposals that shall be made by the*
6 *Secretary, that is in such form and contains*
7 *such information as the Secretary shall pre-*
8 *scribe.*

9 “(B) *REQUEST SCHEDULE.*—*The Secretary*
10 *shall request proposals once for the period of fis-*
11 *cal years 2004 through 2006 and once for the pe-*
12 *riod of fiscal years 2007 through 2009.*

13 “(C) *ELIGIBILITY.*—*Any institution of*
14 *higher learning (or consortium of institutions of*
15 *higher learning) that meets the criteria described*
16 *in subsection (c) (including any institution iden-*
17 *tified in subsection (a)(4)) may apply for a*
18 *grant under this subsection.*

19 “(D) *SELECTION CRITERIA.*—*The Secretary*
20 *shall select each recipient of a grant under this*
21 *subsection through a competitive process on the*
22 *basis of—*

23 “(i) *the location of the center within*
24 *the Federal region to be served;*

1 “(ii) the demonstrated research capa-
2 bilities and extension resources available to
3 the recipient to carry out this section;

4 “(iii) the capability of the recipient to
5 provide leadership in making national and
6 regional contributions to the solution of im-
7 mediate and long-range transportation
8 problems;

9 “(iv) the demonstrated ability of the
10 recipient to disseminate results of transpor-
11 tation research and education programs
12 through a statewide or regionwide con-
13 tinuing education program; and

14 “(v) the strategic plan that the recipi-
15 ent proposes to carry out using funds from
16 the grant.

17 “(E) SELECTION PROCESS.—In selecting the
18 recipients of grants under this subsection, the
19 Secretary shall consult with, and consider the
20 advice of—

21 “(i) the Research and Special Pro-
22 grams Administration;

23 “(ii) the Federal Highway Administra-
24 tion; and

1 “(iii) *the Federal Transit Administra-*
2 *tion.*

3 “(c) *CENTER REQUIREMENTS.—*

4 “(1) *IN GENERAL.—With respect to a university*
5 *transportation center established under subsection (a)*
6 *or (b), the institution or consortium that receives a*
7 *grant to establish the center—*

8 “(A) *shall annually contribute at least*
9 *\$250,000 to the operation and maintenance of*
10 *the center, except that payment by the institu-*
11 *tion or consortium of the salary required for*
12 *transportation-related faculty and staff for a pe-*
13 *riod greater than 90 days may not be counted*
14 *against that contribution;*

15 “(B) *shall have established, as of the date of*
16 *receipt of the grant, undergraduate or graduate*
17 *programs in—*

18 “(i) *civil engineering;*

19 “(ii) *transportation engineering;*

20 “(iii) *transportation systems manage-*
21 *ment and operations; or*

22 “(iv) *any other field significantly re-*
23 *lated to surface transportation systems, as*
24 *determined by the Secretary; and*

1 “(C) not later than 120 days after the date
2 on which the institution or consortium receives
3 notice of selection as a site for the establishment
4 of a university transportation center under this
5 section, shall submit to the Secretary a 6-year
6 program plan for the university transportation
7 center that includes, with respect to the center—

8 “(i) a description of the purposes of
9 programs to be conducted by the center;

10 “(ii) a description of the under-
11 graduate and graduate transportation edu-
12 cation efforts to be carried out by the center;

13 “(iii) a description of the nature and
14 scope of research to be conducted by the cen-
15 ter;

16 “(iv) a list of personnel, including the
17 roles and responsibilities of those personnel
18 within the center; and

19 “(v) a detailed budget, including the
20 amount of contributions by the institution
21 or consortium to the center; and

22 “(D) shall establish an advisory committee
23 that—

24 “(i) is composed of a representative
25 from each of the State transportation de-

1 *partment of the State in which the institu-*
2 *tion or consortium is located, the Depart-*
3 *ment of Transportation, and the institution*
4 *or consortia, as appointed by those respec-*
5 *tive entities;*

6 *“(ii) in accordance with paragraph*
7 *(2), shall review and approve or disapprove*
8 *the plan of the institution or consortium*
9 *under subparagraph (C); and*

10 *“(iii) shall, to the maximum extent*
11 *practicable, ensure that the proposed re-*
12 *search to be carried out by the university*
13 *transportation center will contribute to the*
14 *national highway research and technology*
15 *agenda, as periodically updated by the Sec-*
16 *retary, in consultation with stakeholders*
17 *representing the highway community.*

18 *“(2) PEER REVIEW.—*

19 *“(A) IN GENERAL.—The Secretary shall re-*
20 *quire peer review for each report on research car-*
21 *ried out using funds made available for this sec-*
22 *tion.*

23 *“(B) PURPOSES OF PEER REVIEW.—Peer*
24 *review of a report under this section shall be car-*
25 *ried out to evaluate—*

1 “(i) *the relevance of the research de-*
2 *scribed in the report with respect to the*
3 *strategic plan under, and the goals of, this*
4 *section;*

5 “(ii) *the research covered by the report,*
6 *and to recommend modifications to indi-*
7 *vidual project plans;*

8 “(iii) *the results of the research before*
9 *publication of those results; and*

10 “(iv) *the overall outcomes of the re-*
11 *search.*

12 “(C) *INTERNET AVAILABILITY.—Each report*
13 *under this section that is received by the Sec-*
14 *retary shall be published—*

15 “(i) *by the Secretary, on the Internet*
16 *website of the Department of Transpor-*
17 *tation; and*

18 “(ii) *by the University Transportation*
19 *Center.*

20 “(3) *APPROVAL OF PLANS—A plan of an institu-*
21 *tion or consortium described in paragraph (1)(C)*
22 *shall not be submitted to the Secretary until such*
23 *time as the advisory committee established under*
24 *paragraph (1)(D) reviews and approves the plan.*

1 “(4) *FAILURE TO COMPLY.*—*If a recipient of a*
2 *grant under this subsection fails to submit a program*
3 *plan acceptable to the Secretary and in accordance*
4 *with paragraph (1)(C)—*

5 “(A) *the recipient shall forfeit the grant and*
6 *the selection of the recipient as a site for the es-*
7 *tablishment of a university transportation cen-*
8 *ter; and*

9 “(B) *the Secretary shall select a replace-*
10 *ment recipient for the forfeited grant.*

11 “(5) *APPLICABILITY.*—*This subsection does not*
12 *apply to any research funds received in accordance*
13 *with a competitive contract offered and entered into*
14 *by the Federal Highway Administration.*

15 “(d) *OBJECTIVES.*—*Each university transportation*
16 *center established under subsection (a) or (b) shall carry*
17 *out—*

18 “(1) *undergraduate or graduate education pro-*
19 *grams that include—*

20 “(A) *multidisciplinary coursework; and*

21 “(B) *opportunities for students to partici-*
22 *pate in research;*

23 “(2) *basic and applied research, the results and*
24 *products of which shall be judged by peers or other ex-*

1 *perts in the field so as to advance the body of knowl-*
2 *edge in transportation; and*

3 *“(3) an ongoing program of technology transfer*
4 *that makes research results available to potential*
5 *users in such form as will enable the results to be im-*
6 *plemented, used, or otherwise applied.*

7 *“(e) MAINTENANCE OF EFFORT.—To be eligible to re-*
8 *ceive a grant under this section, an applicant shall—*

9 *“(1) enter into an agreement with the Secretary*
10 *to ensure that the applicant will maintain total ex-*
11 *penditures from all other sources to establish and op-*
12 *erate a university transportation center and related*
13 *educational and research activities at a level that is*
14 *at least equal to the average level of those expenditures*
15 *during the 2 fiscal years before the date on which the*
16 *grant is provided;*

17 *“(2) provide the annual institutional contribu-*
18 *tion required under subsection (c)(1); and*

19 *“(3) submit to the Secretary, in a timely man-*
20 *ner, for use by the Secretary in the preparation of the*
21 *annual research report under section 508(c)(5) of title*
22 *23, an annual report on the projects and activities of*
23 *the university transportation center for which funds*
24 *are made available under section 2001 of the Safe,*
25 *Accountable, Flexible, and Efficient Transportation*

1 *Equity Act of 2003 that contains, at a minimum, for*
2 *the fiscal year covered by the report, a description*
3 *of—*

4 *“(A) the goals of the center;*

5 *“(B) the educational activities carried out*
6 *by the center (including a detailed summary of*
7 *the budget for those educational activities);*

8 *“(C) teaching activities of faculty at the*
9 *center;*

10 *“(D) each research project carried out by*
11 *the center, including—*

12 *“(i) the identity and location of each*
13 *investigator working on a research project;*

14 *“(ii) the overall funding amount for*
15 *each research project (including the*
16 *amounts expended for the project as of the*
17 *date of the report);*

18 *“(iii) the current schedule for each re-*
19 *search project; and*

20 *“(iv) the results of each research*
21 *project through the date of submission of the*
22 *report, with particular emphasis on results*
23 *for the fiscal year covered by the report; and*

24 *“(E) overall technology transfer and imple-*
25 *mentation efforts of the center.*

1 “(f) *PROGRAM COORDINATION.*—*The Secretary shall—*

2 “(1) *coordinate the research, education, training,*
3 *and technology transfer activities carried out by re-*
4 *ipients of grants under this section; and*

5 “(2) *establish and operate a clearinghouse for,*
6 *and disseminate, the results of those activities.*

7 “(g) *FUNDING.*—

8 “(1) *NUMBER AND AMOUNT OF GRANTS.*—*The*
9 *Secretary shall make the following grants under this*
10 *subsection:*

11 “(A) *GROUP A.*—*For each of fiscal years*
12 *2004 through 2009, the Secretary shall make a*
13 *grant in the amount of \$20,000,000 to each of*
14 *the institutions in group A (as described in sub-*
15 *section (a)(4)(A)).*

16 “(B) *GROUP B.*—*The Secretary shall make*
17 *a grant to each of the institutions in group B (as*
18 *described in subsection (a)(4)(B)) in the amount*
19 *of—*

20 “(i) *\$4,000,000 for each of fiscal years*
21 *2004 and 2005; and*

22 “(ii) *\$6,000,000 for each of fiscal years*
23 *2006 and 2007.*

24 “(C) *GROUP C.*—*For each of fiscal years*
25 *2004 through 2007, the Secretary shall make a*

1 *grant in the amount of \$10,000,000 to each of*
2 *the institutions in group C (as described in sub-*
3 *section (a)(4)(C)).*

4 “(D) *GROUP D.—For each of fiscal years*
5 *2004 through 2009, the Secretary shall make a*
6 *grant in the amount of \$25,000,000 to each of*
7 *the institutions in group D (as described in sub-*
8 *section (a)(4)(D)).*

9 “(E) *LIMITED GRANTS FOR GROUPS B AND*
10 *C.—For each of fiscal years 2008 and 2009, of*
11 *the institutions classified in groups B and C (as*
12 *described in subsection (a)(4)(B)), the Secretary*
13 *shall select and make a grant in the amount of*
14 *\$10,000,000 to each of not more than 15 institu-*
15 *tions.*

16 “(2) *USE OF FUNDS—*

17 “(A) *IN GENERAL.—Of the funds made*
18 *available for a fiscal year to a university trans-*
19 *portation center established under subsection (a)*
20 *or (b)—*

21 “(i) *not less than \$250,000 shall be*
22 *used to establish and maintain new faculty*
23 *positions for the teaching of undergraduate,*
24 *transportation-related courses;*

1 “(ii) not more than \$500,000 for the
2 fiscal year, or \$1,000,000 in the aggregate,
3 may be used to construct or improve trans-
4 portation-related laboratory facilities; and

5 “(iii) not more than \$300,000 for the
6 fiscal year may be used for student intern-
7 ships of not more than 180 days in dura-
8 tion to enable students to gain experience by
9 working on transportation projects as in-
10 terns with design or construction firms.

11 “(B) *FACILITIES AND ADMINISTRATION*
12 *FEE.*—Not more than 10 percent of any grant
13 made available to a university transportation
14 center (or any institution or consortium that es-
15 tablishes such a center) for a fiscal year may be
16 used to pay to the appropriate nonprofit institu-
17 tion of higher learning any administration and
18 facilities fee (or any similar overhead fee) for the
19 fiscal year.

20 “(3) *LIMITATION ON AVAILABILITY OF FUNDS.*—
21 Funds made available under this subsection shall re-
22 main available for obligation for a period of 2 years
23 after September 30 of the fiscal year for which the
24 funds are authorized.

1 **“§511. Multistate corridor operations and manage-**
 2 **ment**

3 “(a) *IN GENERAL.—The Secretary shall encourage*
 4 *multistate cooperative agreements, coalitions, or other ar-*
 5 *rangements to promote regional cooperation, planning, and*
 6 *shared project implementation for programs and projects*
 7 *to improve transportation system management and oper-*
 8 *ations.*

9 “(b) *INTERSTATE ROUTE I-95 CORRIDOR COALITION*
 10 *TRANSPORTATION SYSTEMS MANAGEMENT AND OPER-*
 11 *ATIONS.—*

12 “(1) *IN GENERAL.—The Secretary shall make*
 13 *grants under this subsection to States to continue in-*
 14 *telligent transportation system management and op-*
 15 *erations in the Interstate Route I-95 corridor coali-*
 16 *tion region initiated under the Intermodal Surface*
 17 *Transportation Efficiency Act of 1991 (Public Law*
 18 *102-240).*

19 “(2) *FUNDING.—Of the amounts made available*
 20 *under section 2001(a)(4) of the Safe, Accountable,*
 21 *Flexible, and Efficient Transportation Equity Act of*
 22 *2003, the Secretary shall use to carry out this sub-*
 23 *section—*

24 “(A) \$8,000,000 for fiscal year 2004;

25 “(B) \$10,000,000 for fiscal year 2005;

26 “(C) \$12,000,000 for fiscal year 2006;

1 “(D) \$12,000,000 for fiscal year 2007;

2 “(E) \$12,000,000 for fiscal year 2008; and

3 “(F) \$12,000,000 for fiscal year 2009.”.

4 (b) *OTHER UNIVERSITY FUNDING.*—No university
5 (other than university transportation centers specified in
6 section 510 of title 23, United States Code (as added by
7 subsection (a)) shall receive funds made available under sec-
8 tion 2001 to carry out research unless the university is se-
9 lected to receive the funds—

10 (1) through a competitive process that incor-
11 porates merit-based peer review; and

12 (2) based on a proposal submitted to the Sec-
13 retary by the university in response to a request for
14 proposals issued by the Secretary.

15 (c) *CONFORMING AMENDMENT.*—Section 5505 of title
16 49, United States Code, is repealed.

17 **SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL**
18 **ANALYSIS EFFORTS.**

19 (a) *DEFINITIONS.*—In this section:

20 (1) *ADMINISTRATION.*—The term “Administra-
21 tion” means the Federal Highway Administration.

22 (2) *BOARD.*—The term “Board” means the
23 Transportation Research Board of the National Acad-
24 emy of Sciences.

1 (3) *BUREAU*.—*The term “Bureau” means the*
2 *Bureau of Transportation Statistics.*

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

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

7 (b) *PRIORITY AREAS OF EFFORT*.—

8 (1) *STATISTICAL STANDARDS*.—*The Secretary*
9 *shall direct the Bureau to assume the role of the lead*
10 *agency in working with other agencies of the Depart-*
11 *ment to establish, by not later the date that is 1 year*
12 *after the date of enactment of this Act, statistical*
13 *standards for the Department.*

14 (2) *STATISTICAL ANALYSIS EFFORT*.—

15 (A) *IN GENERAL*.—*The Bureau shall pro-*
16 *vide to the Secretary, on an annual basis, an*
17 *overview of the level of effort expended on statis-*
18 *tical analyses by each agency within the Depart-*
19 *ment.*

20 (B) *DUTY OF AGENCIES*.—*Each agency of*
21 *the Department shall provide to the Bureau such*
22 *information as the Bureau may require in car-*
23 *rying out subparagraph (A).*

24 (3) *NATIONAL SECURITY*.—*The Bureau shall—*

1 (A) *conduct a study of the ways in which*
2 *transportation statistics are and may be used for*
3 *the purpose of national security; and*

4 (B) *submit to the Transportation Security*
5 *Administration recommendations for means by*
6 *which the use of transportation statistics for the*
7 *purpose of national security may be improved.*

8 (4) *MODERNIZATION.—The Bureau shall develop*
9 *new protocols for adapting data collection and deliv-*
10 *ery efforts in existence as of the date of enactment of*
11 *this Act to deliver information in a more timely and*
12 *frequent fashion.*

13 (c) *STUDY.—*

14 (1) *IN GENERAL.—Not later than 90 days after*
15 *the date of enactment of this Act, the Secretary shall*
16 *provide a grant to, or enter into a cooperative agree-*
17 *ment or contract with, the Board for the conduct of*
18 *a study of the data collection and statistical analysis*
19 *efforts of the Department with respect to the modes of*
20 *surface transportation for which funds are made*
21 *available under this Act.*

22 (2) *PURPOSE.—The purpose of the study shall be*
23 *to provide to the Department information for use by*
24 *agencies of the Department in providing to surface*
25 *transportation agencies and individuals engaged in*

1 *the surface transportation field higher quality, and*
2 *more relevant and timely, data, statistical analyses,*
3 *and products.*

4 (3) *CONTENT.—The study shall include—*

5 (A) *an examination and analysis of the ef-*
6 *forts, analyses, and products (with respect to*
7 *usefulness and policy relevance) of the Bureau as*
8 *of the date of the study, as compared with the*
9 *duties of the Bureau specified in subsections (c)*
10 *through (f) of section 111 of title 49, United*
11 *States Code;*

12 (B) *an examination and analysis of data*
13 *collected by, methods of data collection of, and*
14 *analyses performed by, agencies within the De-*
15 *partment; and*

16 (C) *recommendations relating to—*

17 (i) *the future efforts of the Department*
18 *in the area of surface transportation with*
19 *respect to—*

20 (I) *types of data collected;*

21 (II) *methods of data collection;*

22 (III) *types of analyses performed;*

23 *and*

1 (IV) *products made available by*
2 *the Secretary to the transportation*
3 *community and Congress;*

4 (ii) *the means by which the Depart-*
5 *ment may cooperate with State transpor-*
6 *tation departments to provide technical as-*
7 *istance in the use of data collected by traf-*
8 *fic operations centers; and*

9 (iii) *duplication of efforts within the*
10 *Department, including ways in which—*

11 (I) *the duplication may be re-*
12 *duced or eliminated; and*

13 (II) *each agency of the Depart-*
14 *ment may cooperate with, and com-*
15 *plement the efforts of, the others.*

16 (4) *CONSULTATION.—In conducting the study,*
17 *the Board shall consult with such stakeholders, agen-*
18 *cies, and other entities as the Board considers to be*
19 *appropriate.*

20 (5) *REPORT.—Not later than 1 year after the*
21 *date on which a grant is provided, or a cooperative*
22 *agreement or contract is entered into, for a study*
23 *under paragraph (1)—*

24 (A) *the Board shall submit to the Secretary,*
25 *the Committee on Environment and Public*

1 *Works of the Senate, and the Committee on*
2 *Transportation and Infrastructure of the House*
3 *of Representatives a final report on the results of*
4 *the study; and*

5 *(B) the results of the study shall be pub-*
6 *lished—*

7 *(i) by the Secretary, on the Internet*
8 *website of the Department; and*

9 *(ii) by the Board, on the Internet*
10 *website of the Board.*

11 *(6) IMPLEMENTATION OF RESULTS.—The Bureau*
12 *shall, to the maximum extent practicable, implement*
13 *any recommendations made with respect to the results*
14 *of the study under this subsection.*

15 *(7) COMPLIANCE.—*

16 *(A) IN GENERAL.—The Comptroller General*
17 *of the United States shall conduct a review of the*
18 *study under this subsection.*

19 *(B) NONCOMPLIANCE.—If the Comptroller*
20 *General of the United States determines that the*
21 *Bureau failed to conduct the study under this*
22 *subsection, the Bureau shall be ineligible to re-*
23 *ceive funds from the Highway Trust Fund until*
24 *such time as the Bureau conducts the study*
25 *under this subsection.*

1 (d) *CONFORMING AMENDMENTS.*—

2 (1) *Section 111 of title 49, United States Code,*
3 *is amended—*

4 (A) *by redesignating subsection (k) as sub-*
5 *section (m);*

6 (B) *by inserting after subsection (j) the fol-*
7 *lowing:*

8 “(k) *ANNUAL REPORT.*—

9 “(1) *IN GENERAL.*—*For fiscal year 2004 and*
10 *each fiscal year thereafter, the Bureau shall prepare*
11 *and submit to the Secretary an annual report that—*

12 “(A) *describes progress made in responding*
13 *to study recommendations for the fiscal year;*
14 *and*

15 “(B) *summarizes the activities and expendi-*
16 *ture of funds by the Bureau for the fiscal year.*

17 “(2) *AVAILABILITY.*—*The Bureau shall—*

18 “(A) *make the report described in para-*
19 *graph (1) available to the public; and*

20 “(B) *publish the report on the Internet*
21 *website of the Bureau.*

22 “(3) *COMBINATION OF REPORTS.*—*The report re-*
23 *quired under paragraph (1) may be included in or*
24 *combined with the Transportation Statistics Annual*
25 *Report required by subsection (j).*

1 “(l) *EXPENDITURE OF FUNDS.*—*Funds from the High-*
 2 *way Trust Fund (other than the Mass Transit Account)*
 3 *that are authorized to be appropriated, and made available,*
 4 *in accordance with section 2001(a)(3) of the Safe, Account-*
 5 *able, Flexible, and Efficient Transportation Equity Act of*
 6 *2003 shall be used only for the collection and statistical*
 7 *analysis of information relating to surface transportation*
 8 *systems.”; and*

9 (C) *in subsection (m) (as redesignated by*
 10 *subparagraph (A)), by inserting “surface trans-*
 11 *portation” after “sale of”.*

12 (2) *The analysis for chapter 55 of title 49,*
 13 *United States Code, is amended by striking the item*
 14 *relating to section 5505 and inserting the following:*

“5505. University transportation centers.”.

15 **SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EX-**
 16 **CELLENCE.**

17 (a) *ESTABLISHMENT.*—*The Secretary shall establish*
 18 *the centers for surface transportation excellence described in*
 19 *subsection (b) to promote high-quality outcomes in support*
 20 *of strategic national programs and activities, including—*

21 (1) *the environment;*

22 (2) *operations;*

23 (3) *surface transportation safety;*

24 (4) *project finance; and*

1 (5) *asset management.*

2 (b) *CENTERS.—The centers for surface transportation*
3 *excellence referred to in subsection (a) are—*

4 (1) *a Center for Environmental Excellence to*
5 *provide technical assistance, information sharing of*
6 *best practices, and training in the use of tools and de-*
7 *cision-making processes to assist States in planning*
8 *and delivering environmentally-sound surface trans-*
9 *portation projects;*

10 (2) *a Center for Operations Excellence to provide*
11 *support for an integrated and coordinated national*
12 *program for implementing operations in planning*
13 *and management (including standards development)*
14 *for the transportation system in the United States;*

15 (3) *a Center for Excellence in Surface Transpor-*
16 *tation Safety to implement a program of support for*
17 *State transportation departments, including—*

18 (A) *the maintenance of an Internet site to*
19 *provide critical information on safety programs;*

20 (B) *the provision of technical assistance to*
21 *support a lead State transportation department*
22 *for each of the 22 safety emphasis areas (as iden-*
23 *tified by the Secretary); and*

24 (C) *the provision of training and education*
25 *to enhance knowledge of personnel of State trans-*

1 *portation departments in support of safety high-*
2 *way goals;*

3 *(4) a Center for Excellence in Project Finance—*

4 *(A) to provide support to State transpor-*
5 *tation departments in the development of finance*
6 *plans and project oversight tools; and*

7 *(B) to develop and offer training in state-*
8 *of-the-art financing methods to advance projects*
9 *and leverage funds; and*

10 *(5) a Center for Excellence in Asset Management*
11 *to develop and conduct research, provide training and*
12 *education, and disseminate information on the bene-*
13 *fits and tools for asset management.*

14 *(c) PROGRAM ADMINISTRATION.—*

15 *(1) IN GENERAL.—Before funds authorized under*
16 *this section for fiscal years 2005 through 2009 are ob-*
17 *ligated, the Secretary shall review and approve a*
18 *multiyear strategic plan to be submitted by each of*
19 *the centers.*

20 *(2) TIMING.—The plan shall be submitted before*
21 *the beginning of fiscal year 2005 and, subsequently,*
22 *shall be annually updated.*

23 *(3) CONTENT.—The plan shall include—*

24 *(A) a list of research and technical assist-*
25 *ance projects and objectives; and*

1 (B) a description of any other technology
 2 transfer activities, including a summary of
 3 training efforts.

4 (4) COOPERATION AND COMPETITION.—

5 (A) IN GENERAL.—The Secretary shall
 6 carry out this section by making grants to, or
 7 entering into contracts, cooperative agreements,
 8 and other transactions with—

9 (i) the National Academy of Sciences;

10 (ii) the American Association of State

11 Highway and Transportation Officials;

12 (iii) planning organizations;

13 (iv) a Federal laboratory;

14 (v) a State agency;

15 (vi) an authority, association, institu-
 16 tion, or organization; or

17 (vii) a for-profit or nonprofit corpora-
 18 tion.

19 (B) COMPETITION; REVIEW.—All parties en-
 20 tering into contracts, cooperative agreements, or
 21 other transactions with the Secretary, or receiv-
 22 ing grants, to perform research or provide tech-
 23 nical assistance under this section shall be se-
 24 lected, to the maximum extent practicable—

25 (i) on a competitive basis; and

1 (ii) on the basis of the results of peer
2 review of proposals submitted to the Sec-
3 retary.

4 (5) *NONDUPLICATION.*—The Secretary shall en-
5 sure that activities conducted by each of the centers
6 do not duplicate, and to the maximum extent prac-
7 ticable, are integrated and coordinated with similar
8 activities conducted by the Federal Highway Admin-
9 istration, the local technical assistance program, uni-
10 versity transportation centers, and other research ef-
11 forts supported with funds authorized by this title.

12 (d) *AUTHORIZATION OF APPROPRIATIONS.*—

13 (1) *IN GENERAL.*—For each of fiscal years 2004
14 through 2009, of the funds made available under sec-
15 tion 2001(a)(1)(A), the Secretary shall set aside
16 \$10,000,000 to carry out this section.

17 (2) *ALLOCATION OF FUNDS.*—Of the funds made
18 available under paragraph (1)—

19 (A) 20 percent shall be allocated to the Cen-
20 ter for Environmental Excellence established
21 under subsection (b)(1);

22 (B) 30 percent shall be allocated to the Cen-
23 ter for Operations Excellence established under
24 subsection (b)(2);

1 (C) 20 percent shall be allocated to the Cen-
 2 ter for Excellence in Surface Transportation
 3 Safety established under subsection (b)(3);

4 (D) 10 percent shall be allocated to the Cen-
 5 ter for Excellence in Project Finance established
 6 under subsection (b)(4); and

7 (E) 20 percent shall be allocated to the Cen-
 8 ter for Excellence in Asset Management estab-
 9 lished under subsection (b)(5).

10 (3) *APPLICABILITY OF TITLE 23.*—Funds made
 11 available under this section shall be available for obli-
 12 gation in the same manner as if the funds were ap-
 13 portioned under chapter 1 of title 23, United States
 14 Code, except that the Federal share shall be 100 per-
 15 cent.

16 ***Subtitle C—Intelligent***
 17 ***Transportation System Research***

18 ***SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RE-***
 19 ***SEARCH AND TECHNICAL ASSISTANCE PRO-***
 20 ***GRAM.***

21 (a) *IN GENERAL.*—Chapter 5 of title 23, United States
 22 Code (as amended by section 2101), is amended by adding
 23 at the end the following:

1 “SUBCHAPTER II—INTELLIGENT TRANSPOR-
2 TATION SYSTEM RESEARCH AND TECHNICAL
3 ASSISTANCE PROGRAM

4 “§ 521. *Finding*

5 “Congress finds that continued investment in architec-
6 ture and standards development, research, technical assist-
7 ance for State and local governments, and systems integra-
8 tion is needed to accelerate the rate at which intelligent
9 transportation systems—

10 “(1) are incorporated into the national surface
11 transportation network; and

12 “(2) as a result of that incorporation, improve
13 transportation safety and efficiency and reduce costs
14 and negative impacts on communities and the envi-
15 ronment.

16 “§ 522. *Goals and purposes*

17 “(a) GOALS.—The goals of the intelligent transpor-
18 tation system research and technical assistance program in-
19 clude—

20 “(1) enhancement of surface transportation effi-
21 ciency and facilitation of intermodalism and inter-
22 national trade—

23 “(A) to meet a significant portion of future
24 transportation needs, including public access to
25 employment, goods, and services; and

1 “(B) to reduce regulatory, financial, and
2 other transaction costs to public agencies and
3 system users;

4 “(2) the acceleration of the use of intelligent
5 transportation systems to assist in the achievement of
6 national transportation safety goals, including the en-
7 hancement of safe operation of motor vehicles and
8 nonmotorized vehicles, with particular emphasis on
9 decreasing the number and severity of collisions;

10 “(3) protection and enhancement of the natural
11 environment and communities affected by surface
12 transportation, with particular emphasis on assisting
13 State and local governments in achieving national en-
14 vironmental goals;

15 “(4) accommodation of the needs of all users of
16 surface transportation systems, including—

17 “(A) operators of commercial vehicles, pas-
18 senger vehicles, and motorcycles;

19 “(B) users of public transportation users
20 (with respect to intelligent transportation system
21 user services); and

22 “(C) individuals with disabilities; and

23 “(5)(A) improvement of the ability of the United
24 States to respond to emergencies and natural disas-
25 ters; and

1 “(B) *enhancement of national security and de-*
2 *fense mobility.*

3 “(b) *PURPOSES.—The Secretary shall carry out activi-*
4 *ties under the intelligent transportation system research*
5 *and technical assistance program to, at a minimum—*

6 “(1) *assist in the development of intelligent*
7 *transportation system technologies;*

8 “(2) *ensure that Federal, State, and local trans-*
9 *portation officials have adequate knowledge of intel-*
10 *ligent transportation systems for full consideration in*
11 *the transportation planning process;*

12 “(3) *improve regional cooperation, interoper-*
13 *ability, and operations for effective intelligent trans-*
14 *portation system performance;*

15 “(4) *promote the innovative use of private re-*
16 *sources;*

17 “(5) *assist State transportation departments in*
18 *developing a workforce capable of developing, oper-*
19 *ating, and maintaining intelligent transportation*
20 *systems;*

21 “(6) *maintain an updated national ITS archi-*
22 *tecture and consensus-based standards while ensuring*
23 *an effective Federal presence in the formulation of do-*
24 *mestic and international ITS standards;*

1 “(7) *advance commercial vehicle operations com-*
2 *ponents of intelligent transportation systems—*

3 “(A) *to improve the safety and productivity*
4 *of commercial vehicles and drivers; and*

5 “(B) *to reduce costs associated with com-*
6 *mercial vehicle operations and Federal and State*
7 *commercial vehicle regulatory requirements;*

8 “(8) *evaluate costs and benefits of intelligent*
9 *transportation systems projects;*

10 “(9) *improve, as part of the Archived Data User*
11 *Service and in cooperation with the Bureau of Trans-*
12 *portation Statistics, the collection of surface transpor-*
13 *tation system condition and performance data*
14 *through the use of intelligent transportation system*
15 *technologies; and*

16 “(10) *ensure access to transportation informa-*
17 *tion and services by travelers of all ages.*

18 **“§ 523. Definitions**

19 *“In this subchapter:*

20 “(1) *COMMERCIAL VEHICLE INFORMATION SYS-*
21 *TEMS AND NETWORKS.—The term ‘commercial vehicle*
22 *information systems and networks’ means the infor-*
23 *mation systems and communications networks that*
24 *support commercial vehicle operations.*

25 “(2) *COMMERCIAL VEHICLE OPERATIONS.—*

1 “(A) *IN GENERAL.*—*The term ‘commercial*
2 *vehicle operations’ means motor carrier oper-*
3 *ations and motor vehicle regulatory activities as-*
4 *sociated with the commercial movement of goods*
5 *(including hazardous materials) and passengers.*

6 “(B) *INCLUSIONS.*—*The term ‘commercial*
7 *vehicle operations’, with respect to the public sec-*
8 *tor, includes—*

9 “(i) *the issuance of operating creden-*
10 *tials;*

11 “(ii) *the administration of motor vehi-*
12 *cle and fuel taxes; and*

13 “(iii) *roadside safety and border cross-*
14 *ing inspection and regulatory compliance*
15 *operations.*

16 “(3) *INTELLIGENT TRANSPORTATION INFRA-*
17 *STRUCTURE.*—*The term ‘intelligent transportation in-*
18 *frastructure’ means fully integrated public sector in-*
19 *telligent transportation system components, as defined*
20 *by the Secretary.*

21 “(4) *INTELLIGENT TRANSPORTATION SYSTEM.*—
22 *The term ‘intelligent transportation system’ means*
23 *electronics, communications, or information proc-*
24 *essing used singly or in combination to improve the*
25 *efficiency or safety of a surface transportation system.*

1 “(5) *NATIONAL ITS ARCHITECTURE.*—*The term*
2 *‘national ITS architecture’ means the common frame-*
3 *work for interoperability adopted by the Secretary*
4 *that defines—*

5 “(A) *the functions associated with intel-*
6 *ligent transportation system user services;*

7 “(B) *the physical entities or subsystems*
8 *within which the functions reside;*

9 “(C) *the data interfaces and information*
10 *flows between physical subsystems; and*

11 “(D) *the communications requirements as-*
12 *sociated with the information flows.*

13 “(6) *STANDARD.*—*The term ‘standard’ means a*
14 *document that—*

15 “(A) *contains technical specifications or*
16 *other precise criteria for intelligent transpor-*
17 *tation systems that are to be used consistently as*
18 *rules, guidelines, or definitions of characteristics*
19 *so as to ensure that materials, products, proc-*
20 *esses, and services are fit for their purposes; and*

21 “(B) *may—*

22 “(i) *support the national ITS architec-*
23 *ture; and*

24 “(ii) *promote—*

1 “(I) *the widespread use and adop-*
2 *tion of intelligent transportation sys-*
3 *tem technology as a component of the*
4 *surface transportation systems of the*
5 *United States; and*

6 “(II) *interoperability among in-*
7 *telligent transportation system tech-*
8 *nologies implemented throughout the*
9 *States.*

10 **“§ 524. General authorities and requirements**

11 “(a) *SCOPE.—Subject to this subchapter, the Secretary*
12 *shall carry out an ongoing intelligent transportation system*
13 *research program—*

14 “(1) *to research, develop, and operationally test*
15 *intelligent transportation systems; and*

16 “(2) *to provide technical assistance in the na-*
17 *tionwide application of those systems as a component*
18 *of the surface transportation systems of the United*
19 *States.*

20 “(b) *POLICY.—Intelligent transportation system oper-*
21 *ational tests and projects funded under this subchapter shall*
22 *encourage, but not displace, public-private partnerships or*
23 *private sector investment in those tests and projects.*

24 “(c) *COOPERATION WITH GOVERNMENTAL, PRIVATE,*
25 *AND EDUCATIONAL ENTITIES.—The Secretary shall carry*

1 *out the intelligent transportation system research and tech-*
2 *nical assistance program in cooperation with—*

3 “(1) *State and local governments and other pub-*
4 *lic entities;*

5 “(2) *the private sector;*

6 “(3) *Federal laboratories (as defined in section*
7 *501); and*

8 “(4) *colleges and universities, including histori-*
9 *cally black colleges and universities and other minor-*
10 *ity institutions of higher education.*

11 “(d) *CONSULTATION WITH FEDERAL OFFICIALS.—In*
12 *carrying out the intelligent transportation system research*
13 *program, the Secretary, as appropriate, shall consult*
14 *with—*

15 “(1) *the Secretary of Commerce;*

16 “(2) *the Secretary of the Treasury;*

17 “(3) *the Administrator of the Environmental*
18 *Protection Agency;*

19 “(4) *the Director of the National Science Foun-*
20 *dation; and*

21 “(5) *the Secretary of Homeland Security.*

22 “(e) *TECHNICAL ASSISTANCE, TRAINING, AND INFOR-*
23 *MATION.—The Secretary may provide technical assistance,*
24 *training, and information to State and local governments*

1 *seeking to implement, operate, maintain, or evaluate intel-*
 2 *ligent transportation system technologies and services.*

3 “(f) *TRANSPORTATION PLANNING.—The Secretary*
 4 *may provide funding to support adequate consideration of*
 5 *transportation system management and operations (includ-*
 6 *ing intelligent transportation systems) within metropolitan*
 7 *and statewide transportation planning processes.*

8 “(g) *INFORMATION CLEARINGHOUSE.—The Secretary*
 9 *shall—*

10 “(1) *maintain a repository for technical and*
 11 *safety data collected as a result of federally sponsored*
 12 *projects carried out under this subchapter; and*

13 “(2) *on request, make that information (except*
 14 *for proprietary information and data) readily avail-*
 15 *able to all users of the repository at an appropriate*
 16 *cost.*

17 “(h) *ADVISORY COMMITTEES.—*

18 “(1) *IN GENERAL.—In carrying out this sub-*
 19 *chapter, the Secretary—*

20 “(A) *may use 1 or more advisory commit-*
 21 *tees; and*

22 “(B) *shall designate a public-private orga-*
 23 *nization, the members of which participate in*
 24 *on-going research, planning, standards develop-*
 25 *ment, deployment, and marketing of ITS pro-*

1 *grams, products, and services, and coordinate the*
2 *development and deployment of intelligent trans-*
3 *portation systems in the United States, as the*
4 *Federal advisory committee authorized by section*
5 *5204(h) of the Transportation Equity Act for the*
6 *21st Century (112 Stat. 454).*

7 “(2) *FUNDING.*—*Of the amount made available*
8 *to carry out this subchapter, the Secretary may use*
9 *\$1,500,000 for each fiscal year for advisory commit-*
10 *tees described in paragraph (1).*

11 “(3) *APPLICABILITY OF FEDERAL ADVISORY COM-*
12 *MITTEE ACT.*—*Any advisory committee described in*
13 *paragraph (1) shall be subject to the Federal Advisory*
14 *Committee Act (5 U.S.C. App.).*

15 “(i) *PROCUREMENT METHODS.*—*The Secretary shall*
16 *develop and provide appropriate technical assistance and*
17 *guidance to assist State and local agencies in evaluating*
18 *and selecting appropriate methods of deployment and pro-*
19 *curement for intelligent transportation system projects car-*
20 *ried out using funds made available from the Highway*
21 *Trust Fund, including innovative and nontraditional meth-*
22 *ods such as Information Technology Omnibus Procurement*
23 *(as developed by the Secretary).*

24 “(j) *EVALUATIONS.*—

25 “(1) *GUIDELINES AND REQUIREMENTS.*—

1 “(A) *IN GENERAL.*—*The Secretary shall*
2 *issue revised guidelines and requirements for the*
3 *evaluation of operational tests and other intel-*
4 *ligent transportation system projects carried out*
5 *under this subchapter.*

6 “(B) *OBJECTIVITY AND INDEPENDENCE.*—
7 *The guidelines and requirements issued under*
8 *subparagraph (A) shall include provisions to en-*
9 *sure the objectivity and independence of the eval-*
10 *uator so as to avoid any real or apparent con-*
11 *flict of interest or potential influence on the out-*
12 *come by—*

13 “(i) *parties to any such test; or*

14 “(ii) *any other formal evaluation car-*
15 *ried out under this subchapter.*

16 “(C) *FUNDING.*—*The guidelines and re-*
17 *quirements issued under subparagraph (A) shall*
18 *establish evaluation funding levels based on the*
19 *size and scope of each test that ensure adequate*
20 *evaluation of the results of the test or project.*

21 “(2) *SPECIAL RULE.*—*Any survey, questionnaire,*
22 *or interview that the Secretary considers necessary to*
23 *carry out the evaluation of any test or program as-*
24 *essment activity under this subchapter shall not be*
25 *subject to chapter 35 of title 44.*

1 **“§ 525. National ITS Program Plan**

2 “(a) *IN GENERAL.*—

3 “(1) *UPDATES.*—*Not later than 1 year after the*
4 *date of enactment of the Safe, Accountable, Flexible,*
5 *and Efficient Transportation Equity Act of 2003, the*
6 *Secretary, in consultation with interested stakeholders*
7 *(including State transportation departments) shall*
8 *develop a 5-year National ITS Program Plan.*

9 “(2) *SCOPE.*—*The National ITS Program Plan*
10 *shall—*

11 “(A) *specify the goals, objectives, and mile-*
12 *stones for the research and deployment of intel-*
13 *ligent transportation systems in the contexts of—*

14 “(i) *major metropolitan areas;*

15 “(ii) *smaller metropolitan and rural*
16 *areas; and*

17 “(iii) *commercial vehicle operations;*

18 “(B) *specify the manner in which specific*
19 *programs and projects will achieve the goals, ob-*
20 *jectives, and milestones referred to in subpara-*
21 *graph (A), including consideration of a 5-year*
22 *timeframe for the goals and objectives;*

23 “(C) *identify activities that provide for the*
24 *dynamic development, testing, and necessary re-*
25 *vision of standards and protocols to promote and*
26 *ensure interoperability in the implementation of*

1 *intelligent transportation system technologies,*
2 *including actions taken to establish standards;*
3 *and*

4 “(D) *establish a cooperative process with*
5 *State and local governments for—*

6 “(i) *determining desired surface trans-*
7 *portation system performance levels; and*

8 “(ii) *developing plans for accelerating*
9 *the incorporation of specific intelligent*
10 *transportation system capabilities into sur-*
11 *face transportation systems.*

12 “(b) *REPORTING.—The National ITS Program Plan*
13 *shall be transmitted and biennially updated as part of the*
14 *surface transportation research and technology development*
15 *strategic plan developed under section 508(c).*

16 **“§ 526. National ITS architecture and standards**

17 “(a) *IN GENERAL.—*

18 “(1) *DEVELOPMENT, IMPLEMENTATION, AND*
19 *MAINTENANCE.—In accordance with section 12(d) of*
20 *the National Technology Transfer and Advancement*
21 *Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the*
22 *Secretary shall develop, implement, and maintain a*
23 *national ITS architecture and supporting standards*
24 *and protocols to promote the widespread use and eval-*
25 *uation of intelligent transportation system technology*

1 *as a component of the surface transportation systems*
2 *of the United States.*

3 “(2) *INTEROPERABILITY AND EFFICIENCY.—To*
4 *the maximum extent practicable, the national ITS ar-*
5 *chitecture shall promote interoperability among, and*
6 *efficiency of, intelligent transportation system tech-*
7 *nologies implemented throughout the United States.*

8 “(3) *USE OF STANDARDS DEVELOPMENT ORGANI-*
9 *ZATIONS.—In carrying out this section, the Secretary*
10 *shall use the services of such standards development*
11 *organizations as the Secretary determines to be ap-*
12 *propriate.*

13 “(b) *PROVISIONAL STANDARDS.—*

14 “(1) *IN GENERAL.—If the Secretary finds that*
15 *the development or selection of an intelligent trans-*
16 *portation system standard jeopardizes the timely*
17 *achievement of the objectives identified in subsection*
18 *(a), the Secretary may establish a provisional stand-*
19 *ard—*

20 “(A) *after consultation with affected parties;*
21 *and*

22 “(B) *by using, to the maximum extent prac-*
23 *ticable, the work product of appropriate stand-*
24 *ards development organizations.*

1 “(2) *CRITICAL STANDARDS.*—*If a standard iden-*
2 *tified by the Secretary as critical has not been adopt-*
3 *ed and published by the appropriate standards devel-*
4 *opment organization by the date of enactment of this*
5 *subchapter, the Secretary shall establish a provisional*
6 *standard—*

7 “(A) *after consultation with affected parties;*

8 *and*

9 “(B) *by using, to the maximum extent prac-*
10 *ticable, the work product of appropriate stand-*
11 *ards development organizations.*

12 “(3) *PERIOD OF EFFECTIVENESS.*—*A provisional*
13 *standard established under paragraph (1) or (2)*
14 *shall—*

15 “(A) *be published in the Federal Register;*

16 *and*

17 “(B) *remain in effect until such time as the*
18 *appropriate standards development organization*
19 *adopts and publishes a standard.*

20 “(c) *WAIVER OF REQUIREMENT TO ESTABLISH PROVI-*
21 *SIONAL CRITICAL STANDARD.*—

22 “(1) *IN GENERAL.*—*The Secretary may waive*
23 *the requirement under subsection (b)(2) to establish a*
24 *provisional standard if the Secretary determines that*
25 *additional time would be productive in, or that estab-*

1 *lishment of a provisional standard would be counter-*
2 *productive to, the timely achievement of the objectives*
3 *identified in subsection (a).*

4 “(2) NOTICE.—*The Secretary shall publish in*
5 *the Federal Register a notice that describes—*

6 “(A) *each standard for which a waiver of*
7 *the provisional standard requirement is granted*
8 *under paragraph (1);*

9 “(B) *the reasons for and effects of granting*
10 *the waiver; and*

11 “(C) *an estimate as to the date on which the*
12 *standard is expected to be adopted through a*
13 *process consistent with section 12(d) of the Na-*
14 *tional Technology Transfer and Advancement*
15 *Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).*

16 “(3) WITHDRAWAL OF WAIVER.—

17 “(A) IN GENERAL.—*The Secretary may*
18 *withdraw a waiver granted under paragraph (1)*
19 *at any time.*

20 “(B) NOTICE.—*On withdrawal of a waiver,*
21 *the Secretary shall publish in the Federal Reg-*
22 *ister a notice that describes—*

23 “(i) *each standard for which the waiv-*
24 *er has been withdrawn; and*

1 “(ii) the reasons for withdrawing the
2 waiver.

3 “(d) CONFORMITY WITH NATIONAL ITS ARCHITEC-
4 TURE.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graphs (2) and (3), the Secretary shall ensure that in-
7 telligent transportation system projects carried out
8 using funds made available from the Highway Trust
9 Fund conform to the national ITS architecture, ap-
10 plicable standards or provisional standards, and pro-
11 tocols developed under subsection (a).

12 “(2) DISCRETION OF SECRETARY.—The Sec-
13 retary may authorize exceptions to paragraph (1) for
14 projects designed to achieve specific research objectives
15 outlined in—

16 “(A) the National ITS Program Plan under
17 section 525; or

18 “(B) the surface transportation research
19 and technology development strategic plan devel-
20 oped under section 508(c).

21 “(3) EXCEPTIONS.—Paragraph (1) shall not
22 apply to funds used for operation or maintenance of
23 an intelligent transportation system in existence on
24 the date of enactment of this subchapter.

1 **“§527. Commercial vehicle information systems and**
2 **networks deployment**

3 “(a) *DEFINITIONS.—In this section:*

4 “(1) *COMMERCIAL VEHICLE INFORMATION SYS-*
5 *TEMS AND NETWORKS.—The term ‘commercial vehicle*
6 *information systems and networks’ means the infor-*
7 *mation systems and communications networks that*
8 *provide the capability to—*

9 “(A) *improve the safety of commercial vehi-*
10 *cle operations;*

11 “(B) *increase the efficiency of regulatory in-*
12 *spection processes to reduce administrative bur-*
13 *dens by advancing technology to facilitate in-*
14 *spections and increase the effectiveness of enforce-*
15 *ment efforts;*

16 “(C) *advance electronic processing of reg-*
17 *istration information, driver licensing informa-*
18 *tion, fuel tax information, inspection and crash*
19 *data, and other safety information;*

20 “(D) *enhance the safe passage of commercial*
21 *vehicles across the United States and across*
22 *international borders; and*

23 “(E) *promote the communication of infor-*
24 *mation among the States and encourage*
25 *multistate cooperation and corridor development.*

26 “(2) *COMMERCIAL VEHICLE OPERATIONS.—*

1 “(A) *IN GENERAL.*—*The term ‘commercial*
2 *vehicle operations’ means motor carrier oper-*
3 *ations and motor vehicle regulatory activities as-*
4 *sociated with the commercial movement of goods*
5 *(including hazardous materials) and passengers.*

6 “(B) *INCLUSIONS.*—*The term ‘commercial*
7 *vehicle operations’, with respect to the public sec-*
8 *tor, includes—*

9 “(i) *the issuance of operating creden-*
10 *tials;*

11 “(ii) *the administration of motor vehi-*
12 *cle and fuel taxes; and*

13 “(iii) *the administration of roadside*
14 *safety and border crossing inspection and*
15 *regulatory compliance operations.*

16 “(3) *CORE DEPLOYMENT.*—*The term ‘core de-*
17 *ployment’ means the deployment of systems in a*
18 *State necessary to provide the State with—*

19 “(A) *safety information exchange to—*

20 “(i) *electronically collect and transmit*
21 *commercial vehicle and driver inspection*
22 *data at a majority of inspection sites;*

23 “(ii) *connect to the Safety and Fitness*
24 *Electronic Records system for access to—*

1 “(I) interstate carrier and com-
2 mercial vehicle data;

3 “(II) summaries of past safety
4 performance; and

5 “(III) commercial vehicle creden-
6 tials information; and

7 “(iii) exchange carrier data and com-
8 mercial vehicle safety and credentials infor-
9 mation within the State and connect to
10 Safety and Fitness Electronic Records sys-
11 tem for access to interstate carrier and com-
12 mercial vehicle data;

13 “(B) interstate credentials administration
14 to—

15 “(i)(I) perform end-to-end (including
16 carrier application) jurisdiction applica-
17 tion processing, and credential issuance, of
18 at least the International Registration Plan
19 and International Fuel Tax Agreement cre-
20 dentials; and

21 “(II) extend the processing to other cre-
22 dentials, including intrastate, titling, over-
23 size or overweight requirements, carrier reg-
24 istration, and hazardous materials;

1 “(ii) connect to the International Reg-
2 istration Plan and International Fuel Tax
3 Agreement clearinghouses; and

4 “(iii)(I) have at least 10 percent of the
5 transaction volume handled electronically;
6 and

7 “(II) have the capability to add more
8 carriers and to extend to branch offices
9 where applicable; and

10 “(C) roadside electronic screening to elec-
11 tronically screen transponder-equipped commer-
12 cial vehicles at a minimum of 1 fixed or mobile
13 inspection site and to replicate the screening at
14 other sites.

15 “(4) *EXPANDED DEPLOYMENT.*—The term ‘ex-
16 panded deployment’ means the deployment of systems
17 in a State that—

18 “(A) exceed the requirements of a core de-
19 ployment of commercial vehicle information sys-
20 tems and networks;

21 “(B) improve safety and the productivity of
22 commercial vehicle operations; and

23 “(C) enhance transportation security.

1 “(b) *PROGRAM.*—*The Secretary shall carry out a com-*
2 *mercial vehicle information systems and networks program*
3 *to—*

4 “(1) *improve the safety and productivity of com-*
5 *mercial vehicles and drivers; and*

6 “(2) *reduce costs associated with commercial ve-*
7 *hicle operations and Federal and State commercial*
8 *vehicle regulatory requirements.*

9 “(c) *PURPOSE.*—*It is the purpose of the program to*
10 *advance the technological capability and promote the de-*
11 *ployment of intelligent transportation system applications*
12 *for commercial vehicle operations, including commercial ve-*
13 *hicle, commercial driver, and carrier-specific information*
14 *systems and networks.*

15 “(d) *CORE DEPLOYMENT GRANTS.*—

16 “(1) *IN GENERAL.*—*The Secretary shall make*
17 *grants to eligible States for the core deployment of*
18 *commercial vehicle information systems and networks.*

19 “(2) *ELIGIBILITY.*—*To be eligible for a core de-*
20 *ployment grant under this subsection, a State shall—*

21 “(A) *have a commercial vehicle information*
22 *systems and networks program plan and a top*
23 *level system design approved by the Secretary;*

24 “(B) *certify to the Secretary that the com-*
25 *mercial vehicle information systems and net-*

1 *works deployment activities of the State (includ-*
2 *ing hardware procurement, software and system*
3 *development, and infrastructure modifica-*
4 *tions)—*

5 *“(i) are consistent with the national*
6 *intelligent transportation systems and com-*
7 *mmercial vehicle information systems and*
8 *networks architectures and available stand-*
9 *ards; and*

10 *“(ii) promote interoperability and effi-*
11 *ciency, to the maximum extent practicable;*
12 *and*

13 *“(C) agree to execute interoperability tests*
14 *developed by the Federal Motor Carrier Safety*
15 *Administration to verify that the systems of the*
16 *State conform with the national intelligent*
17 *transportation systems architecture, applicable*
18 *standards, and protocols for commercial vehicle*
19 *information systems and networks.*

20 *“(3) AMOUNT OF GRANTS.—The maximum ag-*
21 *gregate amount a State may receive under this sub-*
22 *section for the core deployment of commercial vehicle*
23 *information systems and networks may not exceed*
24 *\$2,500,000, including funds received under section*
25 *2001(a) of the Safe, Accountable, Flexible, and Effi-*

1 *cient Transportation Equity Act of 2003 for the core*
2 *deployment of commercial vehicle information systems*
3 *and networks.*

4 “(4) *USE OF FUNDS.—*

5 “(A) *IN GENERAL.—Subject to subpara-*
6 *graph (B), funds from a grant under this sub-*
7 *section may only be used for the core deployment*
8 *of commercial vehicle information systems and*
9 *networks.*

10 “(B) *REMAINING FUNDS.—An eligible State*
11 *that has completed the core deployment of com-*
12 *mercial vehicle information systems and net-*
13 *works, or completed the deployment before core*
14 *deployment grant funds are expended, may use*
15 *the remaining core deployment grant funds for*
16 *the expanded deployment of commercial vehicle*
17 *information systems and networks in the State.*

18 “(e) *EXPANDED DEPLOYMENT GRANTS.—*

19 “(1) *IN GENERAL.—For each fiscal year, from*
20 *the funds remaining after the Secretary has made*
21 *core deployment grants under subsection (d), the Sec-*
22 *retary may make grants to each eligible State, on re-*
23 *quest, for the expanded deployment of commercial ve-*
24 *hicle information systems and networks.*

1 “(2) *ELIGIBILITY.*—Each State that has com-
2 pleted the core deployment of commercial vehicle in-
3 formation systems and networks shall be eligible for
4 an expanded deployment grant.

5 “(3) *AMOUNT OF GRANTS.*—Each fiscal year, the
6 Secretary may distribute funds available for ex-
7 panded deployment grants equally among the eligible
8 States in an amount that does not exceed \$1,000,000
9 for each State.

10 “(4) *USE OF FUNDS.*—A State may use funds
11 from a grant under this subsection only for the ex-
12 panded deployment of commercial vehicle information
13 systems and networks.

14 “(f) *FEDERAL SHARE.*—The Federal share of the cost
15 of a project payable from funds made available to carry
16 out this section shall be the share applicable under section
17 120(b), as adjusted under subsection (d) of that section.

18 “(g) *FUNDING.*—Funds authorized to be appropriated
19 to carry out this section shall be available for obligation
20 in the same manner and to the same extent as if the funds
21 were apportioned under chapter 1, except that the funds
22 shall remain available until expended.

23 “§ 528. **Research and development**

24 “(a) *IN GENERAL.*—The Secretary shall carry out a
25 comprehensive program of intelligent transportation system

1 *research, development, and operational tests of intelligent*
2 *vehicles and intelligent infrastructure systems, and other*
3 *similar activities that are necessary to carry out this sub-*
4 *chapter.*

5 “(b) *PRIORITY AREAS.*—*Under the program, the Sec-*
6 *retary shall give priority to funding projects that—*

7 “(1) *assist in the development of an inter-*
8 *connected national intelligent transportation system*
9 *network that—*

10 “(A) *improves the reliability of the surface*
11 *transportation system;*

12 “(B) *supports national security;*

13 “(C) *reduces, by at least 20 percent, the cost*
14 *of manufacturing, deploying, and operating in-*
15 *telligent transportation systems network compo-*
16 *nents;*

17 “(D) *could assist in deployment of the*
18 *Armed Forces in response to a crisis; and*

19 “(E) *improves response to, and evacuation*
20 *of the public during, an emergency situation;*

21 “(2) *address traffic management, incident man-*
22 *agement, transit management, toll collection traveler*
23 *information, or highway operations systems with*
24 *goals of—*

1 “(A) reducing metropolitan congestion by 5
2 percent by 2010;

3 “(B) ensuring that a national, interoperable
4 511 system, along with a national traffic infor-
5 mation system that includes a user-friendly,
6 comprehensive website, is fully implemented for
7 use by travelers throughout the United States by
8 September 30, 2010; and

9 “(C)(i) improving incident management re-
10 sponse, particularly in rural areas, so that rural
11 emergency response times are reduced by an av-
12 erage of 10 minutes; and

13 “(ii) subject to subsection (d), improving
14 communication between emergency care pro-
15 viders and trauma centers;

16 “(3) address traffic management, incident man-
17 agement, transit management, toll collection, traveler
18 information, or highway operations systems;

19 “(4) conduct operational tests of the integration
20 of at least 3 crash-avoidance technologies in passenger
21 vehicles;

22 “(5) incorporate human factors research, includ-
23 ing the science of the driving process;

24 “(6) facilitate the integration of intelligent infra-
25 structure, vehicle, and control technologies;

1 “(7) incorporate research on the impact of envi-
2 ronmental, weather, and natural conditions on intel-
3 ligent transportation systems, including the effects of
4 cold climates;

5 “(8) as determined by the Secretary, will im-
6 prove the overall safety performance of vehicles and
7 roadways, including the use of real-time setting of
8 speed limits through the use of speed management
9 technology;

10 “(9) examine—

11 “(A) the application to intelligent transpor-
12 tation systems of appropriately modified existing
13 technologies from other industries; and

14 “(B) the development of new, more robust
15 intelligent transportation systems technologies
16 and instrumentation;

17 “(10) develop and test communication tech-
18 nologies that—

19 “(A) are based on an assessment of the
20 needs of officers participating in a motor carrier
21 safety program funded under section 31104 of
22 title 49;

23 “(B) take into account the effectiveness and
24 adequacy of available technology;

1 “(C) address systems integration,
2 connectivity, and interoperability challenges;
3 and

4 “(D) provide the means for officers partici-
5 pating in a motor carrier safety program funded
6 under section 31104 of title 49 to directly assess,
7 without an intermediary, current and accurate
8 safety and regulatory information on motor car-
9 riers, commercial motor vehicles and drivers at
10 roadside or mobile inspection facilities;

11 “(11) enhance intermodal use of intelligent
12 transportation systems for diverse groups, including
13 for emergency and health-related services;

14 “(12) improve sensing and wireless communica-
15 tions that provide real-time information regarding
16 congestion and incidents;

17 “(13) develop and test high-accuracy, lane-level,
18 real-time accessible digital map architectures that can
19 be used by intelligent vehicles and intelligent infra-
20 structure elements to facilitate safety and crash avoid-
21 ance (including establishment of national standards
22 for an open-architecture digital map of all public
23 roads that is compatible with electronic 9-1-1 serv-
24 ices);

1 “(14) encourage the dual-use of intelligent trans-
2 portation system technologies (such as wireless com-
3 munications) for—

4 “(A) emergency services;

5 “(B) road pricing; and

6 “(C) local economic development; and

7 “(15) advance the use of intelligent transpor-
8 tation systems to facilitate high-performance trans-
9 portation systems, such as through—

10 “(A) congestion-pricing;

11 “(B) real-time facility management;

12 “(C) rapid-emergency response; and

13 “(D) just-in-time transit.

14 “(c) *OPERATIONAL TESTS*.—Operational tests con-
15 ducted under this section shall be designed for—

16 “(1) the collection of data to permit objective
17 evaluation of the results of the tests;

18 “(2) the derivation of cost-benefit information
19 that is useful to others contemplating deployment of
20 similar systems; and

21 “(3) the development and implementation of
22 standards.

23 “(d) *FEDERAL SHARE*.—The Federal share of the costs
24 of operational tests under subsection (a) shall not exceed
25 80 percent.

1 **“§ 529. Use of funds**

2 “(a) *IN GENERAL.*—For each fiscal year, not more
3 than \$5,000,000 of the funds made available to carry out
4 this subchapter shall be used for intelligent transportation
5 system outreach, public relations, displays, tours, and bro-
6 chures.

7 “(b) *APPLICABILITY.*—Subsection (a) shall not apply
8 to intelligent transportation system training, scholarships,
9 or the publication or distribution of research findings, tech-
10 nical guidance, or similar documents.”.

11 (b) *CONFORMING AMENDMENT.*—Title V of the Trans-
12 portation Equity Act for the 21st Century is amended by
13 striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

14 **TITLE III—INTERMODAL**
15 **PASSENGER FACILITIES**

16 **SEC. 3001. INTERMODAL PASSENGER FACILITIES.**

17 (a) *IN GENERAL.*—Chapter 55 of title 49, United
18 States Code, is amended by adding the following at the end:

19 “**SUBCHAPTER III—INTERMODAL PASSENGER**
20 **FACILITIES**

21 **§ 5571. Policy and purposes**

22 “(a) *DEVELOPMENT AND ENHANCEMENT OF INTER-*
23 *MODAL PASSENGER FACILITIES.*—It is in the economic in-
24 terest of the United States to improve the efficiency of public
25 surface transportation modes by ensuring their connection
26 with and access to intermodal passenger terminals, thereby

1 *streamlining the transfer of passengers among modes, en-*
 2 *hancing travel options, and increasing passenger transpor-*
 3 *tation operating efficiencies.*

4 “(b) *GENERAL PURPOSES.*—*The purposes of this sub-*
 5 *chapter are to accelerate intermodal integration among*
 6 *North America’s passenger transportation modes through—*

7 “(1) *ensuring intercity public transportation ac-*
 8 *cess to intermodal passenger facilities;*

9 “(2) *encouraging the development of an inte-*
 10 *grated system of public transportation information;*
 11 *and*

12 “(3) *providing intercity bus intermodal pas-*
 13 *senger facility grants.*

14 **§5572. Definitions**

15 *“In this subchapter—*

16 “(1) *‘capital project’ means a project for—*

17 “(A) *acquiring, constructing, improving, or*
 18 *renovating an intermodal facility that is related*
 19 *physically and functionally to intercity bus serv-*
 20 *ice and establishes or enhances coordination be-*
 21 *tween intercity bus service and transportation,*
 22 *including aviation, commuter rail, intercity rail,*
 23 *public transportation, seaports, and the National*
 24 *Highway System, such as physical infrastruc-*
 25 *ture associated with private bus operations at*

1 *existing and new intermodal facilities, including*
2 *special lanes, curb cuts, ticket kiosks and*
3 *counters, baggage and package express storage,*
4 *employee parking, office space, security, and*
5 *signage; and*

6 “(B) *establishing or enhancing coordination*
7 *between intercity bus service and transportation,*
8 *including aviation, commuter rail, intercity rail,*
9 *public transportation, and the National High-*
10 *way System through an integrated system of*
11 *public transportation information.*

12 “(2) ‘*commuter service*’ means service designed
13 *primarily to provide daily work trips within the local*
14 *commuting area.*

15 “(3) ‘*intercity bus service*’ means regularly
16 *scheduled bus service for the general public which op-*
17 *erates with limited stops over fixed routes connecting*
18 *two or more urban areas not in close proximity,*
19 *which has the capacity for transporting baggage car-*
20 *ried by passengers, and which makes meaningful con-*
21 *nections with scheduled intercity bus service to more*
22 *distant points, if such service is available and may*
23 *include package express service, if incidental to pas-*
24 *senger transportation, but does not include air, com-*
25 *muter, water or rail service.*

1 “(4) ‘intermodal passenger facility’ means pas-
2 senger terminal that does, or can be modified to, ac-
3 commodate several modes of transportation and re-
4 lated facilities, including some or all of the following:
5 intercity rail, intercity bus, commuter rail, intracity
6 rail transit and bus transportation, airport limousine
7 service and airline ticket offices, rent-a-car facilities,
8 taxis, private parking, and other transportation serv-
9 ices.

10 “(5) ‘local governmental authority’ includes—

11 “(A) a political subdivision of a State;

12 “(B) an authority of at least one State or
13 political subdivision of a State;

14 “(C) an Indian tribe; and

15 “(D) a public corporation, board, or com-
16 mission established under the laws of the State.

17 “(6) ‘owner or operator of a public transpor-
18 tation facility’ means an owner or operator of inter-
19 city-rail, intercity-bus, commuter-rail, commuter-bus,
20 rail-transit, bus-transit, or ferry services.

21 “(7) ‘recipient’ means a State or local govern-
22 mental authority or a nonprofit organization that re-
23 ceives a grant to carry out this section directly from
24 the Federal government.

1 “(8) ‘Secretary’ means the Secretary of Trans-
2 portation.

3 “(9) ‘State’ means a State of the United States,
4 the District of Columbia, Puerto Rico, the Northern
5 Mariana Islands, Guam, American Samoa, and the
6 Virgin Islands.

7 “(10) ‘urban area’ means an area that includes
8 a municipality or other built-up place that the Sec-
9 retary, after considering local patterns and trends of
10 urban growth, decides is appropriate for a local pub-
11 lic transportation system to serve individuals in the
12 locality.

13 **“§5573. Assurance of access to intermodal passenger**
14 **facilities**

15 “Intercity buses and other modes of transportation
16 shall, to the maximum extent practicable, have access to
17 publicly funded intermodal passenger facilities, including
18 those passenger facilities seeking funding under section
19 5574.

20 **“§5574. Intercity bus intermodal passenger facility**
21 **grants**

22 “(a) GENERAL AUTHORITY.—The Secretary of Trans-
23 portation may make grants under this section to recipients
24 in financing a capital project, as defined in section 5572

1 *of this chapter, only if the Secretary finds that the proposed*
 2 *project is justified and has adequate financial commitment.*

3 “(b) *COMPETITIVE GRANT SELECTION.*—*The Secretary*
 4 *shall conduct a national solicitation for applications for*
 5 *grants under this section. Grantees shall be selected on a*
 6 *competitive basis.*

7 “(c) *SHARE OF NET PROJECT COSTS.*—*A grant shall*
 8 *not exceed 50 percent of the net project cost, as determined*
 9 *by the Secretary.*

10 “(d) *REGULATIONS.*—*The Secretary may promulgate*
 11 *such regulations as are necessary to carry out this section.*

12 **“§ 5575. Funding**

13 “(a) *HIGHWAY ACCOUNT.*—

14 “(1) *There is authorized to be appropriated from*
 15 *the Highway Trust Fund (other than the Mass Tran-*
 16 *sit Account) to carry out this subchapter \$10,000,000*
 17 *for each of fiscal years 2005 through 2009.*

18 “(2) *The funding made available under para-*
 19 *graph (1) of this subsection shall be available for obli-*
 20 *gation in the same manner as if such funds were ap-*
 21 *portioned under chapter 1 of title 23 and shall be sub-*
 22 *ject to any obligation limitation imposed on funds for*
 23 *Federal-aid highways and highway safety construc-*
 24 *tion programs.*

1 “(b) *PERIOD OF AVAILABILITY.*—Amounts made avail-
 2 *able by subsection (a) of this section shall remain available*
 3 *until expended.*”.

4 (b) *CONFORMING AMENDMENT.*—The analysis for
 5 *chapter 55 of title 49, United States Code, is amended by*
 6 *adding at the end the following:*

“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.

“5571. Policy and Purposes.

“5572. Definitions.

“5573. Assurance of access to intermodal facilities.

“5574. Intercity bus intermodal facility grants.

“5575. Funding.”.

7 ***TITLE IV—FEDERAL AID IN***
 8 ***SPORT FISH RESTORATION***
 9 ***ACT AMENDMENTS***

10 ***SEC. 4001. AMENDMENT OF FEDERAL AID IN FISH RESTORA-***
 11 ***TION ACT.***

12 *Except as otherwise expressly provided, whenever in*
 13 *this title an amendment or repeal is expressed in terms of*
 14 *an amendment to, or repeal of, a section or other provision,*
 15 *the reference shall be considered to be made to a section or*
 16 *other provision of the Act entitled “An Act to provide that*
 17 *the United States shall aid the States in fish restoration*
 18 *and management projects, and for other purposes,” ap-*
 19 *proved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).*

20 ***SEC. 4002. AUTHORIZATION OF APPROPRIATIONS.***

21 *Section 3 (16 U.S.C. 777b) is amended—*

1 (1) by striking “the succeeding fiscal year.” in
2 the third sentence and inserting “succeeding fiscal
3 years.”; and

4 (2) by striking “in carrying on the research pro-
5 gram of the Fish and Wildlife Service in respect to
6 fish of material value for sport and recreation.” and
7 inserting “to supplement the 55.3 percent of each an-
8 nual appropriation to be apportioned among the
9 States, as provided for in section 4(b) of this Act.”.

10 **SEC. 4003. DIVISION OF ANNUAL APPROPRIATIONS.**

11 Section 4 (16 U.S.C. 777c) is amended—

12 (1) by striking subsections (a) through (d) and
13 redesignating subsections (e), (f), and (g) as sub-
14 sections (b), (c), and (d);

15 (2) by inserting before subsection (b), as redesign-
16 ated, the following:

17 “(a) *IN GENERAL.*—For fiscal years 2004 through
18 2009, each annual appropriation made in accordance with
19 the provisions of section 3 of this Act shall be distributed
20 as follows:

21 “(1) *COASTAL WETLANDS.*—18 percent to the
22 Secretary of the Interior for distribution as provided
23 in the Coastal Wetlands Planning, Protection, and
24 Restoration Act (16 U.S.C. 3951 et seq.).

1 “(2) *BOATING SAFETY*.—18 percent to the Sec-
2 *retary of Homeland Security for State recreational*
3 *boating safety programs under section 13106 of title*
4 *46, United States Code.*

5 “(3) *CLEAN VESSEL ACT*.—1.9 percent to the
6 *Secretary of the Interior for qualified projects under*
7 *section 5604(c) of the Clean Vessel Act of 1992 (33*
8 *U.S.C. 1322 note).*

9 “(4) *BOATING INFRASTRUCTURE*.—1.9 percent to
10 *the Secretary of the Interior for obligation for quali-*
11 *fied projects under section 7404(d) of the Sportfishing*
12 *and Boating Safety Act of 1998 (16 U.S.C. 777g-*
13 *1(d)).*

14 “(5) *NATIONAL OUTREACH AND COMMUNICA-*
15 *TIONS*.—1.9 percent to the Secretary of the Interior
16 *for the National Outreach and Communications Pro-*
17 *gram under section 8(d) of this Act. Such amounts*
18 *shall remain available for 3 fiscal years, after which*
19 *any portion thereof that is unobligated by the Sec-*
20 *retary for that program may be expended by the Sec-*
21 *retary under subsection (b) of this section.*

22 “(6) *SET-ASIDE FOR EXPENSES FOR ADMINIS-*
23 *TRATION OF THIS CHAPTER*.—

24 “(A) *In general*.—2.1 percent to the Sec-
25 *retary of the Interior for expenses for adminis-*

1 *tration incurred in implementation of this Act,*
2 *in accordance with this section, section 9, and*
3 *section 14 of this Act.*

4 “(B) *APPORTIONMENT OF UNOBLIGATED*
5 *FUNDS.—If any portion of the amount made*
6 *available to the Secretary under subparagraph*
7 *(A) remains unexpended and unobligated at the*
8 *end of a fiscal year, that portion shall be appor-*
9 *tioned among the States, on the same basis and*
10 *in the same manner as other amounts made*
11 *available under this Act are apportioned among*
12 *the States under subsection (b) of this section,*
13 *within 60 days after the end of that fiscal year.*
14 *Any amount apportioned among the States*
15 *under this subparagraph shall be in addition to*
16 *any amounts otherwise available for appor-*
17 *tionment among the States under subsection (b) for*
18 *the fiscal year.”;*

19 (3) *by striking “of the Interior, after the dis-*
20 *tribution, transfer, use, and deduction under sub-*
21 *sections (a), (b), (c), and (d), respectively, and after*
22 *deducting amounts used for grants under section 14,*
23 *shall apportion the remainder” in subsection (b), as*
24 *redesignated, and inserting “shall apportion 55.3 per-*
25 *cent”;*

1 (4) by striking “per centum” each place it ap-
2 pears in subsection (b), as redesignated, and inserting
3 “percent”;

4 (5) by striking “subsections (a), (b)(3)(A),
5 (b)(3)(B), and (c)” in paragraph (1) of subsection
6 (d), as redesignated, and inserting “paragraphs (1),
7 (3), (4), and (5) of subsection (a)”;

8 (6) by adding at the end the following:

9 “(e) *TRANSFER OF CERTAIN FUNDS.*—Amounts avail-
10 able under paragraphs (3) and (4) of subsection (a) that
11 are unobligated by the Secretary after 3 fiscal years shall
12 be transferred to the Secretary of Homeland Security and
13 shall be expended for State recreational boating safety pro-
14 grams under section 13106(a) of title 46, United States
15 Code.”.

16 **SEC. 4004. MAINTENANCE OF PROJECTS.**

17 Section 8 (16 U.S.C. 777g) is amended—

18 (1) by striking “in carrying out the research
19 program of the Fish and Wildlife Service in respect
20 to fish of material value for sport or recreation.” in
21 subsection (b)(2) and inserting “to supplement the
22 55.3 percent of each annual appropriation to be ap-
23 portioned among the States under section 4(b) of this
24 Act.”; and

1 (2) by striking “subsection (c) or (d) of section
2 4” in subsection (d)(3) and inserting “paragraph (5)
3 or (6) of section 4(a)”.

4 **SEC. 4005. BOATING INFRASTRUCTURE.**

5 Section 7404(d)(1) of the Sportfishing and Boating
6 Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended
7 by striking “section 4(b)(3)(B)” and inserting “section
8 4(a)(4)”.

9 **SEC. 4006. REQUIREMENTS AND RESTRICTIONS CON-**
10 **CERNING USE OF AMOUNTS FOR EXPENSES**
11 **FOR ADMINISTRATION.**

12 Section 9 (16 U.S.C. 777h) is amended—

13 (1) by striking “section 4(d)(1)” in subsection
14 (a) and inserting “section 4(a)(6)”; and

15 (2) by striking “section 4(d)(1)” in subsection
16 (b)(1) and inserting “section 4(a)(6)”.

17 **SEC. 4007. PAYMENTS OF FUNDS TO AND COOPERATION**
18 **WITH PUERTO RICO, THE DISTRICT OF CO-**
19 **LUMBIA, GUAM, AMERICAN SAMOA, COMMON-**
20 **WEALTH OF THE NORTHERN MARINA IS-**
21 **LANDS, AND VIRGIN ISLANDS.**

22 Section 12 (16 U.S.C. 777k) is amended by striking
23 “in carrying on the research program of the Fish and Wild-
24 life Service in respect to fish of material value for sport
25 or recreation.” and inserting “to supplement the 55.3 per-

1 *cent of each annual appropriation to be apportioned among*
2 *the States under section 4(b) of this Act.”.*

3 **SEC. 4008. MULTISTATE CONSERVATION GRANT PROGRAM.**

4 *Section 14 (16 U.S.C. 777m) is amended—*

5 *(1) by striking so much of subsection (a) as pre-*
6 *cedes paragraph (2) and inserting the following:*

7 *“(a) IN GENERAL.—*

8 *“(1) AMOUNT FOR GRANTS.—For each of fiscal*
9 *years 2004 through 2009, 0.9 percent of each annual*
10 *appropriation made in accordance with the provi-*
11 *sions of section 3 of this Act shall be distributed to*
12 *the Secretary of the Interior for making multistate*
13 *conservation project grants in accordance with this*
14 *section.”;*

15 *(2) by striking “section 4(e)” each place it ap-*
16 *pears in subsection (a)(2)(B) and inserting “section*
17 *4(b)”;* and

18 *(3) by striking “Of the balance of each annual*
19 *appropriation made under section 3 remaining after*
20 *the distribution and use under subsections (a), (b),*
21 *and (c) of section 4 for each fiscal year and after de-*
22 *ducting amounts used for grants under subsection*
23 *(a)—” in subsection (e) and inserting “Of amounts*
24 *made available under section 4(a)(6) for each fiscal*
25 *year—”.*

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108TH CONGRESS
2D SESSION

S. 1072

[Report No. 108-222]

A BILL

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

JANUARY 9, 2004

Reported with an amendment