

In the Senate of the United States,

May 17, 2005.

Resolved, That the bill from the House of Representatives (H.R. 3) entitled “An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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 2005”.*

1 (b) *TABLE OF CONTENTS.—The table of contents of this*
 2 *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.
Sec. 1103. Apportionments.
Sec. 1104. Equity bonus programs.
Sec. 1105. Revenue aligned budget authority.
Sec. 1106. Use of excess funds and funds for inactive projects.

Subtitle B—New Programs

- Sec. 1201. Infrastructure performance and maintenance program.*
Sec. 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
Sec. 1205. Designation of Interstate Highways.
Sec. 1206. State-by-State comparison of highway construction costs.

Subtitle C—Finance

- Sec. 1301. Federal share.*
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. State infrastructure banks.
Sec. 1305. Public-private partnerships pilot program.

Subtitle D—Safety

- Sec. 1401. Highway safety improvement program.*
Sec. 1402. Operation lifesaver.
Sec. 1403. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.
Sec. 1404. Bus axle weight exemption.
Sec. 1405. Safe routes to schools program.
Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
Sec. 1409. Open container requirements.
Sec. 1410. Safe intersections.
Sec. 1411. Presidential commission on alcohol-impaired driving.
Sec. 1412. Sense of the Senate in support of increased public awareness of blood alcohol concentration levels and the dangers of drinking and driving.
Sec. 1413. Grant program for commercial driver training.

*Subtitle E—Environmental Planning and Review**CHAPTER 1—TRANSPORTATION PLANNING*

- Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.*
- Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.*
- Sec. 1503. Integration of natural resource concerns into transportation project planning.*
- Sec. 1504. Public involvement in transportation planning and projects.*
- Sec. 1505. Project mitigation.*

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

- Sec. 1511. Transportation project development process.*
- Sec. 1512. Assumption of responsibility for categorical exclusions.*
- Sec. 1513. Surface transportation project delivery pilot program.*
- Sec. 1514. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.*
- Sec. 1515. Regulations.*

CHAPTER 3—MISCELLANEOUS

- Sec. 1521. Critical real property acquisition.*
- Sec. 1522. Planning capacity building initiative.*
- Sec. 1523. Intermodal passenger facilities.*
- Sec. 1524. 14th Amendment highway and 3rd infantry division highway.*

Subtitle F—Environment

- Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.*
- Sec. 1602. National scenic byways program.*
- Sec. 1603. Recreational trails program.*
- Sec. 1604. Exemption of Interstate System.*
- Sec. 1605. Standards.*
- Sec. 1606. Use of high occupancy vehicle lanes.*
- Sec. 1607. Bicycle transportation and pedestrian walkways.*
- Sec. 1608. Idling reduction facilities in Interstate rights-of-way.*
- Sec. 1609. Toll programs.*
- Sec. 1610. Federal reference method.*
- Sec. 1611. Addition of particulate matter areas to CMAQ.*
- Sec. 1612. Addition to CMAQ-eligible projects.*
- Sec. 1613. Improved interagency consultation.*
- Sec. 1614. Evaluation and assessment of CMAQ projects.*
- Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.*
- Sec. 1616. Transition to new air quality standards.*
- Sec. 1617. Reduced barriers to air quality improvements.*
- Sec. 1618. Air quality monitoring data influenced by exceptional events.*
- Sec. 1619. Conforming amendments.*
- Sec. 1620. Highway stormwater discharge mitigation program.*
- Sec. 1621. Federal procurement of recycled coolant.*
- Sec. 1622. Clean school bus program.*
- Sec. 1623. Conserve by bicycling program.*

Subtitle G—Operations

- Sec. 1701. Transportation systems management and operations.*
- Sec. 1702. Real-time system management information program.*
- Sec. 1703. Contracting for engineering and design services.*
- Sec. 1704. Designation of transportation management areas.*

Subtitle H—Federal-Aid Stewardship

- Sec. 1801. Future Interstate System routes.*
- Sec. 1802. Stewardship and oversight.*
- Sec. 1803. Revision of regulations.*
- Sec. 1804. Program efficiencies—finance.*
- Sec. 1805. Set-asides for interstate discretionary projects.*
- Sec. 1806. Federal lands highways program.*
- Sec. 1807. Highway bridge program.*
- Sec. 1808. Appalachian development highway system.*
- Sec. 1809. Multistate corridor program.*
- Sec. 1810. Border planning, operations, technology, and capacity program.*
- Sec. 1811. Puerto Rico highway program.*
- Sec. 1812. National historic covered bridge preservation.*
- Sec. 1813. Transportation and community and system preservation program.*
- Sec. 1814. Parking pilot programs.*
- Sec. 1815. Interstate oasis program.*
- Sec. 1816. Tribal-State road maintenance agreements.*
- Sec. 1817. National forest system roads.*
- Sec. 1818. Territorial highway program.*
- Sec. 1819. High-speed magnetic levitation system deployment program.*
- Sec. 1820. Donations and credits.*
- Sec. 1821. Disadvantaged business enterprises.*
- Sec. 1822. **[Reserved]**.*
- Sec. 1823. Priority for pedestrian and bicycle facility enhancement projects.*
- Sec. 1824. The Delta Regional Authority.*
- Sec. 1825. Multistate international corridor development program.*
- Sec. 1826. Authorization of contract authority for States with Indian Reservations.*
- Sec. 1827. Value pricing pilot program.*
- Sec. 1828. Credit to State of Louisiana for State matching funds.*
- Sec. 1829. Approval and funding for certain construction projects.*
- Sec. 1830. Notice regarding participation of small business concerns.*
- Sec. 1831. Alaska Way viaduct study.*
- Sec. 1832. Bridge construction, North Dakota.*
- Sec. 1833. Community enhancement study.*
- Sec. 1834. Comprehensive coastal evacuation plan.*
- Sec. 1835. Priority projects.*
- Sec. 1836. Transportation needs, Grayling, Michigan.*
- Sec. 1837. US-95 Project, Las Vegas, Nevada.*

Subtitle I—Technical Corrections

- 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 nondiscrimination section.*

TITLE II—TRANSPORTATION RESEARCH

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- Sec. 2001. Authorization of appropriations.*
Sec. 2002. Obligation ceiling.
Sec. 2003. Notice.

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- Sec. 2101. Research and technology program.*
Sec. 2102. Study of data collection and statistical analysis efforts.
Sec. 2103. Centers for surface transportation excellence.
Sec. 2104. Motorcycle crash causation study grants.
Sec. 2105. Transportation technology innovation and demonstration program.

Subtitle C—Intelligent Transportation System Research

- Sec. 2201. Intelligent transportation system research and technical assistance program.*

*TITLE III—TRANSPORTATION DISCRETIONARY SPENDING
 GUARANTEE AND BUDGET OFFSETS*

- Sec. 3101. Sense of the Senate on overall Federal budget.*
Sec. 3102. Discretionary spending categories.
Sec. 3103. Level of obligation limitations.

TITLE IV—SOLID WASTE DISPOSAL

- Sec. 4001. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.*
Sec. 4002. Use of granular mine tailings.

*TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX
 SIMPLIFICATION*

- Sec. 5000. Short title; amendment of 1986 Code.*

Subtitle A—Trust Fund Reauthorization

- Sec. 5101. Extension of highway-related taxes and trust funds.*
Sec. 5102. Modification of adjustments of apportionments.

Subtitle B—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

- Sec. 5201. Modification of gas guzzler tax.*
Sec. 5202. Exclusion for tractors weighing 19,500 pounds or less from Federal excise tax on heavy trucks and trailers.
Sec. 5203. Exemption for equipment for transporting bulk beds of farm crops from excise tax on retail sale of heavy trucks and trailers.
Sec. 5204. Volumetric excise tax credit for alternative fuels.

PART II—AQUATIC EXCISE TAXES

- Sec. 5211. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.*
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Sec. 5213. Cap on excise tax on certain fishing equipment.

PART III—AERIAL EXCISE TAXES

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PART IV—TAXES RELATING TO ALCOHOL

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Sec. 5232. Modification of limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands.

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Sec. 5302. National Surface Transportation Infrastructure Financing Commission.

Sec. 5303. Expansion of Highway Trust Fund expenditure purposes to include funding for studies of supplemental or alternative financing for the Highway Trust Fund.

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Sec. 5306. Increase in dollar limitation for qualified transportation fringe benefits.

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Sec. 5308. Tax-exempt financing of highway projects and rail-truck transfer facilities.

Sec. 5309. Tax treatment of State ownership of railroad real estate investment trust.

Sec. 5310. Incentives for the installation of alternative fuel refueling stations.

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Subtitle D—Fuels-Related Technical Corrections

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PART I—GENERAL PROVISIONS

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- Sec. 5503. Increase in certain criminal penalties.*
- Sec. 5504. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.*
- Sec. 5505. Modification of interaction between subpart F and passive foreign investment company rules.*
- Sec. 5506. Declaration by chief executive officer relating to Federal annual corporate income tax return.*
- Sec. 5507. Treasury regulations on foreign tax credit.*
- Sec. 5508. Whistleblower reforms.*
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- Sec. 5511. Modifications of effective dates of leasing provisions of the American Jobs Creation Act of 2004.*
- Sec. 5512. Imposition of mark-to-market tax on individuals who expatriate.*
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- Sec. 5515. Prohibition on deferral of gain from the exercise of stock options and restricted stock gains through deferred compensation arrangements.*
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Sec. 6030. Controlled substances and alcohol misuse testing.
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- Sec. 7212. Authorization of appropriations.*
- Sec. 7213. Highway safety programs.*
- Sec. 7214. Highway safety research and outreach programs.*
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- Sec. 7216. Occupant protection grants.*
- Sec. 7217. Older driver safety; law enforcement training.*
- Sec. 7218. Emergency medical services.*
- Sec. 7219. Repeal of authority for alcohol traffic safety programs.*
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- Sec. 7251. Vehicle rollover prevention and crash mitigation.*
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- Sec. 7301. Short title.*

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- Sec. 7321. Purpose.*
- Sec. 7322. Definitions.*
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- Sec. 7324. Limitation on issuance of hazmat licenses.*
- Sec. 7325. Background checks for drivers hauling hazardous materials.*
- Sec. 7326. Representation and tampering.*
- Sec. 7327. Transporting certain material.*

- Sec. 7328. Hazmat employee training requirements and grants.*
- Sec. 7329. Registration.*
- Sec. 7330. Shipping papers and disclosure.*
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- Sec. 7362. Mailability of hazardous materials.*
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- Sec. 7381. Short title.*
- Sec. 7382. Responsibilities of the Secretary of Health and Human Services.*
- Sec. 7383. Department of Transportation requirements.*
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CHAPTER 4—HOUSEHOLD GOODS MOVERS

- Sec. 7401. Short title.*
- Sec. 7402. Definitions; application of provisions.*
- Sec. 7403. Payment of rates.*
- Sec. 7404. Household goods carrier operations.*
- Sec. 7405. Liability of carriers under receipts and bills of lading.*
- Sec. 7406. Arbitration requirements.*
- Sec. 7407. Enforcement of regulations related to transportation of household goods.*
- Sec. 7408. Working group for development of practices and procedures to enhance Federal-State relations.*
- Sec. 7409. Information about household goods transportation on carriers' websites.*

- Sec. 7410. Consumer complaints.*
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Sec. 7412. Civil penalties relating to household goods brokers.
Sec. 7413. Civil and criminal penalty for failing to give up possession of household goods.
Sec. 7414. Progress report.
Sec. 7415. Additional registration requirements for motor carriers of household goods.

SUBTITLE E—SPORTFISHING AND RECREATIONAL BOATING SAFETY

- Sec. 7501. Short title.*

CHAPTER 1—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

- Sec. 7511. Amendment of Federal Aid in Sport Fish Restoration Act.*
Sec. 7512. Authorization of appropriations.
Sec. 7513. Division of annual appropriations.
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Sec. 7515. Boating infrastructure.
Sec. 7516. Requirements and restrictions concerning use of amounts for expenses for administration.
Sec. 7517. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
Sec. 7518. Multistate conservation grant program.
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- Sec. 7531. Grant program.*

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- Sec. 7551. State matching funds requirement.*
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SUBTITLE F—MISCELLANEOUS PROVISIONS

- Sec. 7601. Office of intermodalism.*
Sec. 7602. Capital grants for rail line relocation projects.
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Sec. 7604. Report regarding impact on public safety of train travel in communities without grade separation.
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1 SEC. 2. GENERAL DEFINITIONS.

2 In this Act:

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

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

3 **SEC. 3. DEFINITIONS FOR TITLE 23.**

4 *Section 101 of title 23, United States Code, is amended*
5 *by striking subsection (a) and inserting the following:*

6 “(a) *DEFINITIONS.*—*In this title:*

7 “(1) *APPORTIONMENT.*—*The term ‘apportion-*
8 *ment’ includes an unexpended apportionment made*
9 *under a law enacted before the date of enactment of*
10 *the Safe, Accountable, Flexible, and Efficient Trans-*
11 *portation Equity Act of 2005.*

12 “(2) *CARPOOL PROJECT.*—

13 “(A) *IN GENERAL.*—*The term ‘carpool*
14 *project’ means any project to encourage the use*
15 *of carpools and vanpools.*

16 “(B) *INCLUSIONS.*—*The term ‘carpool*
17 *project’ includes a project—*

18 “(i) *to provide carpooling opportuni-*
19 *ties to the elderly and individuals with dis-*
20 *abilities;*

21 “(ii) *to develop and implement a sys-*
22 *tem for locating potential riders and in-*
23 *forming the riders of carpool opportunities;*

24 “(iii) *to acquire vehicles for carpool*
25 *use;*

1 “(iv) to designate highway lanes as
2 preferential carpool highway lanes;

3 “(v) to provide carpool-related traffic
4 control devices; and

5 “(vi) to designate facilities for use for
6 preferential parking for carpools.

7 “(3) CONSTRUCTION.—

8 “(A) IN GENERAL.—The term ‘construction’
9 means the supervision, inspection, and actual
10 building of, and incurring of all costs incidental
11 to the construction or reconstruction of a high-
12 way, including bond costs and other costs relat-
13 ing to the issuance in accordance with section
14 122 of bonds or other debt financing instruments
15 and costs incurred by the State in performing
16 Federal-aid project related audits that directly
17 benefit the Federal-aid highway program.

18 “(B) INCLUSIONS.—The term ‘construction’
19 includes—

20 “(i) locating, surveying, and mapping
21 (including the establishment of temporary
22 and permanent geodetic markers in accord-
23 ance with specifications of the National
24 Oceanic and Atmospheric Administration);

1 “(ii) resurfacing, restoration, and re-
2 habilitation;

3 “(iii) acquisition of rights-of-way;

4 “(iv) relocation assistance, acquisition
5 of replacement housing sites, and acquisi-
6 tion and rehabilitation, relocation, and con-
7 struction of replacement housing;

8 “(v) elimination of hazards of railway
9 grade crossings;

10 “(vi) elimination of roadside obstacles;

11 “(vii) improvements that directly fa-
12 cilitate and control traffic flow, such as—

13 “(I) grade separation of intersec-
14 tions;

15 “(II) widening of lanes;

16 “(III) channelization of traffic;

17 “(IV) traffic control systems; and

18 “(V) passenger loading and un-
19 loading areas;

20 “(viii) capital improvements that di-
21 rectly facilitate an effective vehicle weight
22 enforcement program, such as—

23 “(I) scales (fixed and portable);

24 “(II) scale pits;

25 “(III) scale installation; and

1 “(IV) *scale houses*;

2 “(ix) *improvements directly relating to*
3 *securing transportation infrastructures for*
4 *detection, preparedness, response, and recov-*
5 *ery*;

6 “(x) *operating costs relating to traffic*
7 *monitoring, management, and control*;

8 “(xi) *operational improvements*; and

9 “(xii) *transportation system manage-*
10 *ment and operations*.

11 “(4) *COUNTY*.—*The term ‘county’ includes—*

12 “(A) *a corresponding unit of government*
13 *under any other name in a State that does not*
14 *have county organizations*; and

15 “(B) *in those States in which the county*
16 *government does not have jurisdiction over high-*
17 *ways, any local government unit vested with ju-*
18 *risdiction over local highways*.

19 “(5) *FEDERAL-AID HIGHWAY*.—

20 “(A) *IN GENERAL*.—*The term ‘Federal-aid*
21 *highway’ means a highway eligible for assistance*
22 *under this chapter*.

23 “(B) *EXCLUSIONS*.—*The term ‘Federal-aid*
24 *highway’ does not include a highway classified*
25 *as a local road or rural minor collector*.

1 “(6) *FEDERAL-AID SYSTEM*.—The term ‘Federal-
2 *aid system*’ means any of the Federal-aid highway
3 systems described in section 103.

4 “(7) *FEDERAL LANDS HIGHWAY*.—The term
5 ‘Federal lands highway’ means—

6 “(A) a forest highway;

7 “(B) a recreation road;

8 “(C) a public Forest Service road;

9 “(D) a park road;

10 “(E) a parkway;

11 “(F) a refuge road;

12 “(G) an Indian reservation road; and

13 “(H) a public lands highway.

14 “(8) *FOREST HIGHWAY*.—The term ‘forest high-
15 way’ means a forest road that is—

16 “(A) under the jurisdiction of, and main-
17 tained by, a public authority; and

18 “(B) is open to public travel.

19 “(9) *FOREST ROAD OR TRAIL*.—

20 “(A) *IN GENERAL*.—The term ‘forest road or
21 trail’ means a road or trail wholly or partly
22 within, or adjacent to, and serving National
23 Forest System land that is necessary for the pro-
24 tection, administration, use, and development of
25 the resources of that land.

1 “(B) *INCLUSIONS.*—*The term ‘forest road or*
2 *trail’ includes—*

3 “(i) *a classified forest road;*

4 “(ii) *an unclassified forest road;*

5 “(iii) *a temporary forest road; and*

6 “(iv) *a public forest service road.*

7 “(10) *FREIGHT TRANSPORTATION GATEWAY.*—

8 “(A) *IN GENERAL.*—*The term ‘freight trans-*
9 *portation gateway’ means a nationally or re-*
10 *gionally significant transportation port of entry*
11 *or hub for domestic and global trade or military*
12 *mobilization.*

13 “(B) *INCLUSIONS.*—*The term ‘freight trans-*
14 *portation gateway’ includes freight intermodal*
15 *and Strategic Highway Network connections that*
16 *provide access to and from a port or hub de-*
17 *scribed in subparagraph (A).*

18 “(11) *HIGHWAY.*—*The term ‘highway’*
19 *includes—*

20 “(A) *a road, street, and parkway;*

21 “(B) *a right-of-way, bridge, railroad-high-*
22 *way crossing, tunnel, drainage structure, sign,*
23 *guardrail, and protective structure, in connec-*
24 *tion with a highway; and*

1 “(C) a portion of any interstate or inter-
2 national bridge or tunnel (including the ap-
3 proaches to the interstate or international bridge
4 or tunnel, and such transportation facilities as
5 may be required by the United States Customs
6 Service and the Bureau of Citizenship and Im-
7 migration Services in connection with the oper-
8 ation of an international bridge or tunnel), the
9 cost of which is assumed by a State transpor-
10 tation department.

11 “(12) *HIGHWAY SAFETY IMPROVEMENT*
12 *PROJECT.*—The term ‘highway safety improvement
13 project’ means a project that meets the requirements
14 of section 148.

15 “(13) *INDIAN RESERVATION ROAD.*—

16 “(A) *IN GENERAL.*—The term ‘Indian res-
17 ervation road’ means a public road that is lo-
18 cated within or provides access to an area de-
19 scribed in subparagraph (B) on which or in
20 which reside Indians or Alaskan Natives that, as
21 determined by the Secretary of the Interior, are
22 eligible for services generally available to Indians
23 under Federal laws specifically applicable to In-
24 dians.

1 “(B) AREAS.—The areas referred to in sub-
2 paragraph (A) are—

3 “(i) an Indian reservation;

4 “(ii) Indian trust land or restricted
5 Indian land that is not subject to fee title
6 alienation without the approval of the Fed-
7 eral Government; and

8 “(iii) an Indian or Alaska Native vil-
9 lage, group, or community.

10 “(14) INTERSTATE SYSTEM.—The term ‘Inter-
11 state System’ means the Dwight D. Eisenhower Na-
12 tional System of Interstate and Defense Highways de-
13 scribed in section 103(c).

14 “(15) MAINTENANCE.—

15 “(A) IN GENERAL.—The term ‘maintenance’
16 means the preservation of a highway.

17 “(B) INCLUSIONS.—The term ‘maintenance’
18 includes the preservation of—

19 “(i) the surface, shoulders, roadsides,
20 and structures of a highway; and

21 “(ii) such traffic-control devices as are
22 necessary for safe, secure, and efficient use
23 of a highway.

24 “(16) MAINTENANCE AREA.—The term ‘mainte-
25 nance area’ means an area that was designated as a

1 *nonattainment area, but was later redesignated by the*
2 *Administrator of the Environmental Protection Agen-*
3 *cy as an attainment area, under section 107(d) of the*
4 *Clean Air Act (42 U.S.C. 7407(d)).*

5 “(17) NATIONAL FOREST SYSTEM ROAD OR
6 *TRAIL.—The term ‘National Forest System road or*
7 *trail’ means a forest road or trail that is under the*
8 *jurisdiction of the Forest Service.*

9 “(18) NATIONAL HIGHWAY SYSTEM.—*The term*
10 *‘National Highway System’ means the Federal-aid*
11 *highway system described in section 103(b).*

12 “(19) OPERATING COSTS FOR TRAFFIC MONI-
13 *TORING, MANAGEMENT, AND CONTROL.—The term ‘op-*
14 *erating costs for traffic monitoring, management, and*
15 *control’ includes—*

16 “(A) *labor costs;*

17 “(B) *administrative costs;*

18 “(C) *costs of utilities and rent;*

19 “(D) *costs incurred by transportation agen-*
20 *cies for technology to monitor critical transpor-*
21 *tation infrastructure for security purposes; and*

22 “(E) *other costs associated with transpor-*
23 *tation systems management and operations and*
24 *the continuous operation of traffic control, such*
25 *as—*

1 “(i) an integrated traffic control sys-
2 tem;

3 “(ii) an incident management pro-
4 gram; and

5 “(iii) a traffic control center.

6 “(20) OPERATIONAL IMPROVEMENT.—

7 “(A) IN GENERAL.—The term ‘operational
8 improvement’ means—

9 “(i) a capital improvement for instal-
10 lation or implementation of—

11 “(I) a transportation system
12 management and operations program;

13 “(II) traffic and transportation
14 security surveillance and control equip-
15 ment;

16 “(III) a computerized signal sys-
17 tem;

18 “(IV) a motorist information sys-
19 tem;

20 “(V) an integrated traffic control
21 system;

22 “(VI) an incident management
23 program;

1 “(VII) equipment and programs
2 for transportation response to man-
3 made and natural disasters; or

4 “(VIII) a transportation demand
5 management facility, strategy, or pro-
6 gram; and

7 “(ii) such other capital improvements
8 to a public road as the Secretary may des-
9 ignate by regulation.

10 “(B) *EXCLUSIONS.*—The term ‘operational
11 improvement’ does not include—

12 “(i) a resurfacing, restorative, or reha-
13 bilitative improvement;

14 “(ii) construction of an additional
15 lane, interchange, or grade separation; or

16 “(iii) construction of a new facility on
17 a new location.

18 “(21) *PARK ROAD.*—The term ‘park road’ means
19 a public road (including a bridge built primarily for
20 pedestrian use, but with capacity for use by emer-
21 gency vehicles) that is located within, or provides ac-
22 cess to, an area in the National Park System with
23 title and maintenance responsibilities vested in the
24 United States.

1 “(22) *PARKWAY*.—The term ‘parkway’ means a
2 parkway authorized by an Act of Congress on land to
3 which title is vested in the United States.

4 “(23) *PROJECT*.—The term ‘project’ means—

5 “(A)(i) an undertaking to construct a par-
6 ticular portion of a highway; or

7 “(ii) if the context so implies, a particular
8 portion of a highway so constructed; and

9 “(B) any other undertaking eligible for as-
10 sistance under this title.

11 “(24) *PROJECT AGREEMENT*.—The term ‘project
12 agreement’ means the formal instrument to be exe-
13 cuted by the Secretary and recipient of funds under
14 this title.

15 “(25) *PUBLIC AUTHORITY*.—The term ‘public au-
16 thority’ means a Federal, State, county, town, or
17 township, Indian tribe, municipal or other local gov-
18 ernment or instrumentality with authority to finance,
19 build, operate, or maintain toll or toll-free facilities.

20 “(26) *PUBLIC FOREST SERVICE ROAD*.—The term
21 ‘public Forest Service road’ means a classified forest
22 road—

23 “(A) that is open to public travel;

1 “(B) for which title and maintenance re-
2 sponsibility is vested in the Federal Government;
3 and

4 “(C) that has been designated a public road
5 by the Forest Service.

6 “(27) *PUBLIC LANDS DEVELOPMENT ROADS AND*
7 *TRAILS.*—The term ‘public lands development roads
8 and trails’ means roads and trails that the Secretary
9 of the Interior determines are of primary importance
10 for the development, protection, administration, and
11 use of public lands and resources under the control of
12 the Secretary of the Interior.

13 “(28) *PUBLIC LANDS HIGHWAY.*—The term ‘pub-
14 lic lands highway’ means—

15 “(A) a forest road that is—

16 “(i) under the jurisdiction of, and
17 maintained by, a public authority; and

18 “(ii) open to public travel; and

19 “(B) any highway through unappropriated
20 or unreserved public land, nontaxable Indian
21 land, or any other Federal reservation (including
22 a main highway through such land or reserva-
23 tion that is on the Federal-aid system) that is—

24 “(i) under the jurisdiction of, and
25 maintained by, a public authority; and

1 “(ii) open to public travel.

2 “(29) *PUBLIC ROAD*.—The term ‘public road’
3 means any road or street that is—

4 “(A) under the jurisdiction of, and main-
5 tained by, a public authority; and

6 “(B) open to public travel.

7 “(30) *RECREATIONAL ROAD*.—The term ‘rec-
8 reational road’ means a public road—

9 “(A) that provides access to a museum, lake,
10 reservoir, visitors center, gateway to a major
11 wilderness area, public use area, or recreational
12 or historic site; and

13 “(B) for which title is vested in the Federal
14 Government.

15 “(31) *REFUGE ROAD*.—The term ‘refuge road’
16 means a public road—

17 “(A) that provides access to or within a
18 unit of the National Wildlife Refuge System or
19 a national fish hatchery; and

20 “(B) for which title and maintenance re-
21 sponsibility is vested in the United States Gov-
22 ernment.

23 “(32) *RURAL AREA*.—The term ‘rural area’
24 means an area of a State that is not included in an
25 urban area.

1 “(33) *SECRETARY*.—The term ‘Secretary’ means
2 the Secretary of Transportation.

3 “(34) *STATE*.—The term ‘State’ means—

4 “(A) a State;

5 “(B) the District of Columbia; and

6 “(C) the Commonwealth of Puerto Rico.

7 “(35) *STATE FUNDS*.—The term ‘State funds’ in-
8 cludes funds that are—

9 “(A) raised under the authority of the State
10 (or any political or other subdivision of a State);
11 and

12 “(B) made available for expenditure under
13 the direct control of the State transportation de-
14 partment.

15 “(36) *STATE TRANSPORTATION DEPARTMENT*.—

16 The term ‘State transportation department’ means
17 the department, agency, commission, board, or official
18 of any State charged by the laws of the State with the
19 responsibility for highway construction.

20 “(37) *TERRITORIAL HIGHWAY SYSTEM*.—The
21 term ‘territorial highway system’ means the system of
22 arterial highways, collector roads, and necessary
23 interisland connectors in American Samoa, the Com-
24 monwealth of the Northern Mariana Islands, Guam,
25 and the United States Virgin Islands that have been

1 *designated by the appropriate Governor or chief execu-*
2 *utive officer of a territory, and approved by the Sec-*
3 *retary, in accordance with section 215.*

4 “(38) *TRANSPORTATION ENHANCEMENT ACTIV-*
5 *ITY.—The term ‘transportation enhancement activity’*
6 *means, with respect to any project or the area to be*
7 *served by the project, any of the following activities*
8 *as the activities relate to surface transportation:*

9 “(A) *Provision of facilities for pedestrians*
10 *and bicycles.*

11 “(B) *Provision of safety and educational*
12 *activities for pedestrians and bicyclists.*

13 “(C) *Acquisition of scenic easements and*
14 *scenic or historic sites (including historic battle-*
15 *fields).*

16 “(D) *Scenic or historic highway programs*
17 *(including the provision of tourist and welcome*
18 *center facilities).*

19 “(E) *Landscaping and other scenic beautifi-*
20 *cation.*

21 “(F) *Historic preservation.*

22 “(G) *Rehabilitation and operation of his-*
23 *toric transportation buildings, structures, or fa-*
24 *cilities (including historic railroad facilities and*
25 *canals).*

1 “(H) *Preservation of abandoned railway*
 2 *corridors (including the conversion and use of*
 3 *the corridors for pedestrian or bicycle trails).*

4 “(I) *Inventory, control, and removal of out-*
 5 *door advertising.*

6 “(J) *Archaeological planning and research.*

7 “(K) *Environmental mitigation—*

8 “(i) *to address water pollution due to*
 9 *highway runoff; or*

10 “(ii) *reduce vehicle-caused wildlife*
 11 *mortality while maintaining habitat*
 12 *connectivity.*

13 “(L) *Establishment of transportation muse-*
 14 *ums.*

15 “(39) *TRANSPORTATION SYSTEMS MANAGEMENT*
 16 *AND OPERATIONS.—*

17 “(A) *IN GENERAL.—The term ‘transport-*
 18 *ation systems management and operations’*
 19 *means an integrated program to optimize the*
 20 *performance of existing infrastructure through*
 21 *the implementation of multimodal and inter-*
 22 *modal, cross-jurisdictional systems, services, and*
 23 *projects designed to preserve capacity and im-*
 24 *prove security, safety, and reliability of the*
 25 *transportation system.*

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

4 “(i) *regional operations collaboration*
5 *and coordination activities between trans-*
6 *portation and public safety agencies; and*

7 “(ii) *improvements to the transpor-*
8 *tation system such as traffic detection and*
9 *surveillance, arterial management, freeway*
10 *management, demand management, work*
11 *zone management, emergency management,*
12 *electronic toll collection, automated enforce-*
13 *ment, traffic incident management, road-*
14 *way weather management, traveler infor-*
15 *mation services, commercial vehicle oper-*
16 *ations, traffic control, freight management,*
17 *and coordination of highway, rail, transit,*
18 *bicycle, and pedestrian operations.*

19 “(40) *URBAN AREA.*—*The term ‘urban area’*
20 *means—*

21 “(A) *an urbanized area (or, in the case of*
22 *an urbanized area encompassing more than 1*
23 *State, the portion of the urbanized area in each*
24 *State); and*

1 “(B) an urban place designated by the Bu-
2 reau of the Census that—

3 “(i) has a population of 5,000 or more;

4 “(ii) is not located within any urban-
5 ized area; and

6 “(iii) is located within boundaries
7 that—

8 “(I) are fixed cooperatively by re-
9 sponsible State and local officials, sub-
10 ject to approval by the Secretary; and

11 “(II) encompass, at a minimum,
12 the entire urban place designated by
13 the Bureau of the Census (except in the
14 case of cities in the State of Maine and
15 in the State of New Hampshire).

16 “(41) URBANIZED AREA.—The term ‘urbanized
17 area’ means an area that—

18 “(A) has a population of 50,000 or more;

19 “(B) is designated by the Bureau of the
20 Census; and

21 “(C) is located within boundaries that—

22 “(i) are fixed cooperatively by respon-
23 sible State and local officials, subject to ap-
24 proval by the Secretary; and

1 “(ii) encompass, at a minimum, the
2 entire urbanized area within a State as des-
3 ignated by the Bureau of the Census.”.

4 **TITLE I—FEDERAL-AID**
5 **HIGHWAYS**
6 **Subtitle A—Funding**

7 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

8 *The following sums are authorized to be appropriated*
9 *out of the Highway Trust Fund (other than the Mass Tran-*
10 *sit Account):*

11 (1) *INTERSTATE MAINTENANCE PROGRAM.—For*
12 *the Interstate maintenance program under section*
13 *119 of title 23, United States Code—*

14 (A) \$6,017,113,333 for fiscal year 2005;

15 (B) \$6,258,525,160 for fiscal year 2006;

16 (C) \$6,276,479,750 for fiscal year 2007;

17 (D) \$6,589,235,166 for fiscal year 2008;

18 and

19 (E) \$6,685,150,152 for fiscal year 2009.

20 (2) *NATIONAL HIGHWAY SYSTEM.—For the Na-*
21 *tional Highway System under section 103 of that*
22 *title—*

23 (A) \$7,316,858,660 for fiscal year 2005;

24 (B) \$7,606,591,948 for fiscal year 2006;

25 (C) \$7,628,384,160 for fiscal year 2007;

1 (D) \$8,007,988,062 for fiscal year 2008;

2 and

3 (E) \$8,124,348,085 for fiscal year 2009.

4 (3) *BRIDGE PROGRAM.*—For the bridge program
5 under section 144 of that title—

6 (A) \$5,171,723,801 for fiscal year 2005;

7 (B) \$5,365,009,649 for fiscal year 2006;

8 (C) \$5,349,259,875 for fiscal year 2007;

9 (D) \$5,647,754,080 for fiscal year 2008;

10 and

11 (E) \$5,729,786,635 for fiscal year 2009.

12 (4) *SURFACE TRANSPORTATION PROGRAM.*—For
13 the surface transportation program under section 133
14 of that title—

15 (A) \$7,588,497,988 for fiscal year 2005;

16 (B) \$7,878,361,598 for fiscal year 2006;

17 (C) \$7,900,976,158 for fiscal year 2007;

18 (D) \$8,294,904,735 for fiscal year 2008;

19 and

20 (E) \$8,415,808,100 for fiscal year 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) \$2,051,899,502 for fiscal year 2005;

1 (B) \$2,124,435,995 for fiscal year 2006;

2 (C) \$2,130,535,073 for fiscal year 2007;

3 (D) \$2,236,776,417 for fiscal year 2008;

4 and

5 (E) \$2,269,463,235 for fiscal year 2009.

6 (6) *HIGHWAY SAFETY IMPROVEMENT PRO-*
7 *GRAM.—For the highway safety improvement pro-*
8 *gram under section 148 of that title—*

9 (A) \$1,253,007,425 for fiscal year 2005;

10 (C) \$1,291,977,089 for fiscal year 2006;

11 (D) \$1,305,007,731 for fiscal year 2007;

12 (E) \$1,369,468,771 for fiscal year 2008;

13 and

14 (F) \$1,389,408,993 for fiscal year 2009.

15 (7) *APPALACHIAN DEVELOPMENT HIGHWAY SYS-*
16 *TEM PROGRAM.—For the Appalachian development*
17 *highway system program under section 170 of that*
18 *title, \$552,048,803 for each of fiscal years 2005*
19 *through 2009.*

20 (8) *RECREATIONAL TRAILS PROGRAM.—For the*
21 *recreational trails program under section 206 of that*
22 *title, \$56,140,557 for each of fiscal years 2005*
23 *through 2009.*

24 (9) *FEDERAL LANDS HIGHWAYS PROGRAM.—*

1 (A) *INDIAN RESERVATION ROADS.*—*For In-*
2 *dian reservation roads under section 204 of that*
3 *title—*

4 (i) *\$305,054,403 for fiscal year 2005;*

5 (ii) *\$328,520,126 for fiscal year 2006;*

6 (iii) *\$351,985,849 for fiscal year 2007;*

7 (iv) *\$375,451,572 for fiscal year 2008;*

8 *and*

9 (v) *\$398,917,296 for fiscal year 2009.*

10 (B) *RECREATION ROADS.*—*For recreation*
11 *roads under section 204 of that title, \$46,931,447*
12 *for each of fiscal years 2005 through 2009.*

13 (C) *PARK ROADS AND PARKWAYS.*—

14 (i) *IN GENERAL.*—*For park roads and*
15 *parkways under section 204 of that title—*

16 (I) *\$320,000,000 for fiscal year*
17 *2005; and*

18 (II) *\$330,000,000 for each of fis-*
19 *cal years 2006 through 2009.*

20 (ii) *MINIMUM ALLOCATION TO CERTAIN*
21 *STATES.*—*A State more than 50 percent of*
22 *the acreage of which is within the National*
23 *Park System shall receive not less than 3*
24 *percent of any funds appropriated under*

1 this subparagraph, to be used for park
2 transportation projects.

3 (iii) *MODIFICATION OF AUTHORIZA-*
4 *TION.—Any amount authorized to be appro-*
5 *propriated under section 2001(a)(1)(A) to*
6 *carry out surface transportation research*
7 *shall be reduced by—*

8 (I) *for fiscal year 2005,*
9 *\$29,025,031; and*

10 (II) *for each of fiscal years 2006*
11 *through 2009, \$29,638,742.*

12 (D) *REFUGE ROADS.—For refuge roads*
13 *under section 204 of that title, \$29,158,868 for*
14 *each of fiscal years 2005 through 2009.*

15 (E) *PUBLIC LANDS HIGHWAYS.—For Fed-*
16 *eral lands highways under section 204 of that*
17 *title, \$281,588,679 for each of fiscal years 2005*
18 *through 2009.*

19 (F) *SAFETY.—For safety under section 204*
20 *of that title, \$37,545,157 for each of fiscal years*
21 *2005 through 2009.*

22 (10) *MULTISTATE CORRIDOR PROGRAM.—For the*
23 *multistate corridor program under section 171 of that*
24 *title—*

25 (A) *\$124,987,840 for fiscal year 2005;*

- 1 (B) \$145,819,146 for fiscal year 2006;
2 (C) \$166,650,453 for fiscal year 2007;
3 (D) \$187,481,760 for fiscal year 2008; and
4 (E) \$208,313,066 for fiscal year 2009.

5 (11) *BORDER PLANNING, OPERATIONS, AND*
6 *TECHNOLOGY PROGRAM.*—For the border planning,
7 operations, and technology program under section 172
8 of that title—

- 9 (A) \$124,987,840 for fiscal year 2005;
10 (B) \$145,819,146 for fiscal year 2006;
11 (C) \$166,650,453 for fiscal year 2007;
12 (D) \$187,481,760 for fiscal year 2008; and
13 (E) \$208,313,066 for fiscal year 2009.

14 (12) *NATIONAL SCENIC BYWAYS PROGRAM.*—For
15 the national scenic byways program under section
16 162 of that title—

- 17 (A) \$32,852,013 for fiscal year 2005;
18 (B) \$33,790,642 for fiscal year 2006;
19 (C) \$34,729,270 for fiscal year 2007; and
20 (D) \$36,606,528 for each of fiscal years
21 2008 and 2009.

22 (13) *INFRASTRUCTURE PERFORMANCE AND MAIN-*
23 *TENANCE PROGRAM.*—For carrying out the infrastruc-
24 ture performance and maintenance program under
25 section 139 of that title \$0 for fiscal year 2004.

1 (14) *CONSTRUCTION OF FERRY BOATS AND*
2 *FERRY TERMINAL FACILITIES.*—*For construction of*
3 *ferry boats and ferry terminal facilities under section*
4 *147 of that title, \$56,916,300 for each of fiscal years*
5 *2005 through 2009.*

6 (15) *COMMONWEALTH OF PUERTO RICO HIGH-*
7 *WAY PROGRAM.*—*For the Commonwealth of Puerto*
8 *Rico highway program under section 173 of that*
9 *title—*

10 (A) *\$136,101,195 for fiscal year 2005;*

11 (B) *\$139,855,711 for fiscal year 2006;*

12 (C) *\$144,548,855 for fiscal year 2007;*

13 (D) *\$150,180,629 for fiscal year 2008; and*

14 (E) *\$152,996,516 for fiscal year 2009.*

15 (16) *PUBLIC-PRIVATE PARTNERSHIPS PILOT PRO-*
16 *GRAM.*—*For the public-private partnerships pilot pro-*
17 *gram under section 109(c)(3) of that title, \$8,386,289*
18 *for each of fiscal years 2005 through 2009.*

19 (17) *DENALI ACCESS SYSTEM.*—*For the Denali*
20 *Access System under section 309 of the Denali Com-*
21 *mission Act of 1998 (42 U.S.C. 3121 note; Public*
22 *Law 105–277), \$28,158,868 for each of fiscal years*
23 *2005 through 2009.*

24 (18) *DELTA REGION TRANSPORTATION DEVELOP-*
25 *MENT PROGRAM.*—*For planning and construction ac-*

1 *tivities authorized under the Delta Regional Author-*
 2 *ity, \$75,090,314 for each of fiscal years 2005 through*
 3 *2009.*

4 (19) *INTERMODAL PASSENGER FACILITIES.—For*
 5 *intermodal passenger facilities under subchapter III*
 6 *of chapter 55 of title 49, United States Code,*
 7 *\$9,386,289 for each of fiscal years 2005 through 2009.*

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

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

13 (1) *\$34,263,000,000 for fiscal year 2005;*

14 (2) *\$38,924,000,000 for fiscal year 2006;*

15 (3) *\$39,352,000,000 for fiscal year 2007;*

16 (4) *\$41,304,000,000 for fiscal year 2008; and*

17 (5) *\$42,007,000,000 for fiscal year 2009.*

18 (b) *EXCEPTIONS.—The limitations under subsection*
 19 *(a) shall not apply to obligations under or for—*

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

21 (2) *section 147 of the Surface Transportation As-*
 22 *sistance Act of 1978 (23 U.S.C. 144 note; 92 Stat.*
 23 *2714);*

24 (3) *section 9 of the Federal-Aid Highway Act of*
 25 *1981 (Public Law 97-134; 95 Stat. 1701);*

1 (4) subsections (b) and (j) of section 131 of the
2 *Surface Transportation Assistance Act of 1982 (Pub-*
3 *lic Law 97-424; 96 Stat. 2119);*

4 (5) subsections (b) and (c) of section 149 of the
5 *Surface Transportation and Uniform Relocation As-*
6 *istance Act of 1987 (Public Law 100-17; 101 Stat.*
7 *198);*

8 (6) sections 1103 through 1108 of the *Intermodal*
9 *Surface Transportation Efficiency Act of 1991 (Pub-*
10 *lic Law 102-240; 105 Stat. 2027);*

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

13 (8) section 105 of title 23, *United States Code*
14 *(as in effect for fiscal years 1998 through 2003, but*
15 *only in an amount equal to \$639,000,000 for each of*
16 *those fiscal years);*

17 (9) *Federal-aid highway programs for which ob-*
18 *ligation authority was made available under the*
19 *Transportation Equity Act for the 21st Century (Pub-*
20 *lic Law 105-178; 112 Stat. 107) or subsequent public*
21 *laws for multiple years or to remain available until*
22 *used, but only to the extent that the obligation author-*
23 *ity has not lapsed or been used;*

24 (10) section 105 of title 23, *United States Code*
25 *(but, for each of fiscal years 2005 through 2009, only*

1 *in an amount equal to \$639,000,000 per fiscal year);*
2 *and*

3 *(11) section 1106 of this Act, to the extent that*
4 *funds obligated in accordance with that section were*
5 *not subject to a limitation on obligations at the time*
6 *at which the funds were initially made available for*
7 *obligation.*

8 *(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For*
9 *each of fiscal years 2005 through 2009, the Secretary—*

10 *(1) shall not distribute obligation authority pro-*
11 *vided by subsection (a) for the fiscal year for—*

12 *(A) amounts authorized for administrative*
13 *expenses and programs by section 104(a) of title*
14 *23, United States Code;*

15 *(B) programs funded from the administra-*
16 *tive takedown authorized by section 104(a)(1) of*
17 *title 23, United States Code; and*

18 *(C) amounts authorized for the highway use*
19 *tax evasion program and the Bureau of Trans-*
20 *portation Statistics;*

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

1 *way safety programs for previous fiscal years the*
2 *funds for which are allocated by the Secretary;*

3 *(3) shall determine the ratio that—*

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

8 *(B) the total of the sums authorized to be*
9 *appropriated for the Federal-aid highway and*
10 *highway safety construction programs (other*
11 *than sums authorized to be appropriated for pro-*
12 *visions of law described in paragraphs (1)*
13 *through (9) of subsection (b) and sums author-*
14 *ized to be appropriated for section 105 of title*
15 *23, United States Code, equal to the amount re-*
16 *ferred to in subsection (b)(10) for the fiscal*
17 *year), less the aggregate of the amounts not dis-*
18 *tributed under paragraphs (1) and (2);*

19 *(4) shall distribute the obligation authority pro-*
20 *vided by subsection (a) less the aggregate amounts not*
21 *distributed under paragraphs (1) and (2), for section*
22 *14501 of title 40, United States Code, so that the*
23 *amount of obligation authority available for that sec-*
24 *tion is equal to the amount determined by*
25 *multiplying—*

1 (A) the ratio determined under paragraph
2 (3); by

3 (B) the sums authorized to be appropriated
4 for that section for the fiscal year;

5 (5) shall distribute among the States the obliga-
6 tion authority provided by subsection (a), less the ag-
7 gregate amounts not distributed under paragraphs (1)
8 and (2), for each of the programs that are allocated
9 by the Secretary under this Act and title 23, United
10 States Code (other than to programs to which para-
11 graph (1) applies), by multiplying—

12 (A) the ratio determined under paragraph
13 (3); by

14 (B) the amounts authorized to be appro-
15 priated for each such program for the fiscal year;
16 and

17 (6) shall distribute the obligation authority pro-
18 vided by subsection (a), less the aggregate amounts
19 not distributed under paragraphs (1) and (2) and the
20 amounts distributed under paragraphs (4) and (5),
21 for Federal-aid highway and highway safety construc-
22 tion programs (other than the amounts apportioned
23 for the equity bonus program, but only to the extent
24 that the amounts apportioned for the equity bonus
25 program for the fiscal year are greater than

1 \$639,000,000, and the Appalachian development high-
2 way system program) that are apportioned by the
3 Secretary under this Act and title 23, United States
4 Code, in the ratio that—

5 (A) amounts authorized to be appropriated
6 for the programs that are apportioned to each
7 State for the fiscal year; bear to

8 (B) the total of the amounts authorized to
9 be appropriated for the programs that are ap-
10 portioned to all States for the fiscal year.

11 (d) *REDISTRIBUTION OF UNUSED OBLIGATION AU-*
12 *THORITY.*—Notwithstanding subsection (c), the Secretary
13 shall, after August 1 of each of fiscal years 2005 through
14 2009—

15 (1) revise a distribution of the obligation author-
16 ity made available under subsection (c) if an amount
17 distributed cannot be obligated during that fiscal
18 year; and

19 (2) redistribute sufficient amounts to those States
20 able to obligate amounts in addition to those pre-
21 viously distributed during that fiscal year, giving pri-
22 ority to those States having large unobligated bal-
23 ances of funds apportioned under sections 104 and
24 144 of title 23, United States Code.

1 (e) *APPLICABILITY OF OBLIGATION LIMITATIONS TO*
2 *TRANSPORTATION RESEARCH PROGRAMS.*—

3 (1) *IN GENERAL.*—*Except as provided in para-*
4 *graph (2), obligation limitations imposed by sub-*
5 *section (a) shall apply to contract authority for trans-*
6 *portation research programs carried out under—*

7 (A) *chapter 5 of title 23, United States*
8 *Code; and*

9 (B) *title II of this Act.*

10 (2) *EXCEPTION.*—*Obligation authority made*
11 *available under paragraph (1) shall—*

12 (A) *remain available for a period of 3 fiscal*
13 *years; and*

14 (B) *be in addition to the amount of any*
15 *limitation imposed on obligations for Federal-*
16 *aid highway and highway safety construction*
17 *programs for future fiscal years.*

18 (f) *REDISTRIBUTION OF CERTAIN AUTHORIZED*
19 *FUNDS.*—

20 (1) *IN GENERAL.*—*Not later than 30 days after*
21 *the date of distribution of obligation authority under*
22 *subsection (c) for each of fiscal years 2005 through*
23 *2009, the Secretary shall distribute to the States any*
24 *funds that—*

1 (A) are authorized to be appropriated for
2 the fiscal year for Federal-aid highway pro-
3 grams; and

4 (B) the Secretary determines will not be al-
5 located to the States, and will not be available
6 for obligation, in the fiscal year due to the impo-
7 sition of any obligation limitation for the fiscal
8 year.

9 (2) *RATIO*.—Funds shall be distributed under
10 paragraph (1) in the same ratio as the distribution
11 of obligation authority under subsection (c)(6).

12 (3) *AVAILABILITY*.—Funds distributed under
13 paragraph (1) shall be available for any purpose de-
14 scribed in section 133(b) of title 23, United States
15 Code.

16 (g) *SPECIAL RULE*.—Obligation authority distributed
17 for a fiscal year under subsection (c)(4) for the provision
18 specified in subsection (c)(4) shall—

19 (1) remain available until used for obligation of
20 funds for that provision; and

21 (2) be in addition to the amount of any limita-
22 tion imposed on obligations for Federal-aid highway
23 and highway safety construction programs for future
24 fiscal years.

25 (h) *ADJUSTMENT IN OBLIGATION LIMIT*.—

1 (1) *IN GENERAL.*—*A limitation on obligations*
 2 *imposed by subsection (a) for a fiscal year shall be*
 3 *adjusted by an amount equal to the amount deter-*
 4 *mined in accordance with section 251(b)(1)(B) of the*
 5 *Balanced Budget and Emergency Deficit Control Act*
 6 *of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.*

7 (2) *DISTRIBUTION.*—*An adjustment under para-*
 8 *graph (1) shall be distributed in accordance with this*
 9 *section.*

10 (i) *LIMITATIONS ON OBLIGATIONS FOR ADMINISTRA-*
 11 *TIVE EXPENSES.*—*Notwithstanding any other provision of*
 12 *law, the total amount of all obligations under section 104(a)*
 13 *of title 23, United States Code, shall not exceed—*

14 (1) *\$436,462,453 for fiscal year 2005;*

15 (2) *\$450,541,887 for fiscal year 2006;*

16 (3) *\$464,621,321 for fiscal year 2007;*

17 (4) *\$478,700,755 for fiscal year 2008; and*

18 (5) *\$492,780,189 for fiscal year 2009.*

19 (j) *NATIONAL HIGHWAY SYSTEM COMPONENT.*—*Sec-*
 20 *tion 104(b)(1) of title 23, United States Code, is amended*
 21 *by striking “\$36,400,000” and insert “\$46,931,447”.*

22 **SEC. 1103. APPORTIONMENTS.**

23 (a) *ADMINISTRATIVE EXPENSES.*—

1 (1) *IN GENERAL.*—Section 104 of title 23,
2 *United States Code*, is amended by striking subsection
3 (a) and inserting the following:

4 “(a) *ADMINISTRATIVE EXPENSES.*—

5 “(1) *IN GENERAL.*—There are authorized to be
6 appropriated from the Highway Trust Fund (other
7 than the Mass Transit Account) to be made available
8 to the Secretary of Transportation for administrative
9 expenses of the Federal Highway Administration—

10 “(A) \$436,462,453 for fiscal year 2005;

11 “(B) \$450,541,887 for fiscal year 2006;

12 “(C) \$464,621,321 for fiscal year 2007;

13 “(D) \$478,700,755 for fiscal year 2008; and

14 “(E) \$492,780,189 for fiscal year 2009.

15 “(2) *PURPOSES.*—The funds authorized by this
16 subsection shall be used—

17 “(A) to administer the provisions of law to
18 be financed from appropriations for the Federal-
19 aid highway program and programs authorized
20 under chapter 2; and

21 “(B) to make transfers of such sums as the
22 Secretary determines to be appropriate to the
23 Appalachian Regional Commission for adminis-
24 trative activities associated with the Appa-
25 lachian development highway system.

1 “(3) *AVAILABILITY.*—*The funds made available*
2 *under paragraph (1) shall remain available until ex-*
3 *pended.*”.

4 (2) *CONFORMING AMENDMENTS.*—*Section 104 of*
5 *title 23, United States Code, is amended—*

6 (A) *in the matter preceding paragraph (1)*
7 *of subsection (b), by striking “the deduction au-*
8 *thorized by subsection (a) and”;*

9 (B) *in the first sentence of subsection (e)(1),*
10 *by striking “, and also” and all that follows*
11 *through “this section”;* and

12 (C) *in subsection (i), by striking “deducted”*
13 *and inserting “made available”.*

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

16 (1) *by striking paragraph (1) and inserting the*
17 *following:*

18 “(1) *SET-ASIDE.*—*On October 1 of each fiscal*
19 *year, the Secretary shall set aside 1.5 percent of the*
20 *funds authorized to be appropriated for the Interstate*
21 *maintenance, national highway system, surface trans-*
22 *portation, congestion mitigation and air quality im-*
23 *provement, highway safety improvement, and high-*
24 *way bridge programs authorized under this title to*
25 *carry out the requirements of section 134.*”;

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

3 (3) *in paragraph (3)—*

4 (A) *by striking “The funds” and inserting*
5 *the following:*

6 “(A) *IN GENERAL.—The funds*”; and

7 (B) *by striking “These funds” and all that*
8 *follows and inserting the following:*

9 “(B) *UNUSED FUNDS.—Any funds that are*
10 *not used to carry out section 134 may be made*
11 *available by a metropolitan planning organiza-*
12 *tion to the State to fund activities under section*
13 *135.”; and*

14 (4) *by adding at the end the following:*

15 “(6) *FEDERAL SHARE.—Funds apportioned to a*
16 *State under this subsection shall be matched in ac-*
17 *cordance with section 120(b) unless the Secretary de-*
18 *termines that the interests of the Federal-aid highway*
19 *program would be best served without the match.”.*

20 (c) *ALASKA HIGHWAY.—Section 104(b)(1)(A) of title*
21 *23, United States Code, is amended by striking*
22 *“\$18,800,000 for each of fiscal years 1998 through 2002”*
23 *and inserting “\$30,000,000 for each of fiscal years 2005*
24 *through 2009”.*

1 **SEC. 1104. EQUITY BONUS PROGRAM.**

2 (a) *IN GENERAL.*—Section 105 of title 23, United
3 States Code, is amended to read as follows:

4 **“§ 105. Equity bonus program**

5 “(a) *PROGRAM.*—

6 “(1) *IN GENERAL.*—Subject to subsections (c)
7 and (d), for each of fiscal years 2005 through 2009,
8 the Secretary shall allocate among the States amounts
9 sufficient to ensure that no State receives a percentage
10 of the total apportionments for the fiscal year for the
11 programs specified in paragraph (2) that is less than
12 the percentage calculated under subsection (b).

13 “(2) *SPECIFIC PROGRAMS.*—The programs re-
14 ferred to in subsection (a) are—

15 “(A) the Interstate maintenance program
16 under section 119;

17 “(B) the national highway system program
18 under section 103;

19 “(C) the bridge program under section 144;

20 “(D) the surface transportation program
21 under section 133;

22 “(E) the highway safety improvement pro-
23 gram under section 148;

24 “(F) the congestion mitigation and air
25 quality improvement program under section 149;

1 “(G) metropolitan planning programs
2 under section 104(f) (other than planning pro-
3 grams funded by amounts provided under the eq-
4 uity bonus program under this section);

5 “(H) the infrastructure performance and
6 maintenance program under section 139;

7 “(I) the equity bonus program under this
8 section;

9 “(J) the Appalachian development highway
10 system program under subtitle IV of title 40;

11 “(K) the recreational trails program under
12 section 206;

13 “(L) the safe routes to schools program
14 under section 150;

15 “(M) the rail-highway grade crossing pro-
16 gram under section 130; and

17 “(N) the border planning, operations, tech-
18 nology, and capacity program under section 172.

19 “(b) STATE PERCENTAGE.—

20 “(1) IN GENERAL.—The percentage referred to in
21 subsection (a) for each State shall be—

22 “(A) 92 percent of the quotient obtained by
23 dividing—

24 “(i) the estimated tax payments attrib-
25 utable to highway users in the State paid

1 *into the Highway Trust Fund (other than*
2 *the Mass Transit Account) in the most re-*
3 *cent fiscal year for which data are avail-*
4 *able; by*

5 *“(ii) the estimated tax payments at-*
6 *tributable to highway users in all States*
7 *paid into the Highway Trust Fund (other*
8 *than the Mass Transit Account) for the fis-*
9 *cal year; or*

10 *“(B) for a State with a total population*
11 *density of less than 20 persons per square mile,*
12 *as reported in the decennial census conducted by*
13 *the Federal Government in 2000, a total popu-*
14 *lation of less than 1,000,000, as reported in that*
15 *decennial census, a median household income of*
16 *less than \$35,000, as reported in that decennial*
17 *census, or a State with a fatality rate during*
18 *2002 on Interstate highways that is greater than*
19 *1 fatality for each 100,000,000 vehicle miles*
20 *traveled on Interstate highways, the greater of—*

21 *“(i) the percentage under paragraph*
22 *(1); or*

23 *“(ii) the average percentage of the*
24 *State’s share of total apportionments for the*

1 *period of fiscal years 1998 through 2003 for*
2 *the programs specified in paragraph (2).*

3 “(2) *SPECIFIC PROGRAMS.—The programs re-*
4 *ferred to in paragraph (1)(B)(ii) are (as in effect on*
5 *the day before the date of enactment of the Safe, Ac-*
6 *countable, Flexible, and Efficient Transportation Eq-*
7 *uity Act of 2005)—*

8 “(A) *the Interstate maintenance program*
9 *under section 119;*

10 “(B) *the national highway system program*
11 *under section 103;*

12 “(C) *the bridge program under section 144;*

13 “(D) *the surface transportation program*
14 *under section 133;*

15 “(E) *the recreational trails program under*
16 *section 206;*

17 “(F) *the high priority projects program*
18 *under section 117;*

19 “(G) *the minimum guarantee provided*
20 *under this section;*

21 “(H) *revenue aligned budget authority*
22 *amounts provided under section 110;*

23 “(I) *the congestion mitigation and air qual-*
24 *ity improvement program under section 149;*

1 “(J) the Appalachian development highway
2 system program under subtitle IV of title 40; and

3 “(K) metropolitan planning programs
4 under section 104(f).

5 “(c) SPECIAL RULES.—

6 “(1) MINIMUM COMBINED ALLOCATION.—For
7 each fiscal year, before making the allocations under
8 subsection (a)(1), the Secretary shall allocate among
9 the States amounts sufficient to ensure that no State
10 receives a combined total of amounts allocated under
11 subsection (a)(1), apportionments for the programs
12 specified in subsection (a)(2), and amounts allocated
13 under this subsection, that is less than 115 percent of
14 the average for fiscal years 1998 through 2003 of the
15 annual apportionments for the State for all programs
16 specified in subsection (b)(2).

17 “(2) NO NEGATIVE ADJUSTMENT.—Notwith-
18 standing subsection (d), no negative adjustment shall
19 be made under subsection (a)(1) to the apportionment
20 of any State.

21 “(3) MINIMUM SHARE OF TAX PAYMENTS.—

22 “(A) IN GENERAL.—Notwithstanding sub-
23 section (d), for each fiscal year, the Secretary
24 shall allocate among the States amounts suffi-
25 cient to ensure that no State receives a percent-

1 *age of apportionments for the fiscal year for the*
 2 *programs specified in subsection (a)(2) that is*
 3 *less than the percentage specified in subpara-*
 4 *graph (B) of the percentage share of the State of*
 5 *estimated tax payments attributable to highway*
 6 *users in the State paid into the Highway Trust*
 7 *Fund (other than the Mass Transit Account) in*
 8 *the most recent fiscal year for which data are*
 9 *available.*

10 “(B) *PERCENTAGES.*—*The percentages re-*
 11 *ferred to in subparagraph (A) are—*

12 “(i) *for fiscal year 2005, 90.5 percent;*

13 “(ii) *for each of fiscal years 2006*
 14 *through 2008, 91 percent; and*

15 “(iii) *for fiscal year 2009, 92 percent.*

16 “(d) *LIMITATION ON ADJUSTMENTS.*—

17 “(1) *IN GENERAL.*—*Except as provided in para-*
 18 *graphs (2) and (3) of subsection (c), no State shall re-*
 19 *ceive, for any fiscal year, additional amounts under*
 20 *subsection (a)(1) if—*

21 “(A) *the total apportionments of the State*
 22 *for the fiscal year for the programs specified in*
 23 *subsection (a)(2); exceed*

24 “(B) *the percentage of the average, for the*
 25 *period of fiscal years 1998 through 2003, of the*

1 *annual apportionments of the State for all pro-*
2 *grams specified in subsection (b)(2), as specified*
3 *in paragraph (2).*

4 “(2) *PERCENTAGES.*—*The percentages referred to*
5 *in paragraph (1)(B) are—*

6 “(A) *for fiscal year 2005, 124 percent;*

7 “(B) *for fiscal year 2006, 128 percent;*

8 “(C) *for fiscal year 2007, 131 percent;*

9 “(D) *for fiscal year 2008, 137 percent; and*

10 “(E) *for fiscal year 2009, 250 percent.*

11 “(e) *PROGRAMMATIC DISTRIBUTION OF FUNDS.*—*The*
12 *Secretary shall apportion the amounts made available*
13 *under this section so that the amount apportioned to each*
14 *State under this section for each program referred to in sub-*
15 *paragraphs (A) through (G) of subsection (a)(2) is equal*
16 *to the amount determined by multiplying the amount to*
17 *be apportioned under this section by the proportion that—*

18 “(1) *the amount of funds apportioned to each*
19 *State for each program referred to in subparagraphs*
20 *(A) through (G) of subsection (a)(2) for a fiscal year;*
21 *bears to*

22 “(2) *the total amount of funds apportioned to*
23 *each State for all such programs for the fiscal year.*

1 “(f) *METRO PLANNING SET ASIDE.*—*Notwithstanding*
 2 *section 104(f), no set aside provided for under that section*
 3 *shall apply to funds allocated under this section.*

4 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
 5 *are authorized to be appropriated from the Highway Trust*
 6 *Fund (other than the Mass Transit Account) such sums as*
 7 *are necessary to carry out this section for each of fiscal*
 8 *years 2005 through 2009.”.*

9 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 10 *chapter I of chapter 1 of title 23, United States Code, is*
 11 *amended by striking the item relating to section 105 and*
 12 *inserting the following:*

“105. *Equity bonus program.*”

13 **SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

14 *Section 110 of title 23, United States Code, is*
 15 *amended—*

16 (1) *in subsection (a)—*

17 (A) *in paragraphs (1) and (2), by striking*
 18 *“2000” and inserting “2006”;*

19 (B) *in paragraph (1), by inserting “(as in*
 20 *effect on September 30, 2002)” after “(2 U.S.C.*
 21 *901(b)(2)(B)(i)(I)(cc))”;* and

22 (C) *in paragraph (2)—*

23 (i) *by striking “If the amount” and in-*
 24 *serting the following:*

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), if the amount*”;

3 (ii) *by inserting “(as in effect on Sep-*
4 *tember 30, 2002)” after “(2 U.S.C.*
5 *901(b)(1)(B)(ii)(I)(cc)”*;

6 (iii) *by striking “the succeeding” and*
7 *inserting “that”*;

8 (iv) *by striking “and the motor carrier*
9 *safety grant program”*; and

10 (v) *by adding at the end the following:*

11 “(B) *LIMITATION.*—*No reduction under sub-*
12 *paragraph (A) shall be made for a fiscal year if,*
13 *as of October 1 of the fiscal year, the cash bal-*
14 *ance in the Highway Trust Fund (other than the*
15 *Mass Transit Account) exceeds \$6,000,000,000.”*;

16 (2) *in subsection (b)(1), by striking subpara-*
17 *graph (A) and inserting the following:*

18 “(A) *the sums authorized to be appropriated*
19 *from the Highway Trust Fund (other than the*
20 *Mass Transit Account) for each of the Federal-*
21 *aid highway and highway safety construction*
22 *programs (other than the equity bonus program)*
23 *and for which funds are allocated from the High-*
24 *way Trust Fund by the Secretary under this title*
25 *and the Safe, Accountable, Flexible, and Effi-*

1 cient Transportation Equity Act of 2005; bears
2 to”;

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

6 (4) by striking subsections (e), (f), and (g).

7 **SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INAC-**
8 **TIVE PROJECTS.**

9 (a) *DEFINITIONS.*—*In this section:*

10 (1) *ELIGIBLE FUNDS.*—

11 (A) *IN GENERAL.*—*The term “eligible*
12 *funds” means excess funds or inactive funds for*
13 *a specific transportation project or activity that*
14 *were—*

15 (i) *allocated before fiscal year 1998;*

16 and

17 (ii) *designated in a public law, or a*
18 *report accompanying a public law, for allo-*
19 *cation for the specific surface transportation*
20 *project or activity.*

21 (B) *INCLUSION.*—*The term “eligible funds”*
22 *includes funds described in subparagraph (A)*
23 *that were allocated and designated for a dem-*
24 *onstration project.*

1 (2) *EXCESS FUNDS.*—*The term “excess funds”*
2 *means—*

3 (A) *funds obligated for a specific transpor-*
4 *tation project or activity that remain available*
5 *for the project or activity after the project or ac-*
6 *tivity has been completed or canceled; or*

7 (B) *an unobligated balance of funds allo-*
8 *cated for a transportation project or activity*
9 *that the State in which the project or activity*
10 *was to be carried out certifies are no longer need-*
11 *ed for the project or activity.*

12 (3) *INACTIVE FUNDS.*—*The term “inactive*
13 *funds” means—*

14 (A) *an obligated balance of Federal funds*
15 *for an eligible transportation project or activity*
16 *against which no expenditures have been charged*
17 *during any 1-year period beginning after the*
18 *date of obligation of the funds; and*

19 (B) *funds that are available to carry out a*
20 *transportation project or activity in a State, but,*
21 *as certified by the State, are unlikely to be ad-*
22 *vanced for the project or activity during the 1-*
23 *year period beginning on the date of certifi-*
24 *cation.*

1 (b) *AVAILABILITY FOR STP PURPOSES.—Eligible*
2 *funds shall be—*

3 (1) *made available in accordance with this sec-*
4 *tion to the State that originally received the funds;*
5 *and*

6 (2) *available for obligation for any eligible pur-*
7 *pose under section 133 of title 23, United States Code.*

8 (c) *RETENTION FOR ORIGINAL PURPOSE.—*

9 (1) *IN GENERAL.—The Secretary may determine*
10 *that eligible funds identified as inactive funds shall*
11 *remain available for the purpose for which the funds*
12 *were initially made available if the applicable State*
13 *certifies that the funds are necessary for that initial*
14 *purpose.*

15 (2) *REPORT.—A certification provided by a*
16 *State under paragraph (1) shall include a report on*
17 *the status of, and an estimated completion date for,*
18 *the project that is the subject of the certification.*

19 (d) *AUTHORITY TO OBLIGATE.—Notwithstanding the*
20 *original source or period of availability of eligible funds,*
21 *the Secretary may, on the request by a State—*

22 (1) *obligate the funds for any eligible purpose*
23 *under section 133 of title 23, United States Code; or*

24 (2)(A) *deobligate the funds; and*

1 (B) reobligate the funds for any eligible purpose
2 under that section.

3 (e) *APPLICABILITY.*—

4 (1) *IN GENERAL.*—Subject to paragraph (2), this
5 section applies only to eligible funds.

6 (2) *DISCRETIONARY ALLOCATIONS; SECTION 125*
7 *PROJECTS.*—This section does not apply to funds that
8 are—

9 (A) allocated at the discretion of the Sec-
10 retary and for which the Secretary has the au-
11 thority to withdraw the allocation for use on
12 other projects; or

13 (B) made available to carry out projects
14 under section 125 of title 23, United States Code.

15 (f) *PERIOD OF AVAILABILITY; TITLE 23 REQUIRE-*
16 *MENTS.*—

17 (1) *IN GENERAL.*—Notwithstanding the original
18 source or period of availability of eligible funds obli-
19 gated, or deobligated and reobligated, under sub-
20 section (d), the eligible funds—

21 (A) shall remain available for obligation for
22 a period of 3 fiscal years after the fiscal year in
23 which this Act is enacted; and

24 (B) except as provided in paragraph (2),
25 shall be subject to the requirements of title 23,

1 *United States Code, that apply to section 133 of*
2 *that title, including provisions relating to cost-*
3 *sharing.*

4 (2) *EXCEPTION.*—*With respect to eligible funds*
5 *described in paragraph (1)—*

6 (A) *section 133(d) of title 23, United States*
7 *Code, shall not apply; and*

8 (B) *the period of availability of the eligible*
9 *funds shall be determined in accordance with*
10 *this section.*

11 (g) *SENSE OF CONGRESS REGARDING USE OF ELIGI-*
12 *BLE FUNDS.*—*It is the sense of Congress that eligible funds*
13 *made available under this Act or title 23, United States*
14 *Code, should be available for obligation for transportation*
15 *projects and activities in the same geographic region for*
16 *which the eligible funds were initially made available.*

17 ***Subtitle B—New Programs***

18 ***SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTEN-*** 19 ***NANCE PROGRAM.***

20 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
21 *23, United States Code, is amended by inserting after sec-*
22 *tion 138 the following:*

1 **“§ 139. Infrastructure performance and maintenance**
2 **program**

3 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
4 *and implement an infrastructure performance and mainte-*
5 *nance program in accordance with this section.*

6 “(b) *ELIGIBLE PROJECTS.*—*A State may obligate*
7 *funds allocated to the State under this section only for*
8 *projects eligible under the Interstate maintenance program*
9 *under section 119, the National Highway System program*
10 *under section 103, the surface transportation program*
11 *under section 133, the highway safety improvement pro-*
12 *gram under section 148, the highway bridge program under*
13 *section 144, and the congestion mitigation and air quality*
14 *improvement program under section 149 that will—*

15 “(1) *preserve, maintain, or otherwise extend, in*
16 *a cost-effective manner, the useful life of existing high-*
17 *way infrastructure elements and hurricane evacu-*
18 *ation routes on the Federal-aid system; or*

19 “(2) *provide operational improvements (includ-*
20 *ing traffic management and intelligent transportation*
21 *system strategies and limited capacity enhancements)*
22 *at points of recurring highway congestion or through*
23 *transportation systemic changes to manage or amelio-*
24 *rate congestion.*

25 “(c) *PERIOD OF AVAILABILITY.*—

26 “(1) *OBLIGATION WITHIN 180 DAYS.*—

1 “(A) *IN GENERAL.*—*Funds allocated to a*
2 *State under this section shall be obligated by the*
3 *State not later than 180 days after the date of*
4 *apportionment.*

5 “(B) *UNOBLIGATED FUNDS.*—*Any amounts*
6 *that remain unobligated at the end of that pe-*
7 *riod shall be allocated in accordance with sub-*
8 *section (d).*

9 “(2) *OBLIGATION BY END OF FISCAL YEAR.*—

10 “(A) *IN GENERAL.*—*All funds allocated or*
11 *reallocated under this section shall remain avail-*
12 *able for obligation until the last day of the fiscal*
13 *year for which the funds are apportioned.*

14 “(B) *UNOBLIGATED FUNDS.*—*Any amounts*
15 *allocated that remain unobligated at the end of*
16 *the fiscal year shall lapse.*

17 “(d) *REDISTRIBUTION OF ALLOCATED FUNDS AND OB-*
18 *LIGATION AUTHORITY.*—

19 “(1) *IN GENERAL.*—*On the date that is 180 days*
20 *after the date of allocation, or as soon thereafter as*
21 *practicable, for each fiscal year, the Secretary shall—*

22 “(A) *withdraw—*

23 “(i) *any funds allocated to a State*
24 *under this section that remain unobligated;*
25 *and*

1 “(i) an equal amount of obligation
2 authority provided for the use of the funds
3 in accordance with section 1101(13) of the
4 Safe, Accountable, Flexible, and Efficient
5 Transportation Equity Act of 2005; and

6 “(B) reallocate the funds and redistribute
7 the obligation authority to those States that—

8 “(i) have fully obligated all amounts
9 allocated under this section for the fiscal
10 year; and

11 “(ii) demonstrate that the State is able
12 to obligate additional amounts for projects
13 eligible under this section before the end of
14 the fiscal year.

15 “(2) EQUITY BONUS.—The calculation and dis-
16 tribution of funds under section 105 shall be adjusted
17 as a result of the allocation of funds under this sub-
18 section.

19 “(e) FEDERAL SHARE PAYABLE.—The Federal share
20 payable for a project funded under this section shall be de-
21 termined in accordance with section 120.”.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 1 of title 23, United States Code, is amended by
24 adding after the item relating to section 138 the following:

“139. Infrastructure performance and maintenance program.”.

1 **SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYS-**
2 **TEM.**

3 (a) *DECLARATION OF POLICY.*—Section 101 of title 23,
4 *United States Code, is amended—*

5 (1) *by striking “(b) It is hereby declared to be”*
6 *and inserting the following:*

7 “(b) *DECLARATION OF POLICY.*—

8 “(1) *ACCELERATION OF CONSTRUCTION OF FED-*
9 *ERAL-AID HIGHWAY SYSTEMS.*—Congress declares that
10 *it is”;*

11 (2) *in the second paragraph, by striking “It is*
12 *hereby declared” and inserting the following:*

13 “(2) *COMPLETION OF INTERSTATE SYSTEM.*—
14 *Congress declares”;* and

15 (3) *by striking the last paragraph and inserting*
16 *the following:*

17 “(3) *TRANSPORTATION NEEDS OF 21ST CEN-*
18 *TURY.*—Congress declares that—

19 “(A) *it is in the national interest to pre-*
20 *serve and enhance the surface transportation sys-*
21 *tem to meet the needs of the United States for the*
22 *21st Century;*

23 “(B) *the current urban and long distance*
24 *personal travel and freight movement demands*
25 *have surpassed the original forecasts and travel*
26 *demand patterns are expected to change;*

1 “(C) continued planning for and investment
2 in surface transportation is critical to ensure the
3 surface transportation system adequately meets
4 the changing travel demands of the future;

5 “(D) among the foremost needs that the sur-
6 face transportation system must meet to provide
7 for a strong and vigorous national economy are
8 safe, efficient, and reliable—

9 “(i) national and interregional per-
10 sonal mobility (including personal mobility
11 in rural and urban areas) and reduced con-
12 gestion;

13 “(ii) flow of interstate and inter-
14 national commerce and freight transpor-
15 tation; and

16 “(iii) travel movements essential for
17 national security;

18 “(E) special emphasis should be devoted to
19 providing safe and efficient access for the type
20 and size of commercial and military vehicles
21 that access designated National Highway System
22 intermodal freight terminals;

23 “(F) it is in the national interest to seek
24 ways to eliminate barriers to transportation in-

1 *vestment created by the current modal structure*
 2 *of transportation financing;*

3 “(G) *the connection between land use and*
 4 *infrastructure is significant;*

5 “(H) *transportation should play a signifi-*
 6 *cant role in promoting economic growth, improv-*
 7 *ing the environment, and sustaining the quality*
 8 *of life; and*

9 “(I) *the Secretary should take appropriate*
 10 *actions to preserve and enhance the Interstate*
 11 *System to meet the needs of the 21st Century.”.*

12 (b) *NATIONAL SURFACE TRANSPORTATION POLICY*
 13 *STUDY COMMISSION.—*

14 (1) *ESTABLISHMENT.—There is established a*
 15 *commission to be known as the “National Surface*
 16 *Transportation Policy Study Commission” (referred*
 17 *to in this subsection as the “Commission”).*

18 (2) *MEMBERSHIP.—*

19 (A) *COMPOSITION.—The Commission shall*
 20 *be composed of 12 members, of whom—*

21 (i) *1 member shall be the Secretary,*
 22 *who shall serve as Chairperson;*

23 (ii) *3 members shall be appointed by*
 24 *the President;*

1 (iii) 2 members shall be appointed by
2 the Speaker of the House of Representatives;

3 (iv) 2 members shall be appointed by
4 the minority leader of the House of Rep-
5 resentatives;

6 (v) 2 members shall be appointed by
7 the majority leader of the Senate; and

8 (vi) 2 members shall be appointed by
9 the minority leader of the Senate.

10 (B) *QUALIFICATIONS.*—Members appointed
11 under paragraph (1)—

12 (i) shall include individuals rep-
13 resenting State and local governments, met-
14 ropolitan planning organizations, transpor-
15 tation-related industries, academic and
16 technical institutions, and public interest
17 organizations involved with scientific, regu-
18 latory, economic, and environmental trans-
19 portation activities; and

20 (ii) shall be balanced geographically to
21 the extent consistent with maintaining the
22 highest level of expertise on the Commission.

23 (C) *DATE OF APPOINTMENTS.*—The ap-
24 pointment of a member of the Commission shall

1 *be made not later than 120 days after the date*
2 *of establishment of the Commission.*

3 (D) *TERMS.*—*A member shall be appointed*
4 *for the life of the Commission.*

5 (E) *VACANCIES.*—*A vacancy on the*
6 *Commission—*

7 *(i) shall not affect the powers of the*
8 *Commission; and*

9 *(ii) shall be filled in the same manner*
10 *as the original appointment was made.*

11 (F) *INITIAL MEETING.*—*Not later than 30*
12 *days after the date on which all members of the*
13 *Commission have been appointed, the Commis-*
14 *sion shall hold the initial meeting of the Com-*
15 *mission.*

16 (G) *MEETINGS.*—*The Commission shall*
17 *meet at the call of the Chairperson.*

18 (H) *QUORUM.*—*A majority of the members*
19 *of the Commission shall constitute a quorum, but*
20 *a lesser number of members may hold hearings.*

21 (I) *VICE CHAIRPERSON.*—*The Commission*
22 *shall select a Vice Chairperson from among the*
23 *members of the Commission.*

24 (3) *DUTIES.*—

25 (A) *IN GENERAL.*—*The Commission shall—*

1 (i) conduct a complete and comprehen-
2 sive investigation and study of—

3 (I) the current condition and fu-
4 ture needs of the surface transportation
5 system; and

6 (II) a comprehensive study of al-
7 ternatives to replace or to supplement
8 the fuel tax as the principal revenue
9 source to support the Highway Trust
10 Fund and suggest new or alternative
11 sources of revenue to fund the needs of
12 the surface transportation system over
13 at least the next 30 years;

14 (B) develop a conceptual plan, with alter-
15 native approaches, for the future to ensure that
16 the surface transportation system will continue
17 to serve the needs of the United States, including
18 specific recommendations regarding design and
19 operational standards, Federal policies, and leg-
20 islative changes;

21 (C) consult with the Secretary and the Sec-
22 retary of the Treasury in conducting the study
23 to ensure that the views of the Secretaries con-
24 cerning essential attributes of Highway Trust
25 Fund revenue alternatives are considered;

1 (D) consult with representatives of State de-
2 partments of transportation and metropolitan
3 planning organizations and other key interested
4 stakeholders in conducting the study to ensure
5 that—

6 (i) the views of the stakeholders on al-
7 ternative revenue sources to support State
8 transportation improvement programs are
9 considered; and

10 (ii) any recommended Federal financ-
11 ing strategy takes into account State finan-
12 cial requirements; and

13 (E) based on the study, make specific rec-
14 ommendations regarding—

15 (i) actions that should be taken to de-
16 velop alternative revenue sources to sup port
17 the Highway Trust Fund; and

18 (ii) the time frame for taking those ac-
19 tions.

20 (4) RELATED WORK.—To the maximum extent
21 practicable, the study shall build on related work that
22 has been completed by—

23 (A) the Secretary of Transportation;

24 (B) the Secretary of Energy;

1 (C) the Transportation Research Board, in-
2 cluding the findings, conclusions, and rec-
3 ommendations of the recent study conducted by
4 the Transportation Research Board on alter-
5 natives to the fuel tax to support highway pro-
6 gram financing; and

7 (D) other entities and persons.

8 (5) *SURFACE TRANSPORTATION NEEDS.*—With
9 respect to surface transportation needs, the investiga-
10 tion and study shall specifically address—

11 (A) the current condition and performance
12 of the Interstate System (including the physical
13 condition of bridges and pavements and oper-
14 ational characteristics and performance), relying
15 primarily on existing data sources;

16 (B) the future of the Interstate System,
17 based on a range of legislative and policy ap-
18 proaches for 15-, 30-, and 50-year time periods;

19 (C) the expected demographics and business
20 uses that impact the surface transportation sys-
21 tem;

22 (D) the expected use of the surface transpor-
23 tation system, including the effects of changing
24 vehicle types, modes of transportation, fleet size
25 and weights, and traffic volumes;

1 (E) desirable design policies and standards
2 for future improvements of the surface transpor-
3 tation system, including additional access
4 points;

5 (F) the identification of urban, rural, na-
6 tional, and interregional needs for the surface
7 transportation system;

8 (G) the potential for expansion, upgrades,
9 or other changes to the surface transportation
10 system, including—

11 (i) deployment of advanced materials
12 and intelligent technologies;

13 (ii) critical multistate, urban, and
14 rural corridors needing capacity, safety,
15 and operational enhancements;

16 (iii) improvements to intermodal link-
17 ages;

18 (iv) security and military deployment
19 enhancements;

20 (v) strategies to enhance asset preserva-
21 tion; and

22 (vi) implementation strategies;

23 (H) the improvement of emergency pre-
24 paredness and evacuation using the surface
25 transportation system, including—

1 (i) examination of the potential use of
2 all modes of the surface transportation sys-
3 tem in the safe and efficient evacuation of
4 citizens during times of emergency;

5 (ii) identification of the location of
6 critical bottlenecks; and

7 (iii) development of strategies to im-
8 prove system redundancy, especially in
9 areas with a high potential for terrorist at-
10 tacks;

11 (I) alternatives for addressing environ-
12 mental concerns associated with the future devel-
13 opment of the surface transportation system;

14 (J) the evaluation and assessment of the
15 current and future capabilities for conducting
16 system-wide real-time performance data collec-
17 tion and analysis, traffic monitoring, and trans-
18 portation systems operations and management;
19 and

20 (K) a range of policy and legislative alter-
21 natives for addressing future needs for the sur-
22 face transportation system.

23 (6) *FINANCING*.—With respect to financing, the
24 study shall address specifically—

1 (A) *the advantages and disadvantages of al-*
2 *ternative revenue sources to meet anticipated*
3 *Federal surface transportation financial require-*
4 *ments;*

5 (B) *recommendations concerning the most*
6 *promising revenue sources to support long-term*
7 *Federal surface transportation financing require-*
8 *ments;*

9 (C) *development of a broad transition strat-*
10 *egy to move from the current tax base to new*
11 *funding mechanisms, including the time frame*
12 *for various components of the transition strategy;*

13 (D) *recommendations for additional re-*
14 *search that may be needed to implement rec-*
15 *ommended alternatives; and*

16 (E) *the extent to which revenues should re-*
17 *flect the relative use of the highway system.*

18 (7) *FINANCING RECOMMENDATIONS.—In devel-*
19 *oping financing recommendations under this sub-*
20 *section, the Commission shall consider—*

21 (A) *the ability to generate sufficient reve-*
22 *nues from all modes to meet anticipated long-*
23 *term surface transportation financing needs;*

1 (B) the roles of the various levels of govern-
2 ment and the private sector in meeting future
3 surface transportation financing needs;

4 (C) administrative costs (including enforce-
5 ment costs) to implement each option;

6 (D) the expected increase in nontaxed fuels
7 and the impact of taxing those fuels;

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

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

12 (G) the flexibility of different options to
13 allow various pricing alternatives to be imple-
14 mented; and

15 (H) potential compatibility issues with
16 State and local tax mechanisms under each al-
17 ternative.

18 (8) *TECHNICAL ADVISORY COMMITTEE.*—The
19 Secretary shall establish a technical advisory com-
20 mittee, in a manner consistent with the Federal Advi-
21 sory Committee Act (5 U.S.C. App.), to collect and
22 evaluate technical input from—

23 (A) the Department of Defense;

24 (B) appropriate Federal, State, and local
25 officials with responsibility for transportation;

1 (C) appropriate State and local elected offi-
2 cials;

3 (D) transportation and trade associations;

4 (E) emergency management officials;

5 (F) freight providers;

6 (G) the general public; and

7 (H) other entities and persons determined
8 to be appropriate by the Secretary to ensure a
9 diverse range of views.

10 (9) *REPORT AND RECOMMENDATIONS.*—Not later
11 than September 30, 2007, the Commission shall sub-
12 mit to Congress a final report that contains—

13 (A) a detailed statement of the findings and
14 conclusions of the Commission; and

15 (B) the recommendations of the Commission
16 for such legislation and administrative actions
17 as the Commission considers to be appropriate.

18 (10) *POWERS OF THE COMMISSION.*—

19 (A) *HEARINGS.*—The Commission may hold
20 such hearings, meet and act at such times and
21 places, take such testimony, and receive such evi-
22 dence as the Commission considers advisable to
23 carry out this section.

24 (B) *INFORMATION FROM FEDERAL AGEN-*
25 *CIES.*—

1 (i) *IN GENERAL.*—*The Commission*
2 *may secure directly from a Federal agency*
3 *such information as the Commission con-*
4 *siders necessary to carry out this section.*

5 (ii) *PROVISION OF INFORMATION.*—*On*
6 *request of the Chairperson of the Commis-*
7 *sion, the head of a Federal agency shall pro-*
8 *vide the requested information to the Com-*
9 *mission.*

10 (C) *POSTAL SERVICES.*—*The Commission*
11 *may use the United States mails in the same*
12 *manner and under the same conditions as other*
13 *agencies of the Federal Government.*

14 (D) *DONATIONS.*—*The Commission may ac-*
15 *cept, use, and dispose of donations of services or*
16 *property.*

17 (11) *COMMISSION PERSONNEL MATTERS.*—

18 (A) *MEMBERS.*—*A member of the Commis-*
19 *sion shall serve without pay but shall be allowed*
20 *travel expenses, including per diem in lieu of*
21 *subsistence, at rates authorized for an employee*
22 *of an agency under subchapter I of chapter 57*
23 *of title 5, United States Code, while away from*
24 *the home or regular place of business of the mem-*

1 *ber in the performance of the duties of the Com-*
2 *mission.*

3 *(B) CONTRACTORS.—The Commission may*
4 *enter into contracts with an appropriate organi-*
5 *zations, agencies, and entities to conduct the*
6 *study required under this section, under the stra-*
7 *tegic guidance of the Commission.*

8 *(C) ADMINISTRATIVE SUPPORT.—On the re-*
9 *quest of the Commission, the Administrator of*
10 *the Federal Highway Administration shall pro-*
11 *vide to the Commission, on a reimbursable basis,*
12 *the administrative support and services nec-*
13 *essary for the Commission to carry out the duties*
14 *of the Commission under this section.*

15 *(D) DETAIL OF PERSONNEL.—*

16 *(i) IN GENERAL.—On the request of the*
17 *Commission, the Secretary may detail, on a*
18 *reimbursable basis, any of the personnel of*
19 *the Department to the Commission to assist*
20 *the Commission in carrying out the duties*
21 *of the Commission under this section.*

22 *(ii) CIVIL SERVICE STATUS.—The de-*
23 *tail of the employee shall be without inter-*
24 *ruption or loss of civil service status or*
25 *privilege.*

1 (12) *COOPERATION.*—*The staff of the Secretary*
2 *shall cooperate with the Commission in the study re-*
3 *quired under this section, including providing such*
4 *nonconfidential data and information as are nec-*
5 *essary to conduct the study.*

6 (13) *RELATIONSHIP TO OTHER LAW.*—

7 (A) *IN GENERAL.*—*Except as provided in*
8 *subparagraphs (B) and (C), funds made avail-*
9 *able to carry out this section shall be available*
10 *for obligation in the same manner as if the funds*
11 *were apportioned under chapter 1 of title 23,*
12 *United States Code.*

13 (B) *FEDERAL SHARE.*—*The Federal share*
14 *of the cost of the study and the Commission*
15 *under this section shall be 100 percent.*

16 (C) *AVAILABILITY.*—*Funds made available*
17 *to carry out this section shall remain available*
18 *until expended.*

19 (14) *DEFINITION OF SURFACE TRANSPORTATION*
20 *SYSTEM.*—*In this subsection, the term “surface trans-*
21 *portation system” includes—*

22 (A) *the National Highway System;*

23 (B) *the Interstate System;*

24 (C) *the strategic highway network;*

25 (D) *congressional high priority corridors;*

- 1 (E) intermodal connectors;
2 (F) freight facilities;
3 (G) navigable waterways;
4 (H) mass transportation;
5 (I) freight and intercity passenger rail in-
6 frastructure and facilities; and
7 (J) surface access to airports.

8 (15) *AUTHORIZATION OF APPROPRIATIONS.*—
9 *There is authorized to be appropriated from the High-*
10 *way Trust Fund (other than the Mass Transit Ac-*
11 *count) to carry out this section \$2,815,886 for fiscal*
12 *year 2005.*

13 (16) *TERMINATION.*—

14 (A) *IN GENERAL.*—*The Commission shall*
15 *terminate on the date that is 180 days after the*
16 *date on which the Commission submits the re-*
17 *port of the Commission under paragraph (10).*

18 (B) *RECORDS.*—*Not later than the date of*
19 *termination of the Commission under subpara-*
20 *graph (A), all records and papers of the Commis-*
21 *sion shall be delivered to the Archivist of the*
22 *United States for deposit in the National Ar-*
23 *chives.*

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,
23 including—

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*
22 *multiplying—*

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), except as otherwise pro-
11 vided in section 120, the Federal share of the total cost of
12 the project shall be 90 percent.”.

13 (e) *LENGTH LIMITATIONS.*—Section 31111(e) of title
14 49, United States Code, is amended—

15 (1) by striking “The” and inserting the fol-
16 lowing:

17 “(1) *IN GENERAL.*—The”; and

18 (2) by adding at the end the following:

19 “(2) *LENGTH LIMITATIONS.*—In the interests of
20 economic competitiveness, security, and intermodal
21 connectivity, not later than 3 years after the date of
22 enactment of this paragraph, States shall update the
23 list of those qualifying highways to include—

24 “(A) strategic highway network connectors
25 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 AND MAINTENANCE FACILITIES;**
 11 **COORDINATION OF FERRY CONSTRUCTION**
 12 **AND MAINTENANCE.**

13 (a) *IN GENERAL.*—*Section 147 of title 23, United*
 14 *States Code, is amended to read as follows:*

15 **“§ 147. Construction of ferry boats and ferry terminal**
 16 **and maintenance facilities; coordination**
 17 **of ferry construction and maintenance**

18 “(a) *CONSTRUCTION OF FERRY BOATS AND FERRY*
 19 *TERMINAL FACILITIES.*—

20 “(1) *IN GENERAL.*—*The Secretary shall carry*
 21 *out a program for construction of ferry boats and*
 22 *ferry terminal facilities in accordance with section*
 23 *129(c).*

24 “(2) *FEDERAL SHARE.*—*The Federal share of the*
 25 *cost of construction of ferry boats and ferry terminals*

1 *and maintenance facilities under this subsection shall*
2 *be 80 percent.*

3 “(3) *ALLOCATION OF FUNDS.—The Secretary*
4 *shall give priority in the allocation of funds under*
5 *this subsection to those ferry systems, and public enti-*
6 *ties responsible for developing ferries, that—*

7 “(A) *carry the greatest number of pas-*
8 *sengers and vehicles;*

9 “(B) *carry the greatest number of pas-*
10 *sengers in passenger-only service; or*

11 “(C) *provide critical access to areas that*
12 *are not well-served by other modes of surface*
13 *transportation.*

14 “(b) *NON-CONTRACT AUTHORITY AUTHORIZATION OF*
15 *APPROPRIATIONS.—*

16 “(1) *IN GENERAL.—There are authorized to be*
17 *appropriated from the Highway Trust Fund (other*
18 *than the Mass Transit Account) \$46,931,447 for each*
19 *fiscal year to carry out this section.*

20 “(2) *AVAILABILITY.—Notwithstanding section*
21 *118(a), funds made available under paragraph (1)*
22 *shall not be available in advance of an annual appro-*
23 *priation.”.*

24 (b) *CONFORMING AMENDMENTS.—*

1 (1) *The analysis for subchapter I of chapter 1 of*
 2 *title 23, United States Code, is amended by striking*
 3 *the item relating to section 147 and inserting the fol-*
 4 *lowing:*

“147. *Construction of ferry boats and ferry terminal and maintenance facilities.*”.

5 (2) *Section 1064 of the Intermodal Surface*
 6 *Transportation Efficiency Act of 1991 (105 Stat.*
 7 *2005) is repealed.*

8 **SEC. 1205. DESIGNATION OF INTERSTATE HIGHWAYS.**

9 (a) *DESIGNATION OF DANIEL PATRICK MOYNIHAN*
 10 *INTERSTATE HIGHWAY.—*

11 (1) *DESIGNATION.—Interstate Route 86 in the*
 12 *State of New York, extending from the Pennsylvania*
 13 *border near Lake Erie through Orange County, New*
 14 *York, shall be known and designated as the “Daniel*
 15 *Patrick Moynihan Interstate Highway”.*

16 (2) *REFERENCES.—Any reference in a law, map,*
 17 *regulation, document, paper, or other record of the*
 18 *United States to the highway referred to in para-*
 19 *graph (1) shall be deemed to be a reference to the*
 20 *Daniel Patrick Moynihan Interstate Highway.*

21 (b) *DESIGNATION OF AMO HOUGHTON BYPASS.—*

22 (1) *DESIGNATION.—The 3-mile segment of Inter-*
 23 *state Route 86 between the interchange of Interstate*
 24 *Route 86 with New York State Route 15 in the vicin-*
 25 *ity of Painted Post, New York, and the interchange*

1 of Interstate Route 86 with New York State Route
2 352 in the vicinity of Corning, New York, shall be
3 known and designated as the “Amo Houghton By-
4 pass”.

5 (2) *REFERENCES.*—Any reference in a law, map,
6 regulation, document, paper, or other record of the
7 United States to the highway referred to in para-
8 graph (1) shall be deemed to be a reference to the Amo
9 Houghton Bypass.

10 **SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY**
11 **CONSTRUCTION COSTS.**

12 (a) *COLLECTION OF DATA.*—

13 (1) *IN GENERAL.*—The Administrator of the Fed-
14 eral Highway Administration (referred to in this sec-
15 tion as the “Administrator”) shall collect from States
16 any bid price data that is necessary to make State-
17 by-State comparisons of highway construction costs.

18 (2) *DATA REQUIRED.*—In determining which
19 data to collect and the procedures for collecting data,
20 the Administrator shall take into account the data
21 collection deficiencies identified in the report pre-
22 pared by the General Accounting Office numbered
23 GAO-04-113R.

24 (b) *REPORT.*—

1 (1) *IN GENERAL.*—*The Administrator shall submit to Congress an annual report on the bid price*
2 *data collected under subsection (a).*

4 (2) *INCLUSIONS.*—*The report shall include—*

5 (A) *State-by-State comparisons of highway*
6 *construction costs for the previous fiscal year*
7 *(including the cost to construct a 1-mile road*
8 *segment of a standard design, as determined by*
9 *the Administrator); and*

10 (B) *a description of the competitive bidding*
11 *procedures used in each State; and*

12 (C) *a determination by Administrator as to*
13 *whether the competitive bidding procedures de-*
14 *scribed under subparagraph (B) are effective.*

15 (c) *INNOVATIVE AND COST-EFFECTIVE MATERIALS.*—

16 *The Secretary shall encourage and provide incentives to*
17 *States to make maximum use of innovative and cost-effec-*
18 *tive materials and products in highway construction.*

19 ***Subtitle C—Finance***

20 ***SEC. 1301. FEDERAL SHARE.***

21 *Section 120 of title 23, United States Code, is*
22 *amended—*

23 (1) *in subsection (a), by striking paragraph (1)*
24 *and inserting the following:*

1 “(1) *IN GENERAL.*—*Except as otherwise provided*
2 *in this chapter, the Federal share payable on account*
3 *of any project on the Interstate System (including a*
4 *project to add high occupancy vehicle lanes and a*
5 *project to add a bridge project auxiliary lanes but ex-*
6 *cluding a project to add any other lanes) shall be 90*
7 *percent of the total cost of the project.*”;

8 (2) *in subsection (b)*—

9 (A) *by striking “Except as otherwise” and*
10 *inserting the following:*

11 “(1) *IN GENERAL.*—*Except as otherwise*”;

12 (B) *by striking “shall be—” and all that*
13 *follows and inserting “shall be 80 percent of the*
14 *cost of the project.”; and*

15 (C) *by adding at the end the following:*

16 “(2) *STATE-DETERMINED LOWER FEDERAL*
17 *SHARE.*—*In the case of any project subject to this*
18 *subsection, a State may determine a lower Federal*
19 *share than the Federal share determined under para-*
20 *graph (1).*”;

21 (3) *by striking subsection (d) and inserting the*
22 *following:*

23 “(d) *INCREASED FEDERAL SHARE.*—

24 “(1) *IN GENERAL.*—*The Federal share payable*
25 *under subsection (a) or (b) may be increased for*

1 *projects and activities in each State in which is*
2 *located—*

3 *“(A) nontaxable Indian land;*

4 *“(B) public land (reserved or unreserved);*

5 *“(C) a national forest; or*

6 *“(D) a national park or monument.*

7 *“(2) AMOUNT.—*

8 *“(A) IN GENERAL.—The Federal share for*
9 *States described in paragraph (1) shall be in-*
10 *creased by a percentage of the remaining cost*
11 *that—*

12 *“(i) is equal to the percentage that—*

13 *“(I) the area of all land described*
14 *in paragraph (1) in a State; bears to*

15 *“(II) the total area of the State;*

16 *but*

17 *“(ii) does not exceed 95 percent of the*
18 *total cost of the project or activity for which*
19 *the Federal share is provided.*

20 *“(B) ADJUSTMENT.—The Secretary shall*
21 *adjust the Federal share for States under sub-*
22 *paragraph (A) as the Secretary determines nec-*
23 *essary, on the basis of data provided by the Fed-*
24 *eral agencies that are responsible for maintain-*
25 *ing the data.”.*

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 \$122,021,761 for each of fiscal years 2005*
25 *through 2009.*

1 “(2) *ADMINISTRATIVE COSTS.*—Of amounts made
2 available under paragraph (1), the Secretary may use
3 for the administration of this subchapter not more
4 than \$1,877,258 for each of fiscal years 2005 through
5 2009.

6 “(3) *COLLECTED FEES AND SERVICES.*—In addi-
7 tion to funds provided under paragraph (2)—

8 “(A) all fees collected under this subchapter
9 shall be made available without further appro-
10 priation to the Secretary until expended, for use
11 in administering this subchapter; and

12 “(B) the Secretary may accept and use pay-
13 ment or services provided by transaction partici-
14 pants, or third parties that are paid by partici-
15 pants from transaction proceeds, for due dili-
16 gence, legal, financial, or technical services.

17 “(4) *AVAILABILITY.*—Amounts made available
18 under paragraph (1) shall remain available until ex-
19 pended.

20 “(b) *CONTRACT AUTHORITY.*—

21 “(1) *IN GENERAL.*—Notwithstanding any other
22 provision of law, approval by the Secretary of a Fed-
23 eral credit instrument that uses funds made available
24 under this subchapter shall be deemed to be accept-

1 *ance by the United States of a contractual obligation*
 2 *to fund the Federal credit investment.*

3 *“(2) AVAILABILITY.—Amounts authorized under*
 4 *this section for a fiscal year shall be available for ob-*
 5 *ligation on October 1 of the fiscal year.”.*

6 *(g) REPEAL.—Section 189 of title 23, United States*
 7 *code, is repealed.*

8 *(h) CONFORMING AMENDMENTS.—The analysis for*
 9 *chapter 1 of title 23, United States Code, is amended—*

10 *(1) by striking the item relating to section 185*
 11 *and inserting the following:*

“185. Program administration.”;

12 *and*

13 *(2) by striking the item relating to section 189.*

14 **SEC. 1304. STATE INFRASTRUCTURE BANKS.**

15 *Section 1511(b)(1)(A) of the Transportation Equity*
 16 *Act for the 21st Century (23 U.S.C. 181 note; 112 Stat.*
 17 *251) is amended by striking “Missouri,” and all that fol-*
 18 *lows through “for the establishment” and inserting “Mis-*
 19 *souri, Rhode Island, Texas, and any other State that seeks*
 20 *such an agreement for the establishment”.*

21 **SEC. 1305. PUBLIC-PRIVATE PARTNERSHIPS PILOT PRO-**
 22 **GRAM.**

23 *Section 109(c) of title 23, United States Code, is*
 24 *amended by adding at the end the following:*

1 “(3) *PUBLIC-PRIVATE PARTNERSHIPS PILOT PRO-*
2 *GRAM.*—

3 “(A) *IN GENERAL.*—*The Secretary may un-*
4 *dertake a pilot program to demonstrate the ad-*
5 *vantages of public-private partnerships for crit-*
6 *ical capital development projects, including high-*
7 *way, bridge, and freight intermodal connector*
8 *projects authorized under this title.*

9 “(B) *PROJECTS.*—*In carrying out the pro-*
10 *gram, the Secretary shall—*

11 “(i) *select not less than 10 qualified*
12 *public-private partnership projects that are*
13 *authorized under applicable State and local*
14 *laws; and*

15 “(ii) *use funds made available to carry*
16 *out the program to provide to sponsors of*
17 *the projects assistance for development*
18 *phase activities described in section*
19 *181(1)(A), to enhance project delivery and*
20 *reduce overall costs.”.*

21 ***Subtitle D—Safety***

22 ***SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.***

23 “(a) *SAFETY IMPROVEMENT.*—

24 “(1) *IN GENERAL.*—*Section 148 of title 23,*
25 *United States Code, is amended to read as follows:*

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

2 “(a) *DEFINITIONS.—In this section:*

3 “(1) *HIGHWAY SAFETY IMPROVEMENT PRO-*
4 *GRAM.—The term ‘highway safety improvement pro-*
5 *gram’ means the program carried out under this sec-*
6 *tion.*

7 “(2) *HIGHWAY SAFETY IMPROVEMENT*
8 *PROJECT.—*

9 “(A) *IN GENERAL.—The term ‘highway*
10 *safety improvement project’ means a project de-*
11 *scribed in the State strategic highway safety*
12 *plan that—*

13 “(i) *corrects or improves a hazardous*
14 *road location or feature; or*

15 “(ii) *addresses a highway safety prob-*
16 *lem.*

17 “(B) *INCLUSIONS.—The term ‘highway safe-*
18 *ty improvement project’ includes a project for—*

19 “(i) *an intersection safety improve-*
20 *ment;*

21 “(ii) *pavement and shoulder widening*
22 *(including addition of a passing lane to*
23 *remedy an unsafe condition);*

24 “(iii) *installation of rumble strips or*
25 *another warning device, if the rumble strips*
26 *or other warning devices do not adversely*

1 *affect the safety or mobility of bicyclists and*
2 *pedestrians;*

3 *“(iv) installation of a skid-resistant*
4 *surface at an intersection or other location*
5 *with a high frequency of accidents;*

6 *“(v) an improvement for pedestrian or*
7 *bicyclist safety;*

8 *“(vi)(I) construction of any project for*
9 *the elimination of hazards at a railway-*
10 *highway crossing that is eligible for funding*
11 *under section 130, including the separation*
12 *or protection of grades at railway-highway*
13 *crossings;*

14 *“(II) construction of a railway-high-*
15 *way crossing safety feature; or*

16 *“(III) the conduct of a model traffic*
17 *enforcement activity at a railway-highway*
18 *crossing;*

19 *“(vii) construction of a traffic calming*
20 *feature;*

21 *“(viii) elimination of a roadside obsta-*
22 *cle;*

23 *“(ix) improvement of highway signage*
24 *and pavement markings;*

1 “(x) installation of a priority control
2 system for emergency vehicles at signalized
3 intersections;

4 “(xi) installation of a traffic control or
5 other warning device at a location with
6 high accident potential;

7 “(xii) safety-conscious planning;

8 “(xiii) improvement in the collection
9 and analysis of crash data;

10 “(xiv) planning, integrated, interoper-
11 able emergency communications, equipment,
12 operational activities, or traffic enforcement
13 activities (including police assistance) relat-
14 ing to workzone safety;

15 “(xv) installation of guardrails, bar-
16 riers (including barriers between construc-
17 tion work zones and traffic lanes for the
18 safety of motorists and workers), and crash
19 attenuators;

20 “(xvi) the addition or retrofitting of
21 structures or other measures to eliminate or
22 reduce accidents involving vehicles and
23 wildlife; or

24 “(xvii) installation and maintenance
25 of signs (including fluorescent, yellow-green

1 *signs) at pedestrian-bicycle crossings and in*
2 *school zones.*

3 “(3) *SAFETY PROJECT UNDER ANY OTHER SEC-*
4 *TION.—*

5 “(A) *IN GENERAL.—The term ‘safety project*
6 *under any other section’ means a project carried*
7 *out for the purpose of safety under any other sec-*
8 *tion of this title.*

9 “(B) *INCLUSION.—The term ‘safety project*
10 *under any other section’ includes a project to—*

11 “(i) *promote the awareness of the pub-*
12 *lic and educate the public concerning high-*
13 *way safety matters (including motorcyclist*
14 *safety); or*

15 “(ii) *enforce highway safety laws.*

16 “(4) *STATE HIGHWAY SAFETY IMPROVEMENT*
17 *PROGRAM.—The term ‘State highway safety improve-*
18 *ment program’ means projects or strategies included*
19 *in the State strategic highway safety plan carried out*
20 *as part of the State transportation improvement pro-*
21 *gram under section 135(f).*

22 “(5) *STATE STRATEGIC HIGHWAY SAFETY*
23 *PLAN.—The term ‘State strategic highway safety*
24 *plan’ means a plan developed by the State transpor-*
25 *tation department that—*

1 “(A) is developed after consultation with—

2 “(i) a highway safety representative of
3 the Governor of the State;

4 “(ii) regional transportation planning
5 organizations and metropolitan planning
6 organizations, if any;

7 “(iii) representatives of major modes of
8 transportation;

9 “(iv) State and local traffic enforce-
10 ment officials;

11 “(v) persons responsible for admin-
12 istering section 130 at the State level;

13 “(vi) representatives conducting Oper-
14 ation Lifesaver;

15 “(vii) representatives conducting a
16 motor carrier safety program under section
17 31104 or 31107 of title 49;

18 “(viii) motor vehicle administration
19 agencies; and

20 “(ix) other major State and local safe-
21 ty stakeholders;

22 “(B) analyzes and makes effective use of
23 State, regional, or local crash data;

24 “(C) addresses engineering, management,
25 operation, education, enforcement, and emer-

1 *gency services elements (including integrated,*
2 *interoperable emergency communications) of*
3 *highway safety as key factors in evaluating high-*
4 *way projects;*

5 *“(D) considers safety needs of, and high-fa-*
6 *tality segments of, public roads;*

7 *“(E) considers the results of State, regional,*
8 *or local transportation and highway safety plan-*
9 *ning processes;*

10 *“(F) describes a program of projects or*
11 *strategies to reduce or eliminate safety hazards;*

12 *“(G) is approved by the Governor of the*
13 *State or a responsible State agency; and*

14 *“(H) is consistent with the requirements of*
15 *section 135(f).*

16 *“(b) PROGRAM.—*

17 *“(1) IN GENERAL.—The Secretary shall carry*
18 *out a highway safety improvement program.*

19 *“(2) PURPOSE.—The purpose of the highway*
20 *safety improvement program shall be to achieve a sig-*
21 *nificant reduction in traffic fatalities and serious in-*
22 *juries on public roads.*

23 *“(c) ELIGIBILITY.—*

24 *“(1) IN GENERAL.—To obligate funds appor-*
25 *tioned under section 104(b)(5) to carry out this sec-*

1 *tion, a State shall have in effect a State highway safe-*
2 *ty improvement program under which the State—*

3 *“(A) develops and implements a State stra-*
4 *tegic highway safety plan that identifies and*
5 *analyzes highway safety problems and opportu-*
6 *nities as provided in paragraph (2);*

7 *“(B) produces a program of projects or*
8 *strategies to reduce identified safety problems;*

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

12 *“(D) submits to the Secretary an annual re-*
13 *port that—*

14 *“(i) describes, in a clearly understand-*
15 *able fashion, not less than 5 percent of loca-*
16 *tions determined by the State, using criteria*
17 *established in accordance with paragraph*
18 *(2)(B)(ii), as exhibiting the most severe*
19 *safety needs; and*

20 *“(ii) contains an assessment of—*

21 *“(I) potential remedies to haz-*
22 *ardous locations identified;*

23 *“(II) estimated costs associated*
24 *with those remedies; and*

1 “(III) impediments to implemen-
2 tation other than cost associated with
3 those remedies.

4 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-
5 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As
6 part of the State strategic highway safety plan, a
7 State shall—

8 “(A) have in place a crash data system with
9 the ability to perform safety problem identifica-
10 tion and countermeasure analysis;

11 “(B) based on the analysis required by sub-
12 paragraph (A)—

13 “(i) identify hazardous locations, sec-
14 tions, and elements (including roadside ob-
15 stacles, railway-highway crossing needs,
16 and unmarked or poorly marked roads) that
17 constitute a danger to motorists (including
18 motorcyclists), bicyclists, pedestrians, and
19 other highway users; and

20 “(ii) using such criteria as the State
21 determines to be appropriate, establish the
22 relative severity of those locations, in terms
23 of accidents, injuries, deaths, traffic volume
24 levels, and other relevant data;

1 “(C) adopt strategic and performance-based
2 goals that—

3 “(i) address traffic safety, including
4 behavioral and infrastructure problems and
5 opportunities on all public roads;

6 “(ii) focus resources on areas of great-
7 est need; and

8 “(iii) are coordinated with other State
9 highway safety programs;

10 “(D) advance the capabilities of the State
11 for traffic records data collection, analysis, and
12 integration with other sources of safety data
13 (such as road inventories) in a manner that—

14 “(i) complements the State highway
15 safety program under chapter 4 and the
16 commercial vehicle safety plan under sec-
17 tion 31102 of title 49;

18 “(ii) includes all public roads;

19 “(iii) identifies hazardous locations,
20 sections, and elements on public roads that
21 constitute a danger to motorists (including
22 motorcyclists), bicyclists, pedestrians, and
23 other highway users; and

24 “(iv) includes a means of identifying
25 the relative severity of hazardous locations

1 *described in clause (iii) in terms of acci-*
2 *dents, injuries, deaths, and traffic volume*
3 *levels;*

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

9 “(i) *identify opportunities for preventing*
10 *the development of such hazardous conditions;*
11 *and*

12 “(iii) *establish and implement a schedule of*
13 *highway safety improvement projects for hazard*
14 *correction and hazard prevention; and*

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

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

23 “(d) *ELIGIBLE PROJECTS.—*

1 “(1) *IN GENERAL.*—A State may obligate funds
2 apportioned to the State under section 104(b)(5) to
3 carry out—

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

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

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

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

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

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

22 “(1) *IN GENERAL.*—To further the implementa-
23 tion of a State strategic highway safety plan, a State
24 may use up to 25 percent of the amount of funds
25 made available under this section for a fiscal year to

1 *carry out safety projects under any other section as*
2 *provided in the State strategic highway safety plan.*

3 “(2) *OTHER TRANSPORTATION AND HIGHWAY*
4 *SAFETY PLANS.—Nothing in this subsection requires a*
5 *State to revise any State process, plan, or program*
6 *in effect on the date of enactment of this section.*

7 “(f) *REPORTS.—*

8 “(1) *IN GENERAL.—A State shall submit to the*
9 *Secretary a report that—*

10 “(A) *describes progress being made to im-*
11 *plement highway safety improvement projects*
12 *under this section;*

13 “(B) *assesses the effectiveness of those im-*
14 *provements; and*

15 “(C) *describes the extent to which the im-*
16 *provements funded under this section contribute*
17 *to the goals of—*

18 “(i) *reducing the number of fatalities*
19 *on roadways;*

20 “(ii) *reducing the number of roadway-*
21 *related injuries;*

22 “(iii) *reducing the occurrences of road-*
23 *way-related crashes;*

24 “(iv) *mitigating the consequences of*
25 *roadway-related crashes; and*

1 “(v) *reducing the occurrences of road-*
2 *way-railroad grade crossing crashes.*

3 “(2) *CONTENTS; SCHEDULE.—The Secretary*
4 *shall establish the content and schedule for a report*
5 *under paragraph (1).*

6 “(3) *TRANSPARENCY.—The Secretary shall make*
7 *reports under subsection (c)(1)(D) available to the*
8 *public through—*

9 “(A) *the Internet site of the Department;*
10 *and*

11 “(B) *such other means as the Secretary de-*
12 *termines to be appropriate.*

13 “(4) *DISCOVERY AND ADMISSION INTO EVIDENCE*
14 *OF CERTAIN REPORTS, SURVEYS, AND INFORMA-*
15 *TION.—Notwithstanding any other provision of law,*
16 *reports, surveys, schedules, lists, or data compiled or*
17 *collected for any purpose directly relating to para-*
18 *graph (1) or subsection (c)(1)(D), or published by the*
19 *Secretary in accordance with paragraph (3), shall not*
20 *be subject to discovery or admitted into evidence in a*
21 *Federal or State court proceeding or considered for*
22 *other purposes in any action for damages arising*
23 *from any occurrence at a location identified or ad-*
24 *dressed in such reports, surveys, schedules, lists, or*
25 *other data.*

1 “(g) *FEDERAL SHARE OF HIGHWAY SAFETY IMPROVE-*
 2 *MENT PROJECTS.*—*Except as provided in sections 120 and*
 3 *130, the Federal share of the cost of a highway safety im-*
 4 *provement project carried out with funds made available*
 5 *under this section shall be 90 percent.*

6 “(h) *FUNDS FOR BICYCLE AND PEDESTRIAN SAFE-*
 7 *TY.*—*A State shall allocate for bicycle and pedestrian im-*
 8 *provements in the State a percentage of the funds remain-*
 9 *ing after implementation of sections 130(e) and 150, in an*
 10 *amount that is equal to or greater than the percentage of*
 11 *all fatal crashes in the State involving bicyclists and pedes-*
 12 *trians.*

13 “(i) *ROADWAY SAFETY IMPROVEMENTS FOR OLDER*
 14 *DRIVERS AND PEDESTRIANS.*—*For each of fiscal years 2005*
 15 *through 2009, \$23,465,723 is authorized to be appropriated*
 16 *out of the Highway Trust Fund (other than the Mass Tran-*
 17 *sit Account) for projects in all States to improve traffic*
 18 *signs and pavement markings in a manner consistent with*
 19 *the recommendations included in the publication of the Fed-*
 20 *eral Highway Administration entitled ‘Guidelines and Rec-*
 21 *ommendations to Accommodate Older Drivers and Pedes-*
 22 *trians (FHWA–RD–01–103)’ and dated October 2001.”.*

23 (2) *ALLOCATIONS OF APPORTIONED FUNDS.*—
 24 *Section 133(d) of title 23, United States Code, is*
 25 *amended—*

1 (A) by striking paragraph (1);

2 (B) by redesignating paragraphs (2)
3 through (5) as paragraphs (1) through (4), re-
4 spectively;

5 (C) in paragraph (2) (as redesignated by
6 subparagraph (B))—

7 (i) in the first sentence of subpara-
8 graph (A)—

9 (I) by striking “subparagraphs
10 (C) and (D)” and inserting “subpara-
11 graph (C)”; and

12 (II) by striking “80 percent” and
13 inserting “90 percent”;

14 (ii) in subparagraph (B), by striking
15 “tobe” and inserting “to be”;

16 (iii) by striking subparagraph (C);

17 (iv) by redesignating subparagraphs
18 (D) and (E) as subparagraphs (C) and (D),
19 respectively; and

20 (v) in subparagraph (C) (as redesi-
21 gnated by clause (iv)), by adding a period at
22 the end; and

23 (D) in paragraph (4)(A) (as redesignated
24 by subparagraph (B)), by striking “paragraph
25 (2)” and inserting “paragraph (1)”.

1 (3) *ADMINISTRATION.*—Section 133(e) of title 23,
2 *United States Code*, is amended in each of para-
3 graphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e),
4 by striking “(d)(2)” each place it appears and insert-
5 ing “(d)(1)”.

6 (4) *CONFORMING AMENDMENTS.*—

7 (A) *The analysis for chapter 1 of title 23,*
8 *United States Code*, is amended by striking the
9 item relating to section 148 and inserting the
10 following:

“148. *Highway safety improvement program.*”.

11 (B) *Section 104(g) of title 23, United States*
12 *Code*, is amended in the first sentence by striking
13 “sections 130, 144, and 152 of this title” and in-
14 serting “sections 130 and 144”.

15 (C) *Section 126 of title 23, United States*
16 *Code*, is amended—

17 (i) *in subsection (a), by inserting*
18 “under” after “State’s apportionment”; and

19 (ii) *in subsection (b)—*

20 (I) *in the first sentence, by strik-*
21 *ing “the last sentence of section*
22 *133(d)(1) or to section 104(f) or to sec-*
23 *tion 133(d)(3)” and inserting “section*
24 *104(f) or 133(d)(2)”;* and

1 (II) *in the second sentence, by*
2 *striking “or 133(d)(2)”.*

3 (D) *Sections 154, 164, and 409 of title 23,*
4 *United States Code, are amended by striking*
5 *“152” each place it appears and inserting*
6 *“148”.*

7 (b) *APPORTIONMENT OF HIGHWAY SAFETY IMPROVE-*
8 *MENT PROGRAM FUNDS.—Section 104(b) of title 23, United*
9 *States Code, is amended—*

10 (1) *in the matter preceding paragraph (1), by*
11 *inserting after “Improvement program,” the fol-*
12 *lowing: “the highway safety improvement program,”;*
13 *and*

14 (2) *by adding at the end the following:*

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

17 “(A) *IN GENERAL.—For the highway safety*
18 *improvement program, in accordance with the*
19 *following formula:*

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

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

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

3 “(ii) 40 percent of the apportionments
4 in the ratio that—

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

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

11 “(iii) 35 percent of the apportionments
12 in the ratio that—

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

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

1 “(B) *MINIMUM APPORTIONMENT.*—*Notwith-*
2 *standing subparagraph (A), each State shall re-*
3 *ceive a minimum of 1/2 of 1 percent of the funds*
4 *apportioned under this paragraph.*”.

5 (c) *ELIMINATION OF HAZARDS RELATING TO RAIL-*
6 *WAY-HIGHWAY CROSSINGS.*—

7 (1) *FUNDS FOR RAILWAY-HIGHWAY CROSS-*
8 *INGS.*—*Section 130(e) of title 23, United States Code,*
9 *is amended by inserting before “At least” the fol-*
10 *lowing: “For each fiscal year, at least \$187,725,786*
11 *of the funds authorized and expended under section*
12 *148 shall be available for the elimination of hazards*
13 *and the installation of protective devices at railway-*
14 *highway crossings.”.*

15 (2) *BIENNIAL REPORTS TO CONGRESS.*—*Section*
16 *130(g) of title 23, United States Code, is amended in*
17 *the third sentence—*

18 (A) by inserting “and the Committee on
19 Commerce, Science, and Transportation,” after
20 “Public Works”; and

21 (B) by striking “not later than April 1 of
22 each year” and inserting “every other year”.

23 (3) *EXPENDITURE OF FUNDS.*—*Section 130 of*
24 *title 23, United States Code, is amended by adding*
25 *at the end the following:*

1 “(k) *EXPENDITURE OF FUNDS.*—*Funds made avail-*
2 *able to carry out this section shall be—*

3 “(1) *available for expenditure on compilation*
4 *and analysis of data in support of activities carried*
5 *out under subsection (g); and*

6 “(2) *apportioned in accordance with section*
7 *104(b)(5).”.*

8 (d) *TRANSITION.*—

9 (1) *IMPLEMENTATION.*—*Except as provided in*
10 *paragraph (2), the Secretary shall approve obliga-*
11 *tions of funds apportioned under section 104(b)(5) of*
12 *title 23, United States Code (as added by subsection*
13 *(b)) to carry out section 148 of that title, only if, not*
14 *later than October 1 of the second fiscal year after the*
15 *date of enactment of this Act, a State has developed*
16 *and implemented a State strategic highway safety*
17 *plan as required under section 148(c) of that title.*

18 (2) *INTERIM PERIOD.*—

19 (A) *IN GENERAL.*—*Before October 1 of the*
20 *second fiscal year after the date of enactment of*
21 *this Act and until the date on which a State de-*
22 *velops and implements a State strategic highway*
23 *safety plan, the Secretary shall apportion funds*
24 *to a State for the highway safety improvement*
25 *program and the State may obligate funds ap-*

1 *portioned to the State for the highway safety im-*
2 *provement program under section 148 for*
3 *projects that were eligible for funding under sec-*
4 *tions 130 and 152 of that title, as in effect on*
5 *the day before the date of enactment of this Act.*

6 (B) *NO STRATEGIC HIGHWAY SAFETY*
7 *PLAN.—If a State has not developed a strategic*
8 *highway safety plan by October 1 of the second*
9 *fiscal year after the date of enactment of this*
10 *Act, but certifies to the Secretary that progress*
11 *is being made toward developing and imple-*
12 *menting such a plan, the Secretary shall con-*
13 *tinue to apportion funds for 1 additional fiscal*
14 *year for the highway safety improvement pro-*
15 *gram under section 148 of title 23, United States*
16 *Code, to the State, and the State may continue*
17 *to obligate funds apportioned to the State under*
18 *this section for projects that were eligible for*
19 *funding under sections 130 and 152 of that title,*
20 *as in effect on the day before the date of enact-*
21 *ment of this Act.*

22 (C) *PENALTY.—If a State has not adopted*
23 *a strategic highway safety plan by the date that*
24 *is 2 years after the date of enactment of this Act,*
25 *funds made available to the State under section*

1 1101(6) shall be redistributed to other States in
 2 accordance with section 104(b)(3) of title 23,
 3 United States Code.

4 **SEC. 1402. OPERATION LIFESAVER.**

5 Section 104(d)(1) of title 23, United States Code, is
 6 amended—

7 (1) by striking “subsection (b)(3)” and inserting
 8 “subsection (b)(5)”; and

9 (2) by striking “\$500,000” and inserting
 10 “\$563,177”.

11 **SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIV-**
 12 **ERS DRIVING WHILE INTOXICATED OR DRIV-**
 13 **ING UNDER THE INFLUENCE.**

14 (a) *IN GENERAL.*—Section 164 of title 23, United
 15 States Code, is amended to read as follows:

16 **“§164. Increased penalties for higher-risk drivers**
 17 **driving while intoxicated or driving**
 18 **under the influence**

19 “(a) *DEFINITIONS.*—In this section:

20 “(1) *BLOOD ALCOHOL CONCENTRATION.*—The
 21 term ‘blood alcohol concentration’ means grams of al-
 22 cohol per 100 milliliters of blood or the equivalent
 23 grams of alcohol per 210 liters of breath.

24 “(2) *DRIVING WHILE INTOXICATED; DRIVING*
 25 *UNDER THE INFLUENCE.*—The terms ‘driving while

1 *intoxicated*’ and *‘driving under the influence’* mean
2 *driving or being in actual physical control of a motor*
3 *vehicle while having a blood alcohol concentration*
4 *above the permitted limit as established by each State.*

5 “(3) *HIGHER-RISK IMPAIRED DRIVER LAW.*—

6 “(A) *IN GENERAL.*—*The term ‘higher-risk*
7 *impaired driver law’ means a State law that*
8 *provides, as a minimum penalty, that—*

9 “(i) *an individual described in sub-*
10 *paragraph (B) shall—*

11 “(I) *receive a driver’s license sus-*
12 *pension;*

13 “(II)(aa) *have the motor vehicle*
14 *driven at the time of arrest impounded*
15 *or immobilized for not less than 45*
16 *days; and*

17 “(bb) *for the remainder of the li-*
18 *cence suspension period, be required to*
19 *install a certified alcohol ignition*
20 *interlock device on the vehicle;*

21 “(III)(aa) *be subject to an assess-*
22 *ment by a certified substance abuse of-*
23 *ficial of the State that assesses the de-*
24 *gree of abuse of alcohol by the indi-*
25 *vidual; and*

1 “(bb) be assigned to a treatment
2 program or impaired driving edu-
3 cation program, as determined by the
4 assessment and paid for by the indi-
5 vidual; and

6 “(IV) be imprisoned for not less
7 than 10 days, or have an electronic
8 monitoring device for not less than 100
9 days; and

10 “(ii) an individual who is convicted of
11 driving while intoxicated or driving under
12 the influence with a blood alcohol concentra-
13 tion level of 0.15 percent or greater shall—

14 “(I) receive a driver’s license sus-
15 pension; and

16 “(II)(aa) be subject to an assess-
17 ment by a certified substance abuse of-
18 ficial of the State that assesses the de-
19 gree of abuse of alcohol by the indi-
20 vidual; and

21 “(bb) be assigned to a treatment
22 program or impaired driving edu-
23 cation program, as determined by the
24 assessment and paid for by the indi-
25 vidual.

1 “(B) *COVERED INDIVIDUALS.*—An indi-
2 vidual referred to in subparagraph (A)(i) is an
3 individual who—

4 “(i) is convicted of a second or subse-
5 quent offense for driving while intoxicated
6 or driving under the influence within a pe-
7 riod of 7 consecutive years; or

8 “(ii) is convicted of a driving-while-
9 suspended offense, if the suspension was the
10 result of a conviction for driving under the
11 influence.

12 “(4) *LICENSE SUSPENSION.*—The term ‘license
13 suspension’ means, for a period of not less than 1
14 year—

15 “(A) the suspension of all driving privileges
16 of an individual for the duration of the suspen-
17 sion period; or

18 “(B) a combination of suspension of all
19 driving privileges of an individual for the first
20 45 days of the suspension period, followed by re-
21 instatement of limited driving privileges requir-
22 ing the individual to operate only motor vehicles
23 equipped with an ignition interlock system or
24 other device approved by the Secretary during
25 the remainder of the suspension period.

1 “(5) *MOTOR VEHICLE*.—

2 “(A) *IN GENERAL*.—*The term ‘motor vehi-*
3 *cle’ means a vehicle driven or drawn by mechan-*
4 *ical power and manufactured primarily for use*
5 *on public highways.*

6 “(B) *EXCLUSIONS*.—*The term ‘motor vehi-*
7 *cle’ does not include—*

8 “(i) *a vehicle operated solely on a rail*
9 *line; or*

10 “(ii) *a commercial vehicle.*

11 “(b) *TRANSFER OF FUNDS*.—

12 “(1) *IN GENERAL*.—*Except as provided in para-*
13 *graph (2), on October 1, 2008, and each October 1*
14 *thereafter, if a State has not enacted or is not enforce-*
15 *ing a higher-risk impaired driver law, the Secretary*
16 *shall transfer an amount equal to 3 percent of the*
17 *funds apportioned to the State on that date under*
18 *paragraphs (1), (3), and (4) of section 104(b) to the*
19 *apportionment of the State under section 402 to be*
20 *used in accordance with section 402(a)(3) only to*
21 *carry out impaired driving programs.*

22 “(2) *NATIONWIDE TRAFFIC SAFETY CAM-*
23 *PAIGNS*.—*The Secretary shall—*

1 “(A) reserve 25 percent of the funds that
2 would otherwise be transferred to States for a fis-
3 cal year under paragraph (1); and

4 “(B) use the reserved funds to make law en-
5 forcement grants, in connection with nationwide
6 traffic safety campaigns, to be used in accord-
7 ance with section 402(a)(3).”.

8 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
9 *chapter I of chapter 1 of title 23, United States Code, is*
10 *amended by striking the item relating to section 164 and*
11 *inserting the following:*

“164. Increased penalties for higher-risk drivers driving while intoxicated or
driving under the influence.”.

12 **SEC. 1404. BUS AXLE WEIGHT EXEMPTION.**

13 Section 1023 of the Intermodal Surface Transpor-
14 *tation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat.*
15 *1951) is amended by striking subsection (h) and inserting*
16 *the following:*

17 “(h) *OVER-THE-ROAD BUS AND PUBLIC TRANSIT VE-*
18 *HICLE EXEMPTION.*—

19 “(1) *IN GENERAL.*—*The second sentence of sec-*
20 *tion 127 of title 23, United States Code (relating to*
21 *axle weight limitations for vehicles using the Dwight*
22 *D. Eisenhower System of Interstate and Defense*
23 *Highways), shall not apply to—*

1 “(A) any over-the-road bus (as defined in
2 section 301 of the Americans With Disabilities
3 Act of 1990 (42 U.S.C. 12181)); or

4 “(B) any vehicle that is regularly and ex-
5 clusively used as an intrastate public agency
6 transit passenger bus.

7 “(2) STATE ACTION.—No State or political sub-
8 division of a State, or any political authority of 2 or
9 more States, shall impose any axle weight limitation
10 on any vehicle described in paragraph (1) in any case
11 in which such a vehicle is using the Dwight D. Eisen-
12 hower System of Interstate and Defense Highways.”.

13 **SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.**

14 (a) IN GENERAL.—Subchapter I of chapter I of title
15 23, United States Code, is amended by inserting after sec-
16 tion 149 the following:

17 **“§ 150. Safe routes to schools program**

18 “(a) DEFINITIONS.—In this section:

19 “(1) PRIMARY AND SECONDARY SCHOOL.—The
20 term ‘primary and secondary school’ means a school
21 that provides education to children in any of grades
22 kindergarten through 12.

23 “(2) PROGRAM.—The term ‘program’ means the
24 safe routes to schools program established under sub-
25 section (b).

1 “(3) *VICINITY OF A SCHOOL.*—*The term ‘vicinity*
2 *of a school’ means the area within 2 miles of a pri-*
3 *mary or secondary school.*

4 “(b) *ESTABLISHMENT.*—*The Secretary shall establish*
5 *and carry out a safe routes to school program for the benefit*
6 *of children in primary and secondary schools in accordance*
7 *with this section.*

8 “(c) *PURPOSES.*—*The purposes of the program shall*
9 *be—*

10 “(1) *to enable and to encourage children to walk*
11 *and bicycle to school;*

12 “(2) *to encourage a healthy and active lifestyle*
13 *by making walking and bicycling to school safer and*
14 *more appealing transportation alternatives; and*

15 “(3) *to facilitate the planning, development, and*
16 *implementation of projects and activities that will*
17 *improve safety in the vicinity of schools.*

18 “(d) *ELIGIBLE RECIPIENTS.*—*A State shall use*
19 *amounts apportioned under this section to provide finan-*
20 *cial assistance to State, regional, and local agencies that*
21 *demonstrate an ability to meet the requirements of this sec-*
22 *tion.*

23 “(e) *ELIGIBLE PROJECTS AND ACTIVITIES.*—

24 “(1) *INFRASTRUCTURE-RELATED PROJECTS.*—

1 “(A) *IN GENERAL.*—Amounts apportioned
2 to a State under this section may be used for the
3 planning, design, and construction of infrastruc-
4 ture-related projects to encourage walking and
5 bicycling to school, including—

6 “(i) sidewalk improvements;

7 “(ii) traffic calming and speed reduc-
8 tion improvements;

9 “(iii) pedestrian and bicycle crossing
10 improvements;

11 “(iv) on-street bicycle facilities;

12 “(v) off-street bicycle and pedestrian
13 facilities;

14 “(vi) secure bicycle parking facilities;

15 “(vii) traffic signal improvements; and

16 “(viii) pedestrian-railroad grade cross-
17 ing improvements.

18 “(B) *LOCATION OF PROJECTS.*—Infrastruc-
19 ture-related projects under subparagraph (A)
20 may be carried out on—

21 “(i) any public road in the vicinity of
22 a school; or

23 “(ii) any bicycle or pedestrian path-
24 way or trail in the vicinity of a school.

25 “(2) *BEHAVIORAL ACTIVITIES.*—

1 “(A) *IN GENERAL.*—*In addition to projects*
2 *described in paragraph (1), amounts appor-*
3 *tioned to a State under this section may be used*
4 *for behavioral activities to encourage walking*
5 *and bicycling to school, including—*

6 “(i) *public awareness campaigns and*
7 *outreach to press and community leaders;*

8 “(ii) *traffic education and enforcement*
9 *in the vicinity of schools; and*

10 “(iii) *student sessions on bicycle and*
11 *pedestrian safety, health, and environment.*

12 “(B) *ALLOCATION.*—*Of the amounts appor-*
13 *tioned to a State under this section for a fiscal*
14 *year, not less than 10 percent shall be used for*
15 *behavioral activities under this paragraph.*

16 “(f) *FUNDING.*—

17 “(1) *SET ASIDE.*—*Before apportioning amounts*
18 *to carry out section 148 for a fiscal year, the Sec-*
19 *retary shall set aside and use \$65,704,024 to carry*
20 *out this section.*

21 “(2) *APPORTIONMENT.*—*Amounts made available*
22 *to carry out this section shall be apportioned to*
23 *States in accordance with section 104(b)(5).*

1 “(3) *ADMINISTRATION OF AMOUNTS.*—Amounts
2 *apportioned to a State under this section shall be ad-*
3 *ministered by the State transportation department.*

4 “(4) *FEDERAL SHARE.*—Except as provided in
5 *sections 120 and 130, the Federal share of the cost of*
6 *a project or activity funded under this section shall*
7 *be 90 percent.*

8 “(5) *PERIOD OF AVAILABILITY.*—Notwith-
9 *standing section 118(b)(2), amounts apportioned*
10 *under this section shall remain available until ex-*
11 *pended.”.*

12 (b) *CONFORMING AMENDMENTS.*—The analysis for
13 *subchapter I of chapter 1 of title 23, United States Code*
14 *is amended by inserting after the item relating to section*
15 *149 the following:*

 “150. *Safe routes to school program.*”.

16 **SEC. 1406. PURCHASES OF EQUIPMENT.**

17 (a) *IN GENERAL.*—Section 152 of title 23, United
18 *States Code is amended to read as follows:*

19 **“§ 152. Purchases of equipment**

20 “(a) *IN GENERAL.*—Subject to subsection (b), a State
21 *carrying out a project under this chapter shall purchase*
22 *device, tool or other equipment needed for the project only*
23 *after completing and providing a written analysis dem-*
24 *onstrating the cost savings associated with purchasing the*
25 *equipment compared with renting the equipment from a*

1 *qualified equipment rental provider before the project com-*
 2 *mences*

3 “(b) *APPLICABILITY.*—*This section shall apply to—*

4 “(1) *earth moving, road machinery, and mate-*
 5 *rial handling equipment, or any other item, with a*
 6 *purchase price in excess of \$75,000; and*

7 “(2) *aerial work platforms with a purchase price*
 8 *in excess of \$25,000.”.*

9 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 10 *chapter I of chapter 1 of title 23, United States Code, is*
 11 *amended by striking the item relating to section 152 and*
 12 *inserting the following:*

“152. *Purchases of equipment.*”.

13 **SEC. 1407. WORKZONE SAFETY.**

14 *Section 358(b) of the National Highway System Des-*
 15 *ignation Act of 1995 (109 Stat. 625) is amended by adding*
 16 *at the end the following:*

17 “(7) *Recommending all federally-assisted projects*
 18 *in excess of \$15,000,000 to enter into contracts only*
 19 *with work zone safety services contractors, traffic con-*
 20 *trol contractors, and trench safety and shoring con-*
 21 *tractors that carry general liability insurance in an*
 22 *amount not less than \$15,000,000.*

23 “(8) *Recommending federally-assisted projects*
 24 *the costs of which exceed \$15,000,000 to include work*
 25 *zone intelligent transportation systems that are—*

1 “(A) provided by a qualified vendor; and

2 “(B) monitored continuously.

3 “(9) Recommending federally-assisted projects to
4 fully fund not less than 5 percent of project costs for
5 work zone safety and temporary traffic control meas-
6 ures, in addition to the cost of the project, which
7 measures shall be provided by a qualified work zone
8 safety or traffic control provider.

9 “(10)(A) Recommending federally-assisted
10 projects to implement or accommodate the use of a de-
11 vice capable of—

12 “(i) automatically capturing images of,
13 measuring the speed of, and relating to, multiple
14 vehicles in multiple lanes simultaneously; and

15 “(ii) correlating measured speeds to capture
16 images of specific identified vehicles traveling in
17 excess of posted speed limits in road work zones
18 and construction areas.

19 “(B) Recommending appropriate measures to
20 protect public security and privacy, including—

21 “(i) notice to drivers of the use of the de-
22 vices described in subparagraph (A); and

23 “(ii) with respect to the information gen-
24 erated by the devices described in subparagraph
25 (A)—

1 “(I) limitations on the number of, and
2 authorization process relating to, individ-
3 uals that may access the information;

4 “(II) limitations on the use, disclosure,
5 and retention of the information; and

6 “(III) any measures necessary to en-
7 sure that the information is accessed only
8 by an individual that is authorized to ac-
9 cess the information.

10 “(11) Ensuring that any recommendation made
11 under any of paragraphs (7) through (10) provides
12 for an exemption for applicability to a State, with re-
13 spect to a project or class of projects—

14 “(A) to the extent that a State notifies the
15 Secretary in writing that safety is not expected
16 to be adversely affected by nonapplication of the
17 recommendation to the project or class of
18 projects; or

19 “(B) in any case in which the State has in
20 effect a law that prohibits a project or class of
21 projects (including a device or activity to be in-
22 stalled or carried out under such a project).”.

1 **SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW**
2 **OF VEHICULAR TRAFFIC.**

3 *Not later than 1 year after the date of enactment of*
4 *this Act, the Secretary shall promulgate regulations—*

5 *(1) to decrease the probability of worker injury;*

6 *(2) to maintain the free flow of vehicular traffic*
7 *by requiring workers whose duties place the workers*
8 *on, or in close proximity to, a Federal-aid highway*
9 *(as defined in section 101 of title 23, United States*
10 *Code) to wear high-visibility clothing; and*

11 *(3) to require such other worker-safety measures*
12 *for workers described in paragraph (2) as the Sec-*
13 *retary determines appropriate.*

14 **SEC. 1409. OPEN CONTAINER REQUIREMENTS.**

15 *Section 154 of title 23, United States Code, is amended*
16 *by striking subsection (c) and inserting the following:*

17 *“(c) TRANSFER OF FUNDS.—*

18 *“(1) IN GENERAL.—The Secretary shall withhold*
19 *the applicable percentage for the fiscal year of the*
20 *amount required to be apportioned for Federal-aid*
21 *highways to any State under each of paragraphs (1),*
22 *(3), and (4) of section 104(b), if a State has not en-*
23 *acted or is not enforcing a provision described in sub-*
24 *section (b), as follows:*

“For:	The applicable percentage is:
<i>Fiscal year 2008</i>	<i>2 percent.</i>
<i>Fiscal year 2009</i>	<i>2 percent.</i>

“For:	The applicable percentage is:
<i>Fiscal year 2010</i>	<i>2 percent.</i>
<i>Fiscal year 2011 and each subsequent fiscal year.</i>	<i>2 percent.</i>

1 “(2) *RESTORATION.*—*If (during the 4-year pe-*
2 *riod beginning on the date the apportionment for any*
3 *State is reduced in accordance with this subsection)*
4 *the Secretary determines that the State has enacted*
5 *and is enforcing a provision described in subsection*
6 *(b), the apportionment of the State shall be increased*
7 *by an amount equal to the amount of the reduction*
8 *made during the 4-year period.”.*

9 **SEC. 1410. SAFE INTERSECTIONS.**

10 (a) *IN GENERAL.*—*Chapter 2 of title 18, United States*
11 *Code, is amended by adding at the end the following:*

12 **“§ 39. Traffic signal preemption transmitters**

13 “(a) *OFFENSES.*—

14 “(1) *SALE.*—*A person who knowingly sells a*
15 *traffic signal preemption transmitter in or affecting*
16 *interstate or foreign commerce to a person who is not*
17 *acting on behalf of a public agency or private cor-*
18 *poration authorized by law to provide fire protection,*
19 *law enforcement, emergency medical services, transit*
20 *services, maintenance, or other services for a Federal,*
21 *State, or local government entity, shall, notwith-*
22 *standing section 3571(b), be fined not more than*
23 *\$10,000, imprisoned not more than 1 year, or both.*

1 “(2) *USE.*—A person who makes unauthorized
2 use of a traffic signal preemption transmitter in or
3 affecting interstate or foreign commerce shall be fined
4 not more than \$10,000, imprisoned not more than 6
5 months, or both.

6 “(b) *DEFINITIONS.*—In this section, the following defi-
7 nitions apply:

8 “(1) *TRAFFIC SIGNAL PREEMPTION TRANS-*
9 *MITTER.*—The term ‘traffic signal preemption trans-
10 mitter’ means any mechanism that can change or
11 alter a traffic signal’s phase time or sequence.

12 “(2) *UNAUTHORIZED USE.*—

13 “(A) *IN GENERAL.*—The term ‘unauthorized
14 use’ means use of a traffic signal preemption
15 transmitter by a person who is not acting on be-
16 half of a public agency or private corporation
17 authorized by law to provide fire protection, law
18 enforcement, emergency medical services, transit
19 services, maintenance, or other services for a
20 Federal, State, or local government entity.

21 “(B) *EXCEPTION.*—The term ‘unauthorized
22 use’ does not apply to use of a traffic signal pre-
23 emptation transmitter for classroom or instruc-
24 tional purposes.”.

1 (b) *CHAPTER ANALYSIS.*—*The chapter analysis for*
2 *chapter 2 of title 18, United States Code, is amended by*
3 *adding at the end the following:*

“39. *Traffic signal preemption transmitters.*”.

4 **SEC. 1411. PRESIDENTIAL COMMISSION ON ALCOHOL-IM-**
5 **PAIRED DRIVING.**

6 (a) *FINDINGS.*—*Congress finds that—*

7 (1) *there has been considerable progress over the*
8 *past 25 years in reducing the number and rate of al-*
9 *cohol-related highway fatalities;*

10 (2) *the National Highway Traffic Safety Admin-*
11 *istration projects that fatalities in alcohol-related*
12 *crashes declined in 2004 for the second year in a row;*

13 (3) *in spite of this progress, an estimated 16,654*
14 *Americans died in 2004, in alcohol-related crashes;*

15 (4) *these fatalities comprise 39 percent of the an-*
16 *nuual total of highway fatalities;*

17 (5) *about 250,000 are injured each year in alco-*
18 *hol-related crashes;*

19 (6) *the past 2 years of decreasing alcohol-related*
20 *fatalities follows a 3-year increase;*

21 (7) *drunk driving is the Nation’s most frequently*
22 *committed violent crime;*

23 (8) *the annual cost of alcohol-related crashes is*
24 *over \$100,000,000,000, including \$9,000,000,000 in*
25 *costs to employers;*

1 (9) *a Presidential Commission on Drunk Driv-*
2 *ing in 1982 and 1983 helped to lead to substantial*
3 *progress on this issue; and*

4 (10) *these facts point to the need to renew the*
5 *national commitment to preventing these deaths and*
6 *injuries.*

7 (b) *SENSE OF THE SENATE.—It is the sense of the Sen-*
8 *ate that, in an effort to further change the culture of alcohol*
9 *impaired driving on our Nation’s highways, the President*
10 *should consider establishing a Presidential Commission on*
11 *Alcohol-Impaired Driving—*

12 (1) *comprised of—*

13 (A) *representatives of State and local gov-*
14 *ernments, including state legislators;*

15 (B) *law enforcement;*

16 (C) *traffic safety experts, including re-*
17 *searchers;*

18 (D) *victims of alcohol-related crashes;*

19 (E) *affected industries, including the alco-*
20 *hol, insurance, and auto industries;*

21 (F) *the business community;*

22 (G) *labor;*

23 (H) *the medical community;*

24 (I) *public health; and*

25 (J) *Members of Congress; and*

1 (2) *that not later than September 30, 2006,*
2 *would—*

3 (A) *conduct a full examination of alcohol-*
4 *impaired driving issues; and*

5 (B) *make recommendations for a broad*
6 *range of policy and program changes that would*
7 *serve to further reduce the level of deaths and in-*
8 *juries caused by drunk driving.*

9 **SEC. 1412. SENSE OF THE SENATE IN SUPPORT OF IN-**
10 **CREASED PUBLIC AWARENESS OF BLOOD AL-**
11 **COHOL CONCENTRATION LEVELS AND THE**
12 **DANGERS OF DRINKING AND DRIVING.**

13 (a) *FINDINGS.—The Senate finds that—*

14 (1) *in 2003—*

15 (A) *17,013 Americans died in alcohol-re-*
16 *lated traffic crashes;*

17 (B) *40 percent of the persons killed in traf-*
18 *fic crashes died in alcohol-related crashes; and*

19 (C) *drivers with blood alcohol concentration*
20 *levels over 0.15 were involved in 58 percent of al-*
21 *cohol-related traffic fatalities;*

22 (2) *research shows that 77 percent of Americans*
23 *think they have received enough information about*
24 *drinking and driving and the way in which alcohol*

1 *affects individual blood alcohol concentration levels;*
2 *and*

3 *(3) only 28 percent of the American public can*
4 *correctly identify the legal limit of blood alcohol con-*
5 *centration of the State in which they reside.*

6 **(b) SENSE OF THE SENATE.**—*It is the sense of the Sen-*
7 *ate that the National Highway Traffic Safety Administra-*
8 *tion should work with State and local governments and*
9 *independent organizations to increase public awareness*
10 *of—*

11 *(1) State legal limits on blood alcohol concentra-*
12 *tion levels; and*

13 *(2) the dangers of drinking and driving.*

14 **SEC. 1413. GRANT PROGRAM FOR COMMERCIAL DRIVER**
15 **TRAINING.**

16 **(a) ESTABLISHMENT.**—*The Secretary of Transpor-*
17 *tation shall establish a program for making grants to com-*
18 *mercial driver training schools and programs for the pur-*
19 *pose of providing financial assistance to entry level drivers*
20 *of commercial vehicles (as defined in section 31301 of title*
21 *49, United States Code).*

22 **(b) FEDERAL SHARE.**—*The Federal share of the cost*
23 *for which a grant is made under this section shall be 80*
24 *percent.*

1 (c) *FUNDING.*—*There are authorized to be appro-*
 2 *priated from the Highway Trust Fund (other than the Mass*
 3 *Transit Account) for the purpose of carrying out this sec-*
 4 *tion \$5,000,000 for each of the fiscal years 2006 through*
 5 *2009.*

6 ***Subtitle E—Environmental***
 7 ***Planning and Review***
 8 ***CHAPTER 1—TRANSPORTATION***
 9 ***PLANNING***

10 ***SEC. 1501. INTEGRATION OF NATURAL RESOURCE CON-***
 11 ***CERNS INTO STATE AND METROPOLITAN***
 12 ***TRANSPORTATION PLANNING.***

13 (a) *METROPOLITAN PLANNING.*—*Section 134(f) of title*
 14 *23, 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 *metropolitan area)”; 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 FACTORS.—After soliciting*
10 *and considering any relevant public comments, the*
11 *metropolitan planning organization shall determine*
12 *which of the factors described in paragraph (1) are*
13 *most appropriate for the metropolitan area to con-*
14 *sider.”.*

15 *(b) STATEWIDE PLANNING.—Section 135(c) of title 23,*
16 *United States Code, is amended—*

17 *(1) in paragraph (1)—*

18 *(A) in subparagraph (D)—*

19 *(i) by inserting after “environment”*
20 *the following: “(including the protection of*
21 *habitat, water quality, and agricultural*
22 *and forest land, while minimizing invasive*
23 *species)”; and*

24 *(ii) by inserting before the semicolon*
25 *the following: “(including minimizing ad-*

1 verse health effects from mobile source air
 2 pollution and promoting the linkage of the
 3 transportation and development goals of the
 4 State)”; and

5 (B) in subparagraph (G), by inserting “and
 6 efficient use” after “preservation”;

7 (2) by redesignating paragraph (2) as para-
 8 graph (3); and

9 (3) by inserting after paragraph (1) the fol-
 10 lowing:

11 “(2) *SELECTION OF PROJECTS AND STRATE-*
 12 *GIES.—After soliciting and considering any relevant*
 13 *public comments, the State shall determine which of*
 14 *the projects and strategies described in paragraph (1)*
 15 *are most appropriate for the State to consider.”.*

16 **SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION**
 17 **AGENCIES AND RESOURCE AGENCIES IN**
 18 **TRANSPORTATION PLANNING.**

19 (a) *IN GENERAL.—Section 134(g) of title 23, United*
 20 *States Code, is amended—*

21 (1) *in paragraph (2)—*

22 (A) *by redesignating subparagraphs (B)*
 23 *through (D) as subparagraphs (C) through (E),*
 24 *respectively; and*

1 (B) by inserting after subparagraph (A) the
2 following:

3 “(B) *MITIGATION ACTIVITIES.*—

4 “(i) *IN GENERAL.*—A long-range trans-
5 portation plan shall include a discussion
6 of—

7 “(I) types of potential habitat,
8 hydrological, and environmental miti-
9 gation activities that may assist in
10 compensating for loss of habitat, wet-
11 land, and other environmental func-
12 tions; and

13 “(II) potential areas to carry out
14 these activities, including a discussion
15 of areas that may have the greatest po-
16 tential to restore and maintain the
17 habitat types and hydrological or envi-
18 ronmental functions affected by the
19 plan.

20 “(ii) *CONSULTATION.*—The discussion
21 shall be developed in consultation with Fed-
22 eral, State, and tribal wildlife, land man-
23 agement, and regulatory agencies.”;

24 (2) by redesignating paragraphs (4), (5), and (6)
25 as paragraphs (5), (6), and (7), respectively; and

1 (3) by inserting after paragraph (3) the fol-
2 *lowing:*

3 “(4) CONSULTATION.—

4 “(A) IN GENERAL.—In each metropolitan
5 *area, the metropolitan planning organization*
6 *shall consult, as appropriate, with State and*
7 *local agencies responsible for land use manage-*
8 *ment, natural resources, environmental protec-*
9 *tion, conservation, and historic preservation con-*
10 *cerning the development of a long-range trans-*
11 *portation plan.*

12 “(B) ISSUES.—The consultation shall
13 *involve—*

14 “(i) comparison of transportation
15 *plans with State conservation plans or with*
16 *maps, if available;*

17 “(ii) comparison of transportation
18 *plans to inventories of natural or historic*
19 *resources, if available; or*

20 “(iii) consideration of areas where
21 *wildlife crossing structures may be needed*
22 *to ensure connectivity between wildlife habi-*
23 *tat linkage areas.”.*

24 (b) IMPROVED CONSULTATION DURING STATE TRANS-
25 PORTATION PLANNING.—

1 (1) *IN GENERAL.*—Section 135(e)(2) of title 23,
2 *United States Code*, is amended by adding at the end
3 *the following*:

4 “(D) *CONSULTATION, COMPARISON, AND*
5 *CONSIDERATION.*—

6 “(i) *IN GENERAL.*—*The long-range*
7 *transportation plan shall be developed, as*
8 *appropriate, in consultation with State,*
9 *tribal, and local agencies responsible for—*

10 “(I) *land use management;*

11 “(II) *natural resources;*

12 “(III) *environmental protection;*

13 “(IV) *conservation; and*

14 “(V) *historic preservation.*

15 “(ii) *COMPARISON AND CONSIDER-*
16 *ATION.*—*Consultation under clause (i) shall*
17 *involve—*

18 “(I) *comparison of transportation*
19 *plans to State and tribal conservation*
20 *plans or maps, if available;*

21 “(II) *comparison of transpor-*
22 *tation plans to inventories of natural*
23 *or historic resources, if available; or*

24 “(III) *consideration of areas*
25 *where wildlife crossing structures may*

1 *be needed to ensure connectivity be-*
2 *tween wildlife habitat linkage areas.”.*

3 (2) *ADDITIONAL REQUIREMENTS.—Section*
4 *135(e) of title 23, United States Code, is amended—*

5 (A) *by redesignating paragraphs (4) and*
6 *(5) as paragraphs (6) and (7), respectively; and*

7 (B) *by inserting after paragraph (3) the fol-*
8 *lowing:*

9 “(4) *MITIGATION ACTIVITIES.—*

10 “(A) *IN GENERAL.—A long-range transpor-*
11 *tation plan shall include a discussion of—*

12 “(i) *types of potential habitat,*
13 *hydrological, and environmental mitigation*
14 *activities that may assist in compensating*
15 *for loss of habitat, wetlands, and other envi-*
16 *ronmental functions; and*

17 “(ii) *potential areas to carry out these*
18 *activities, including a discussion of areas*
19 *that may have the greatest potential to re-*
20 *store and maintain the habitat types and*
21 *hydrological or environmental functions af-*
22 *ected by the plan.*

23 “(B) *CONSULTATION.—The discussion shall*
24 *be developed in consultation with Federal, State,*

1 *and tribal wildlife, land management, and regu-*
 2 *latory agencies.*

3 “(5) *TRANSPORTATION STRATEGIES.*—*A long-*
 4 *range transportation plan shall identify transpor-*
 5 *tation strategies necessary to efficiently serve the mo-*
 6 *bility needs of people.”.*

7 **SEC. 1503. INTEGRATION OF NATURAL RESOURCE CON-**
 8 **CERNS INTO TRANSPORTATION PROJECT**
 9 **PLANNING.**

10 *Section 109(c)(2) of title 23, United States Code, is*
 11 *amended—*

12 *(1) by striking “consider the results” and insert-*
 13 *ing “consider—*

14 *“(A) the results”;*

15 *(2) by striking the period at the end and insert-*
 16 *ing a semicolon; and*

17 *(3) by adding at the end the following:*

18 *“(B) the publication entitled ‘Flexibility in*
 19 *Highway Design’ of the Federal Highway Ad-*
 20 *ministration;*

21 *“(C) ‘Eight Characteristics of Process to*
 22 *Yield Excellence and the Seven Qualities of Ex-*
 23 *cellence in Transportation Design’ developed by*
 24 *the conference held during 1998 entitled ‘Think-*
 25 *ing Beyond the Pavement National Workshop on*

1 *Integrating Highway Development with Commu-*
 2 *nities and the Environment while Maintaining*
 3 *Safety and Performance’; and*

4 *“(D) any other material that the Secretary*
 5 *determines to be appropriate.”.*

6 **SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION**

7 **PLANNING AND PROJECTS.**

8 *(a) METROPOLITAN PLANNING.—*

9 *(1) PARTICIPATION BY INTERESTED PARTIES.—*

10 *Section 134(g)(5) of title 23, United States Code (as*
 11 *redesignated by section 1502(a)(1)), is amended—*

12 *(A) by striking “Before approving” and in-*
 13 *serting the following:*

14 *“(A) IN GENERAL.—Before approving”;* and

15 *(B) by adding at the end the following:*

16 *“(B) METHODS.—In carrying out subpara-*
 17 *graph (A), the metropolitan planning organiza-*
 18 *tion shall, to the maximum extent practicable—*

19 *“(i) hold any public meetings at con-*
 20 *venient and accessible locations and times;*

21 *“(ii) employ visualization techniques*
 22 *to describe plans; and*

23 *“(iii) make public information avail-*
 24 *able in electronically accessible format and*
 25 *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 or tran-
12 sit projects 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 “(3) *MITIGATION IN CLOSED BASINS.*—

21 “(A) *IN GENERAL.*—*A State may use*
22 *amounts deposited in the State fund for projects*
23 *to protect existing roadways from anticipated*
24 *flooding of a closed basin lake, including—*

25 “(i) *construction—*

1 “(I) necessary for the continu-
2 ation of roadway services and the im-
3 poundment of water, as the State de-
4 termines to be appropriate; or

5 “(II) for a grade raise to perma-
6 nently restore a roadway the use of
7 which is lost or reduced, or could be
8 lost or reduced, as a result of an actual
9 or predicted water level that is within
10 3 feet of causing inundation of the
11 roadway in a closed lake basin;

12 “(ii) monitoring, studies, evaluations,
13 design, or preliminary engineering relating
14 to construction; and

15 “(iii) monitoring and evaluations re-
16 lating to proposed construction.

17 “(B) REIMBURSEMENT.—The Secretary
18 may permit a State that expends funds under
19 subparagraph (A) to be reimbursed for the ex-
20 penditures through the use of amounts made
21 available under section 125(c)(1).

22 “(e) CONSISTENCY WITH APPLICABLE REQUIRE-
23 MENTS.—Contributions from the State fund to mitigation
24 efforts may occur in advance of project construction only

1 *if the efforts are consistent with all applicable requirements*
 2 *of Federal law (including regulations).”.*

3 (d) *CONFORMING AMENDMENT.—The analysis for sub-*
 4 *chapter I of chapter 1 of title 23, United States Code, is*
 5 *amended by striking the item relating to section 155 and*
 6 *inserting the following:*

“155. State habitat, streams, and wetlands mitigation funds.”.

7 **CHAPTER 2—TRANSPORTATION PROJECT**
 8 **DEVELOPMENT PROCESS**

9 **SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT**
 10 **PROCESS.**

11 (a) *IN GENERAL.—Chapter 3 of title 23, United States*
 12 *Code (as amended by section 1203(a)), is amended by in-*
 13 *serting after section 325 the following:*

14 **“§ 326. Transportation project development process**

15 *“(a) DEFINITIONS.—In this section:*

16 *“(1) AGENCY.—The term ‘agency’ means any*
 17 *agency, department, or other unit of Federal, State,*
 18 *local, or federally recognized tribal government.*

19 *“(2) ENVIRONMENTAL IMPACT STATEMENT.—The*
 20 *term ‘environmental impact statement’ means a de-*
 21 *tailed statement of the environmental impacts of a*
 22 *project required to be prepared under the National*
 23 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
 24 *seq.).*

25 *“(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 cooperating agencies in
14 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 *ected 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;*

1 “(E) the Committee on Transportation and
2 Infrastructure of the House of Representatives;
3 and

4 “(F) the Council on Environmental Qual-
5 ity.

6 “(i) PERFORMANCE MEASUREMENT.—

7 “(1) PROGRESS REPORTS.—The Secretary shall
8 establish a program to measure and report on
9 progress toward improving and expediting the plan-
10 ning and environmental review process.

11 “(2) MINIMUM REQUIREMENTS.—The program
12 shall include, at a minimum—

13 “(A) the establishment of criteria for meas-
14 uring consideration of—

15 “(i) State and metropolitan planning,
16 project planning, and design criteria; and

17 “(ii) environmental processing times
18 and costs;

19 “(B) the collection of data to assess perform-
20 ance based on the established criteria; and

21 “(C) the annual reporting of the results of
22 the performance measurement studies.

23 “(3) INVOLVEMENT OF THE PUBLIC AND COOPER-
24 ATING AGENCIES.—

1 “(A) *IN GENERAL.*—*The Secretary shall bi-*
2 *ennially conduct a survey of agencies partici-*
3 *parting in the environmental review process*
4 *under this section to assess the expectations and*
5 *experiences of each surveyed agency with regard*
6 *to the planning and environmental review proc-*
7 *ess for projects reviewed under this section.*

8 “(B) *PUBLIC PARTICIPATION.*—*In con-*
9 *ducting the survey, the Secretary shall solicit*
10 *comments from the public.*

11 “(j) *ASSISTANCE TO AFFECTED FEDERAL AND STATE*
12 *AGENCIES.*—

13 “(1) *IN GENERAL.*—*The Secretary may approve*
14 *a request by a State or recipient to provide funds*
15 *made available under this title for a highway project,*
16 *or made available under chapter 53 of title 49 for a*
17 *mass transit project, to agencies participating in the*
18 *coordinated environmental review process established*
19 *under this section in order to provide the resources*
20 *necessary to meet any time limits established under*
21 *this section.*

22 “(2) *AMOUNTS.*—*Such requests under paragraph*
23 *(1) shall be approved only—*

24 “(A) *for such additional amounts as the*
25 *Secretary determines are necessary for the af-*

1 *fected Federal and State agencies to meet the*
2 *time limits for environmental review; and*

3 *“(B) if those time limits are less than the*
4 *customary time necessary for that review.*

5 *“(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—*

6 *“(1) JUDICIAL REVIEW.—Nothing in this section*
7 *shall affect the reviewability of any final Federal*
8 *agency action in any United States district court or*
9 *State court.*

10 *“(2) SAVINGS CLAUSE.—Nothing in this section*
11 *shall affect—*

12 *“(A) the applicability of the National Envi-*
13 *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*
14 *seq.) or any other Federal environmental statute;*
15 *or*

16 *“(B) the responsibility of any Federal offi-*
17 *cer to comply with or enforce such a statute.”.*

18 *(b) CONFORMING AMENDMENTS.—*

19 *(1) The analysis for chapter 3 of title 23, United*
20 *States Code, is amended by inserting after the item*
21 *relating to section 325 (as added by section 1203(f))*
22 *the following:*

“326. Transportation project development process.”.

23 *(2) Section 1309 of the Transportation Equity*
24 *Act for the 21st Century (112 Stat. 232) is repealed.*

1 (c) *EXISTING ENVIRONMENTAL REVIEW PROCESS.*—
 2 *Nothing in this section affects any existing State environ-*
 3 *mental review process, program, agreement, or funding ar-*
 4 *rangement approved by the Secretary under section 1309*
 5 *of the Transportation Equity Act for the 21st Century (112*
 6 *Stat. 232; 23 U.S.C. 109 note).*

7 **SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CAT-**
 8 **EGORICAL EXCLUSIONS.**

9 (a) *IN GENERAL.*—Chapter 3 of title 23, United States
 10 Code (as amended by section 1511(a)), is amended by in-
 11 serting after section 326 the following:

12 **“§ 327. Assumption of responsibility for categorical ex-**
 13 **clusions**

14 “(a) *CATEGORICAL EXCLUSION DETERMINATIONS.*—

15 “(1) *IN GENERAL.*—The Secretary may assign,
 16 and a State may assume, responsibility for deter-
 17 mining whether certain designated activities are in-
 18 cluded within classes of action identified in regula-
 19 tion by the Secretary that are categorically excluded
 20 from requirements for environmental assessments or
 21 environmental impact statements pursuant to regula-
 22 tions promulgated by the Council on Environmental
 23 Quality under part 1500 of title 40, Code of Federal
 24 Regulations (as in effect on October 1, 2003).

1 “(2) *SCOPE OF AUTHORITY.*—A determination
2 described in paragraph (1) shall be made by a State
3 in accordance with criteria established by the Sec-
4 retary and only for types of activities specifically des-
5 ignated by the Secretary.

6 “(3) *CRITERIA.*—The criteria under paragraph
7 (2) shall include provisions for public availability of
8 information consistent with section 552 of title 5 and
9 the National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.).

11 “(b) *OTHER APPLICABLE FEDERAL LAWS.*—

12 “(1) *IN GENERAL.*—If a State assumes responsi-
13 bility under subsection (a), the Secretary may also
14 assign and the State may assume all or part of the
15 responsibilities of the Secretary for environmental re-
16 view, consultation, or other related actions required
17 under any Federal law applicable to activities that
18 are classified by the Secretary as categorical exclu-
19 sions, with the exception of government-to-government
20 consultation with Indian tribes, subject to the same
21 procedural and substantive requirements as would be
22 required if that responsibility were carried out by the
23 Secretary.

24 “(2) *SOLE RESPONSIBILITY.*—A State that as-
25 sumes responsibility under paragraph (1) with re-

1 *spect to a Federal law shall be solely responsible and*
2 *solely liable for complying with and carrying out that*
3 *law, and the Secretary shall have no such responsi-*
4 *bility or liability.*

5 “(c) *MEMORANDA OF UNDERSTANDING.*—

6 “(1) *IN GENERAL.*—*The Secretary and the State,*
7 *after providing public notice and opportunity for*
8 *comment, shall enter into a memorandum of under-*
9 *standing setting forth the responsibilities to be as-*
10 *signed under this section and the terms and condi-*
11 *tions under which the assignments are made, includ-*
12 *ing establishment of the circumstances under which*
13 *the Secretary would reassume responsibility for cat-*
14 *egorical exclusion determinations.*

15 “(2) *TERM.*—*A memorandum of*
16 *understanding—*

17 “(A) *shall have term of not more than 3*
18 *years; and*

19 “(B) *shall be renewable.*

20 “(3) *ACCEPTANCE OF JURISDICTION.*—*In a*
21 *memorandum of understanding, the State shall con-*
22 *sent to accept the jurisdiction of the Federal courts for*
23 *the compliance, discharge, and enforcement of any re-*
24 *sponsibility of the Secretary that the State assumes.*

25 “(4) *MONITORING.*—*The Secretary shall—*

1 “(A) monitor compliance by the State with
2 the memorandum of understanding and the pro-
3 vision by the State of financial resources to
4 carry out the memorandum of understanding;
5 and

6 “(B) take into account the performance by
7 the State when considering renewal of the memo-
8 randum of understanding.

9 “(d) *TERMINATION.*—The Secretary may terminate
10 any assumption of responsibility under a memorandum of
11 understanding on a determination that the State is not ade-
12 quately carrying out the responsibilities assigned to the
13 State.

14 “(e) *STATE AGENCY DEEMED TO BE FEDERAL AGEN-*
15 *CY.*—A State agency that is assigned a responsibility under
16 a memorandum of understanding shall be deemed to be a
17 Federal agency for the purposes of the Federal law under
18 which the responsibility is exercised.”.

19 (b) *CONFORMING AMENDMENT.*—The analysis for
20 chapter 3 of title 23, United States Code (as amended by
21 section 1511(b)), is amended by inserting after the item re-
22 lating to section 326 the following:

“327. Assumption of responsibility for categorical exclusions.”.

1 **SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY**
2 **PILOT PROGRAM.**

3 (a) *IN GENERAL.*—Chapter 3 of title 23, United States
4 Code (as amended by section 1512(a)), is amended by in-
5 serting after section 327 the following:

6 **“§ 328. Surface transportation project delivery pilot**
7 **program**

8 “(a) *ESTABLISHMENT.*—

9 “(1) *IN GENERAL.*—The Secretary shall carry
10 out a surface transportation project delivery pilot
11 program (referred to in this section as the ‘program’).

12 “(2) *ASSUMPTION OF RESPONSIBILITY.*—

13 “(A) *IN GENERAL.*—Subject to the other
14 provisions of this section, with the written agree-
15 ment of the Secretary and a State, which may
16 be in the form of a memorandum of under-
17 standing, the Secretary may assign, and the
18 State may assume, the responsibilities of the Sec-
19 retary with respect to 1 or more highway
20 projects within the State under the National En-
21 vironmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.).

23 “(B) *ADDITIONAL RESPONSIBILITY.*—If a
24 State assumes responsibility under subparagraph
25 (A)—

1 “(i) *the Secretary may assign to the*
2 *State, and the State may assume, all or*
3 *part of the responsibilities of the Secretary*
4 *for environmental review, consultation, or*
5 *other action required under any Federal en-*
6 *vironmental law pertaining to the review or*
7 *approval of a specific project; but*

8 “(ii) *the Secretary may not assign—*

9 “(I) *responsibility for any con-*
10 *formity determination required under*
11 *section 176 of the Clean Air Act (42*
12 *U.S.C. 7506); or*

13 “(II) *any responsibility imposed*
14 *on the Secretary by section 134 or 135.*

15 “(C) *PROCEDURAL AND SUBSTANTIVE RE-*
16 *QUIREMENTS.—A State shall assume responsi-*
17 *bility under this section subject to the same pro-*
18 *cedural and substantive requirements as would*
19 *apply if that responsibility were carried out by*
20 *the Secretary.*

21 “(D) *FEDERAL RESPONSIBILITY.—Any re-*
22 *sponsibility of the Secretary not explicitly as-*
23 *sumed by the State by written agreement under*
24 *this section shall remain the responsibility of the*
25 *Secretary.*

1 “(E) *NO EFFECT ON AUTHORITY.*—*Nothing*
2 *in this section preempts or interferes with any*
3 *power, jurisdiction, responsibility, or authority*
4 *of an agency, other than the Department of*
5 *Transportation, under applicable law (including*
6 *regulations) with respect to a project.*

7 “(b) *STATE PARTICIPATION.*—

8 “(1) *NUMBER OF PARTICIPATING STATES.*—*The*
9 *Secretary may permit not more than 5 States (in-*
10 *cluding the State of Oklahoma) to participate in the*
11 *program.*

12 “(2) *APPLICATION.*—*Not later than 270 days*
13 *after the date of enactment of this section, the Sec-*
14 *retary shall promulgate regulations that establish re-*
15 *quirements relating to information required to be con-*
16 *tained in any application of a State to participate*
17 *in the program, including, at a minimum—*

18 “(A) *the projects or classes of projects for*
19 *which the State anticipates exercising the au-*
20 *thority that may be granted under the program;*

21 “(B) *verification of the financial resources*
22 *necessary to carry out the authority that may be*
23 *granted under the program; and*

24 “(C) *evidence of the notice and solicitation*
25 *of public comment by the State relating to par-*

1 *ticipation of the State in the program, including*
2 *copies of comments received from that sollicita-*
3 *tion.*

4 “(3) *PUBLIC NOTICE.—*

5 “(A) *IN GENERAL.—Each State that sub-*
6 *mits an application under this subsection shall*
7 *give notice of the intent of the State to partici-*
8 *pate in the program not later than 30 days be-*
9 *fore the date of submission of the application.*

10 “(B) *METHOD OF NOTICE AND SOLICITA-*
11 *TION.—The State shall provide notice and solicit*
12 *public comment under this paragraph by pub-*
13 *lishing the complete application of the State in*
14 *accordance with the appropriate public notice*
15 *law of the State.*

16 “(4) *SELECTION CRITERIA.—The Secretary may*
17 *approve the application of a State under this section*
18 *only if—*

19 “(A) *the regulatory requirements under*
20 *paragraph (2) have been met;*

21 “(B) *the Secretary determines that the State*
22 *has the capability, including financial and per-*
23 *sonnel, to assume the responsibility; and*

24 “(C) *the head of the State agency having*
25 *primary jurisdiction over highway matters en-*

1 *ters into a written agreement with the Secretary*
2 *described in subsection (c).*

3 “(5) *OTHER FEDERAL AGENCY VIEWS.—If a*
4 *State applies to assume a responsibility of the Sec-*
5 *retary that would have required the Secretary to con-*
6 *sult with another Federal agency, the Secretary shall*
7 *solicit the views of the Federal agency before approv-*
8 *ing the application.*

9 “(c) *WRITTEN AGREEMENT.—A written agreement*
10 *under this section shall—*

11 “(1) *be executed by the Governor or the top-rank-*
12 *ing transportation official in the State who is charged*
13 *with responsibility for highway construction;*

14 “(2) *be in such form as the Secretary may pre-*
15 *scribe;*

16 “(3) *provide that the State—*

17 “(A) *agrees to assume all or part of the re-*
18 *sponsibilities of the Secretary described in sub-*
19 *section (a);*

20 “(B) *expressly consents, on behalf of the*
21 *State, to accept the jurisdiction of the Federal*
22 *courts for the compliance, discharge, and enforce-*
23 *ment of any responsibility of the Secretary as-*
24 *sumed by the State;*

1 “(C) certifies that State laws (including
2 regulations) are in effect that—

3 “(i) authorize the State to take the ac-
4 tions necessary to carry out the responsibil-
5 ities being assumed; and

6 “(ii) are comparable to section 552 of
7 title 5, including providing that any deci-
8 sion regarding the public availability of a
9 document under those State laws is review-
10 able by a court of competent jurisdiction;
11 and

12 “(D) agrees to maintain the financial re-
13 sources necessary to carry out the responsibilities
14 being assumed.

15 “(d) JURISDICTION.—

16 “(1) IN GENERAL.—The United States district
17 courts shall have exclusive jurisdiction over any civil
18 action against a State for failure to carry out any re-
19 sponsibility of the State under this section.

20 “(2) LEGAL STANDARDS AND REQUIREMENTS.—
21 A civil action under paragraph (1) shall be governed
22 by the legal standards and requirements that would
23 apply in such a civil action against the Secretary
24 had the Secretary taken the actions in question.

1 “(3) *INTERVENTION.*—*The Secretary shall have*
2 *the right to intervene in any action described in*
3 *paragraph (1).*

4 “(e) *EFFECT OF ASSUMPTION OF RESPONSIBILITY.*—
5 *A State that assumes responsibility under subsection (a)(2)*
6 *shall be solely responsible and solely liable for carrying out,*
7 *in lieu of the Secretary, the responsibilities assumed under*
8 *subsection (a)(2), until the program is terminated as pro-*
9 *vided in subsection (i).*

10 “(f) *LIMITATIONS ON AGREEMENTS.*—*Nothing in this*
11 *section permits a State to assume any rulemaking author-*
12 *ity of the Secretary under any Federal law.*

13 “(g) *AUDITS.*—

14 “(1) *IN GENERAL.*—*To ensure compliance by a*
15 *State with any agreement of the State under sub-*
16 *section (c)(1) (including compliance by the State with*
17 *all Federal laws for which responsibility is assumed*
18 *under subsection (a)(2)), for each State participating*
19 *in the program under this section, the Secretary shall*
20 *conduct—*

21 “(A) *semiannual audits during each of the*
22 *first 2 years of State participation; and*

23 “(B) *annual audits during each subsequent*
24 *year of State participation.*

25 “(2) *PUBLIC AVAILABILITY AND COMMENT.*—

1 “(A) *IN GENERAL.*—*An audit conducted*
2 *under paragraph (1) shall be provided to the*
3 *public for comment.*

4 “(B) *RESPONSE.*—*Not later than 60 days*
5 *after the date on which the period for public*
6 *comment ends, the Secretary shall respond to*
7 *public comments received under subparagraph*
8 *(A).*

9 “(h) *REPORT TO CONGRESS.*—*The Secretary shall sub-*
10 *mit to Congress an annual report that describes the admin-*
11 *istration of the program.*

12 “(i) *TERMINATION.*—

13 “(1) *IN GENERAL.*—*Except as provided in para-*
14 *graph (2), the program shall terminate on the date*
15 *that is 6 years after the date of enactment of this sec-*
16 *tion.*

17 “(2) *TERMINATION BY SECRETARY.*—*The Sec-*
18 *retary may terminate the participation of any State*
19 *in the program if—*

20 “(A) *the Secretary determines that the State*
21 *is not adequately carrying out the responsibil-*
22 *ities assigned to the State;*

23 “(B) *the Secretary provides to the State—*

24 “(i) *notification of the determination*
25 *of noncompliance; and*

1 “(ii) a period of at least 30 days dur-
 2 ing which to take such corrective action as
 3 the Secretary determines is necessary to
 4 comply with the applicable agreement; and
 5 “(C) the State, after the notification and
 6 period provided under subparagraph (B), fails to
 7 take satisfactory corrective action, as determined
 8 by Secretary.”.

9 (b) *CONFORMING AMENDMENT.*—*The analysis for*
 10 *chapter 3 of title 23, United States Code (as amended by*
 11 *section 1512(b)), is amended by inserting after the item re-*
 12 *lating to section 327 the following:*

 “328. *Surface transportation project delivery pilot program.*”.

13 **SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WA-**
 14 **TERFOWL REFUGES, AND HISTORIC SITES.**

15 (a) *PROGRAMS AND PROJECTS WITH DE MINIMIS IM-*
 16 *PACTS.*—

17 (1) *TITLE 23.*—*Section 138 of title 23, United*
 18 *States Code, is amended—*

19 (A) *in the first sentence, by striking “It is*
 20 *hereby” and inserting the following:*

21 “(a) *DECLARATION OF POLICY.*—*It is*”; and

22 (B) *by adding at the end the following:*

23 “(b) *DE MINIMIS IMPACTS.*—

24 “(1) *REQUIREMENTS.*—

1 “(A) *IN GENERAL.*—*The requirements of*
2 *this section shall be considered to be satisfied*
3 *with respect to an area described in paragraph*
4 *(2) or (3) if the Secretary determines, in accord-*
5 *ance with this subsection, that a transportation*
6 *program or project will have a de minimis im-*
7 *act on the area.*

8 “(B) *CRITERIA.*—*In making any deter-*
9 *mination under this subsection, the Secretary*
10 *shall consider to be part of a transportation pro-*
11 *gram or project any avoidance, minimization,*
12 *mitigation, or enhancement measures that are*
13 *required to be implemented as a condition of ap-*
14 *proval of the transportation program or project.*

15 “(2) *HISTORIC SITES.*—*With respect to historic*
16 *sites, the Secretary may make a finding of de mini-*
17 *mis impact only if—*

18 “(A) *the Secretary has determined, in ac-*
19 *cordance with the consultation process required*
20 *under section 106 of the National Historic Pres-*
21 *ervation Act (16 U.S.C. 470f), that—*

22 “(i) *the transportation program or*
23 *project will have no adverse effect on the*
24 *historic site; or*

1 “(ii) there will be no historic prop-
2 erties affected by the transportation pro-
3 gram or project;

4 “(B) the finding of the Secretary has re-
5 ceived written concurrence from the applicable
6 State historic preservation officer or tribal his-
7 toric preservation officer (and from the Advisory
8 Council on Historic Preservation, if partici-
9 pating in the consultation); and

10 “(C) the finding of the Secretary has been
11 developed in consultation with parties consulting
12 as part of the process referred to in subpara-
13 graph (A).

14 “(3) *PARKS, RECREATION AREAS, AND WILDLIFE*
15 *AND WATERFOWL REFUGES.*—With respect to parks,
16 recreation areas, and wildlife or waterfowl refuges,
17 the Secretary may make a finding of *de minimis im-*
18 *pact only if—*

19 “(A) the Secretary has determined, in ac-
20 cordance with the National Environmental Pol-
21 icy Act of 1969 (42 U.S.C. 4321 *et seq.*) (includ-
22 ing public notice and opportunity for public re-
23 view and comment), that the transportation pro-
24 gram or project will not adversely affect the ac-
25 tivities, features, and attributes of the park,

1 recreation area, or wildlife or waterfowl refuge
2 eligible for protection under this section; and

3 “(B) the finding of the Secretary has re-
4 ceived concurrence from the officials with juris-
5 diction over the park, recreation area, or wildlife
6 or waterfowl refuge.”.

7 (2) *TITLE 49.*—Section 303 of title 49, United
8 States Code, is amended—

9 (A) by striking “(c) The Secretary” and in-
10 serting the following:

11 “(c) *APPROVAL OF PROGRAMS AND PROJECTS.*—Sub-
12 ject to subsection (d), the Secretary”; and

13 (B) by adding at the end the following:

14 “(d) *DE MINIMIS IMPACTS.*—

15 “(1) *REQUIREMENTS.*—

16 “(A) *IN GENERAL.*—The requirements of
17 this section shall be considered to be satisfied
18 with respect to an area described in paragraph
19 (2) or (3) if the Secretary determines, in accord-
20 ance with this subsection, that a transportation
21 program or project will have a de minimis im-
22 pact on the area.

23 “(B) *CRITERIA.*—In making any deter-
24 mination under this subsection, the Secretary
25 shall consider to be part of a transportation pro-

1 *gram or project any avoidance, minimization,*
2 *mitigation, or enhancement measures that are*
3 *required to be implemented as a condition of ap-*
4 *proval of the transportation program or project.*

5 “(2) *HISTORIC SITES.*—*With respect to historic*
6 *sites, the Secretary may make a finding of de mini-*
7 *mis impact only if—*

8 “(A) *the Secretary has determined, in ac-*
9 *cordance with the consultation process required*
10 *under section 106 of the National Historic Pres-*
11 *ervation Act (16 U.S.C. 470f), that—*

12 “(i) *the transportation program or*
13 *project will have no adverse effect on the*
14 *historic site; or*

15 “(ii) *there will be no historic prop-*
16 *erties affected by the transportation pro-*
17 *gram or project;*

18 “(B) *the finding of the Secretary has re-*
19 *ceived written concurrence from the applicable*
20 *State historic preservation officer or tribal his-*
21 *toric preservation officer (and from the Advisory*
22 *Council on Historic Preservation, if partici-*
23 *pating in the consultation); and*

24 “(C) *the finding of the Secretary has been*
25 *developed in consultation with parties consulting*

1 as part of the process referred to in subpara-
2 graph (A).

3 “(3) *PARKS, RECREATION AREAS, AND WILDLIFE*
4 *AND WATERFOWL REFUGES.*—With respect to parks,
5 recreation areas, and wildlife or waterfowl refuges,
6 the Secretary may make a finding of *de minimis im-*
7 *pact only if—*

8 “(A) the Secretary has determined, in ac-
9 cordance with the National Environmental Pol-
10 icy Act of 1969 (42 U.S.C. 4321 et seq.) (includ-
11 ing public notice and opportunity for public re-
12 view and comment), that the transportation pro-
13 gram or project will not adversely affect the ac-
14 tivities, features, and attributes of the park,
15 recreation area, or wildlife or waterfowl refuge
16 eligible for protection under this section; and

17 “(B) the finding of the Secretary has re-
18 ceived concurrence from the officials with juris-
19 diction over the park, recreation area, or wildlife
20 or waterfowl refuge.”.

21 (b) *CLARIFICATION OF EXISTING STANDARDS.*—

22 (1) *IN GENERAL.*—Not later than 1 year after
23 the date of enactment of this Act, the Secretary shall
24 (in consultation with affected agencies and interested
25 parties) promulgate regulations that clarify the fac-

1 *tors to be considered and the standards to be applied*
2 *in determining the prudence and feasibility of alter-*
3 *natives under section 138 of title 23 and section 303*
4 *of title 49, United States Code.*

5 (2) *REQUIREMENTS.—The regulations—*

6 (A) *shall clarify the application of the legal*
7 *standards to a variety of different types of trans-*
8 *portation programs and projects depending on*
9 *the circumstances of each case; and*

10 (B) *may include, as appropriate, examples*
11 *to facilitate clear and consistent interpretation*
12 *by agency decisionmakers.*

13 (c) *IMPLEMENTATION STUDY.—*

14 (1) *IN GENERAL.—The Secretary shall—*

15 (A) *conduct a study on the implementation*
16 *of this section and the amendments made by this*
17 *section; and*

18 (B) *commission an independent review of*
19 *the study plan and methodology, and any associ-*
20 *ated conclusions, by the Transportation Research*
21 *Board of the National Academy of Sciences.*

22 (2) *COMPONENTS.—In conducting the study, the*
23 *Secretary shall evaluate—*

1 (A) the processes developed under this sec-
2 tion and the amendments made by this section
3 and the efficiencies that may result;

4 (B) the post-construction effectiveness of im-
5 pact mitigation and avoidance commitments
6 adopted as part of projects conducted under this
7 section and the amendments made by this sec-
8 tion; and

9 (C) the quantity of projects with impacts
10 that are considered *de minimis* under this sec-
11 tion and the amendments made by this section,
12 including information on the location, size, and
13 cost of the projects.

14 (3) *REPORT REQUIREMENT.*—The Secretary
15 shall prepare—

16 (A) not earlier than the date that is 3 years
17 after the date of enactment of this Act, a report
18 on the results of the study conducted under this
19 subsection; and

20 (B) not later than March 1, 2010, an up-
21 date on the report required under subparagraph
22 (A).

23 (4) *REPORT RECIPIENTS.*—The Secretary shall—

24 (A) submit the report, review of the report,
25 and update required under paragraph (3) to—

1 (i) the appropriate committees of Con-
2 gress;

3 (ii) the Secretary of the Interior; and

4 (iii) the Advisory Council on Historic
5 Preservation; and

6 (B) make the report and update available to
7 the public.

8 **SEC. 1515. REGULATIONS.**

9 *Except as provided in section 1513, not later than 1*
10 *year after the date of enactment of this Act, the Secretary*
11 *shall promulgate regulations necessary to implement the*
12 *amendments made by chapter 1 and this chapter.*

13 **CHAPTER 3—MISCELLANEOUS**

14 **SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.**

15 *Section 108 of title 23, United States Code, is amended*
16 *by adding at the end the following:*

17 “(d) **CRITICAL REAL PROPERTY ACQUISITION.**—

18 “(1) **IN GENERAL.**—Subject to paragraph (2),
19 *funds apportioned to a State under this title may be*
20 *used to pay the costs of acquiring any real property*
21 *that is determined to be critical under paragraph (2)*
22 *for a project proposed for funding under this title.*

23 “(2) **REIMBURSEMENT.**—*The Federal share of*
24 *the costs referred to in paragraph (1) shall be eligible*

1 *for reimbursement out of funds apportioned to a State*
2 *under this title if, before the date of acquisition—*

3 “(A) *the Secretary determines that the*
4 *property is offered for sale on the open market;*

5 “(B) *the Secretary determines that in ac-*
6 *quiring the property, the State will comply with*
7 *the Uniform Relocation Assistance and Real*
8 *Property Acquisition Policies Act of 1970 (42*
9 *U.S.C. 4601 et seq.); and*

10 “(C) *the State determines that immediate*
11 *acquisition of the property is critical because—*

12 “(i) *based on an appraisal of the prop-*
13 *erty, the value of the property is increasing*
14 *significantly;*

15 “(ii) *there is an imminent threat of de-*
16 *velopment or redevelopment of the property;*
17 *and*

18 “(iii) *the property is necessary for the*
19 *implementation of the goals stated in the*
20 *proposal for the project.*

21 “(3) *APPLICABLE LAW.—An acquisition of real*
22 *property under this section shall be considered to be*
23 *an exempt project under section 176 of the Clean Air*
24 *Act (42 U.S.C. 7506).*

25 “(4) *ENVIRONMENTAL REVIEW.—*

1 “(A) *IN GENERAL.*—A project proposed to
 2 be conducted under this title shall not be con-
 3 ducted on property acquired under paragraph
 4 (1) until all required environmental reviews for
 5 the project have been completed.

6 “(B) *EFFECT ON CONSIDERATION OF*
 7 *PROJECT ALTERNATIVES.*—The number of crit-
 8 ical acquisitions of real property associated with
 9 a project shall not affect the consideration of
 10 project alternatives during the environmental re-
 11 view process.

12 “(5) *PROCEEDS FROM THE SALE OR LEASE OF*
 13 *REAL PROPERTY.*—Section 156(c) shall not apply to
 14 the sale, use, or lease of any real property acquired
 15 under paragraph (1).”.

16 **SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.**

17 Section 104 of title 23, United States Code, is amended
 18 by adding at the end the following:

19 “(m) *PLANNING CAPACITY BUILDING INITIATIVE.*—

20 “(1) *IN GENERAL.*—The Secretary shall carry
 21 out a planning capacity building initiative to sup-
 22 port enhancements in transportation planning to—

23 “(A) strengthen the processes and products
 24 of metropolitan and statewide transportation
 25 planning under this title;

1 “(B) enhance tribal capacity to conduct
2 joint transportation planning under chapter 2;

3 “(C) participate in the metropolitan and
4 statewide transportation planning programs
5 under this title; and

6 “(D) increase the knowledge and skill level
7 of participants in metropolitan and statewide
8 transportation.

9 “(2) *PRIORITY.*—The Secretary shall give pri-
10 ority to planning practices and processes that
11 support—

12 “(A) the transportation elements of home-
13 land security planning, including—

14 “(i) training and best practices relat-
15 ing to emergency evacuation;

16 “(ii) developing materials to assist
17 areas in coordinating emergency manage-
18 ment and transportation officials; and

19 “(iii) developing training on how
20 planning organizations may examine secu-
21 rity issues;

22 “(B) performance-based planning,
23 including—

24 “(i) data and data analysis tech-
25 nologies to be shared with States, metropoli-

1 *tan planning organizations, local govern-*
2 *ments, and nongovernmental organizations*
3 *that—*

4 *“(I) participate in transportation*
5 *planning;*

6 *“(II) use the data and data anal-*
7 *ysis to engage in metropolitan, tribal,*
8 *or statewide transportation planning;*

9 *“(III) involve the public in the de-*
10 *velopment of transportation plans,*
11 *projects, and alternative scenarios; and*

12 *“(IV) develop strategies to avoid,*
13 *minimize, and mitigate the impacts of*
14 *transportation facilities and projects;*
15 *and*

16 *“(ii) improvement of the quality of*
17 *congestion management systems, including*
18 *the development of—*

19 *“(I) a measure of congestion;*

20 *“(II) a measure of transportation*
21 *system reliability; and*

22 *“(III) a measure of induced de-*
23 *mand;*

24 *“(C) safety planning, including—*

1 “(i) development of State strategic
2 safety plans consistent with section 148;

3 “(ii) incorporation of work zone safety
4 into planning; and

5 “(iii) training in the development of
6 data systems relating to highway safety;

7 “(D) operations planning, including—

8 “(i) developing training of the integra-
9 tion of transportation system operations
10 and management into the transportation
11 planning process; and

12 “(ii) training and best practices relat-
13 ing to regional concepts of operations;

14 “(E) freight planning, including—

15 “(i) modeling of freight at a regional
16 and statewide level; and

17 “(ii) techniques for engaging the
18 freight community with the planning proc-
19 ess;

20 “(F) air quality planning, including—

21 “(i) assisting new and existing non-
22 attainment and maintenance areas in de-
23 veloping the technical capacity to perform
24 air quality conformity analysis;

1 “(ii) providing training on areas such
2 as modeling and data collection to support
3 air quality planning and analysis;

4 “(iii) developing concepts and tech-
5 niques to assist areas in meeting air quality
6 performance timeframes; and

7 “(iv) developing materials to explain
8 air quality issues to decisionmakers and the
9 public; and

10 “(G) integration of environment and plan-
11 ning.

12 “(3) *USE OF FUNDS.*—The Secretary shall use
13 amounts made available under paragraph (4) to
14 make grants to, or enter into contracts, cooperative
15 agreements, and other transactions with, a Federal
16 agency, State agency, local agency, federally recog-
17 nized Indian tribal government or tribal consortium,
18 authority, association, nonprofit or for-profit corpora-
19 tion, or institution of higher education for research,
20 program development, information collection and dis-
21 semination, and technical assistance.

22 “(4) *SET-ASIDE.*—

23 “(A) *IN GENERAL.*—On October 1 of each
24 fiscal year, of the funds made available under

1 subsection (a), the Secretary shall set aside
2 \$3,754,515 to carry out this subsection.

3 “(B) *FEDERAL SHARE*.—*The Federal share*
4 *of the cost of an activity carried out using funds*
5 *made available under subparagraph (A) shall be*
6 *100 percent.*

7 “(C) *AVAILABILITY*.—*Funds made available*
8 *under subparagraph (A) shall remain available*
9 *until expended.*”.

10 **SEC. 1523. INTERMODAL PASSENGER FACILITIES.**

11 (a) *IN GENERAL*.—*Chapter 55 of title 49, United*
12 *States Code, is amended by adding at the end the following:*

13 “*SUBCHAPTER III—INTERMODAL PASSENGER*
14 *FACILITIES*

15 “**§ 5571. Policy and purposes**

16 “(a) *DEVELOPMENT AND ENHANCEMENT OF INTER-*
17 *MODAL PASSENGER FACILITIES*.—*It is in the economic in-*
18 *terest of the United States to improve the efficiency of public*
19 *surface transportation modes by ensuring their connection*
20 *with and access to intermodal passenger terminals, thereby*
21 *streamlining the transfer of passengers among modes, en-*
22 *hancing travel options, and increasing passenger transpor-*
23 *tation operating efficiencies.*

1 “(b) *GENERAL PURPOSES.*—*The purposes of this sub-*
2 *chapter are to accelerate intermodal integration among*
3 *North America’s passenger transportation modes through—*

4 “(1) *ensuring intercity public transportation ac-*
5 *cess to intermodal passenger facilities;*

6 “(2) *encouraging the development of an inte-*
7 *grated system of public transportation information;*
8 *and*

9 “(3) *providing intercity bus intermodal pas-*
10 *senger facility grants.*

11 **“§ 5572. Definitions**

12 *“In this subchapter—*

13 “(1) *‘capital project’ means a project for—*

14 “(A) *acquiring, constructing, improving, or*
15 *renovating an intermodal facility that is related*
16 *physically and functionally to intercity bus serv-*
17 *ice and establishes or enhances coordination be-*
18 *tween intercity bus service and transportation,*
19 *including aviation, commuter rail, intercity rail,*
20 *public transportation, seaports, and the National*
21 *Highway System, such as physical infrastruc-*
22 *ture associated with private bus operations at*
23 *existing and new intermodal facilities, including*
24 *special lanes, curb cuts, ticket kiosks and*
25 *counters, baggage and package express storage,*

1 *employee parking, office space, security, and*
2 *signage; and*

3 “(B) *establishing or enhancing coordination*
4 *between intercity bus service and transportation,*
5 *including aviation, commuter rail, intercity rail,*
6 *public transportation, and the National High-*
7 *way System through an integrated system of*
8 *public transportation information.*

9 “(2) ‘*commuter service*’ means service designed
10 *primarily to provide daily work trips within the local*
11 *commuting area.*

12 “(3) ‘*intercity bus service*’ means regularly
13 *scheduled bus service for the general public which op-*
14 *erates with limited stops over fixed routes connecting*
15 *two or more urban areas not in close proximity,*
16 *which has the capacity for transporting baggage car-*
17 *ried by passengers, and which makes meaningful con-*
18 *nections with scheduled intercity bus service to more*
19 *distant points, if such service is available and may*
20 *include package express service, if incidental to pas-*
21 *senger transportation, but does not include air, com-*
22 *muter, water or rail service.*

23 “(4) ‘*intermodal passenger facility*’ means pas-
24 *senger terminal that does, or can be modified to, ac-*
25 *commodate several modes of transportation and re-*

1 *lated facilities, including some or all of the following:*
2 *intercity rail, intercity bus, commuter rail, intracity*
3 *rail transit and bus transportation, airport limousine*
4 *service and airline ticket offices, rent-a-car facilities,*
5 *taxis, private parking, and other transportation serv-*
6 *ices.*

7 “(5) ‘local governmental authority’ includes—

8 “(A) a political subdivision of a State;

9 “(B) an authority of at least one State or
10 political subdivision of a State;

11 “(C) an Indian tribe; and

12 “(D) a public corporation, board, or com-
13 mission established under the laws of the State.

14 “(6) ‘owner or operator of a public transpor-
15 tation facility’ means an owner or operator of inter-
16 city-rail, intercity-bus, commuter-rail, commuter-bus,
17 rail-transit, bus-transit, or ferry services.

18 “(7) ‘recipient’ means a State or local govern-
19 mental authority or a nonprofit organization that re-
20 ceives a grant to carry out this section directly from
21 the Federal government.

22 “(8) ‘Secretary’ means the Secretary of Trans-
23 portation.

24 “(9) ‘State’ means a State of the United States,
25 the District of Columbia, Puerto Rico, the Northern

1 *Mariana Islands, Guam, American Samoa, and the*
2 *Virgin Islands.*

3 “(10) ‘urban area’ means an area that includes
4 *a municipality or other built-up place that the Sec-*
5 *retary, after considering local patterns and trends of*
6 *urban growth, decides is appropriate for a local pub-*
7 *lic transportation system to serve individuals in the*
8 *locality.*

9 **“§5573. Assurance of access to intermodal passenger**
10 ***facilities***

11 “*Intercity buses and other modes of transportation*
12 *shall, to the maximum extent practicable, have access to*
13 *publicly funded intermodal passenger facilities, including*
14 *those passenger facilities seeking funding under section*
15 *5574.*

16 **“§5574. Intercity bus intermodal passenger facility**
17 ***grants***

18 “(a) *GENERAL AUTHORITY.*—*The Secretary of Trans-*
19 *portation may make grants under this section to recipients*
20 *in financing a capital project only if the Secretary finds*
21 *that the proposed project is justified and has adequate fi-*
22 *nancial commitment.*

23 “(b) *COMPETITIVE GRANT SELECTION.*—*The Secretary*
24 *shall conduct a national solicitation for applications for*

1 grants under this section. Grantees shall be selected on a
2 competitive basis.

3 “(c) *SHARE OF NET PROJECT COSTS.*—A grant shall
4 not exceed 50 percent of the net project cost, as determined
5 by the Secretary.

6 “(d) *REGULATIONS.*—The Secretary may promulgate
7 such regulations as are necessary to carry out this section.

8 **“§ 5575. Funding**

9 “(a) *HIGHWAY ACCOUNT.*—

10 “(1) There is authorized to be appropriated from
11 the Highway Trust Fund (other than the Mass Tran-
12 sit Account) to carry out this subchapter \$9,386,289
13 for each of fiscal years 2005 through 2009.

14 “(2) The funding made available under para-
15 graph (1) shall be available for obligation in the same
16 manner as if such funds were apportioned under
17 chapter 1 of title 23 and shall be subject to any obli-
18 gation limitation imposed on funds for Federal-aid
19 highways and highway safety construction programs.

20 “(b) *PERIOD OF AVAILABILITY.*—Amounts made avail-
21 able under subsection (a) shall remain available until ex-
22 pended.”.

23 (b) *CONFORMING AMENDMENT.*—The chapter analysis
24 for chapter 55 of title 49, United States Code, is amended
25 by adding at the end the following:

Sec.

“5571. *Policy and Purposes.*

“5572. *Definitions.*

“5573. *Assurance of access to intermodal facilities.*

“5574. *Intercity bus intermodal facility grants.*

“5575. *Funding.*”.

1 **SEC. 1524. 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY**

2 **DIVISION HIGHWAY.**

3 *Not later than December 31, 2005, any funds made*
 4 *available to commission studies and reports regarding con-*
 5 *struction of a route linking Augusta, Georgia, Macon, Geor-*
 6 *gia, Columbus, Georgia, Montgomery, Alabama, and Natch-*
 7 *ez, Mississippi and a route linking through Savannah,*
 8 *Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall*
 9 *be provided to the Secretary to—*

10 *(1) carry out a study and submit to the appropriate*
 11 *committees of Congress a report that describes the steps and*
 12 *estimated funding necessary to construct a route for the*
 13 *14th Amendment Highway, from Augusta, Georgia, to*
 14 *Natchez, Mississippi (formerly designated the Fall Line*
 15 *Freeway in the State of Georgia); and*

16 *(2) carry out a study and submit to the appropriate*
 17 *committees of Congress a report that describes the steps and*
 18 *estimated funding necessary to designate and construct a*
 19 *route for the 3rd Infantry Division Highway, extending*
 20 *from Savannah, Georgia, to Knoxville, Tennessee (formerly*
 21 *the Savannah River Parkway in the State of Georgia), fol-*
 22 *lowing a route generally defined through Sylvania,*

1 *Waynesville, Augusta, Lincolnton, Elberton, Hartwell,*
 2 *Toccoa, and Young Harris, Georgia, and Maryville, Ten-*
 3 *nessee.*

4 ***Subtitle F—Environment***

5 ***SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLU-***
 6 ***TION ABATEMENT; CONTROL OF INVASIVE***
 7 ***PLANT SPECIES AND ESTABLISHMENT OF NA-***
 8 ***TIVE SPECIES.***

9 *(a) MODIFICATION TO NHS/STP FOR ENVIRON-*
 10 *MENTAL RESTORATION, POLLUTION ABATEMENT, AND*
 11 *INVASIVE SPECIES.—*

12 *(1) MODIFICATIONS TO NATIONAL HIGHWAY SYS-*
 13 *TEM.—Section 103(b)(6) of title 23, United States*
 14 *Code, is amended by adding at the end the following:*

15 *“(Q) Environmental restoration and pollu-*
 16 *tion abatement in accordance with section 165.*

17 *“(R) Control of invasive plant species and*
 18 *establishment of native species in accordance*
 19 *with section 166.”.*

20 *(2) MODIFICATIONS TO SURFACE TRANSPOR-*
 21 *TATION PROGRAM.—Section 133(b) of title 23, is*
 22 *amended by striking paragraph (14) and inserting*
 23 *the following:*

24 *“(14) Environmental restoration and pollution*
 25 *abatement in accordance with section 165.*

1 **“§ 166. Control of invasive plant species and establish-**
2 **ment of native species**

3 “(a) *DEFINITIONS.—In this section:*

4 “(1) *INVASIVE PLANT SPECIES—The term*
5 *‘invasive plant species’ means a nonindigenous spe-*
6 *cies the introduction of which causes or is likely to*
7 *cause economic or environmental harm or harm to*
8 *human health.*

9 “(2) *NATIVE PLANT SPECIES.—The term ‘native*
10 *plant species’ means, with respect to a particular eco-*
11 *system, a species that, other than as result of an in-*
12 *troduction, historically occurred or currently occurs*
13 *in that ecosystem.*

14 “(b) *CONTROL OF SPECIES.—*

15 “(1) *IN GENERAL.—In accordance with all ap-*
16 *plicable Federal law (including regulations), funds*
17 *made available to carry out this section may be used*
18 *for—*

19 “(A) *participation in the control of invasive*
20 *plant species; and*

21 “(B) *the establishment of native species;*
22 *if such efforts are related to transportation projects*
23 *funded under this title.*

24 “(2) *INCLUDED ACTIVITIES.—The participation*
25 *and establishment under paragraph (1) may*
26 *include—*

1 “(A) participation in statewide inventories
2 of invasive plant species and desirable plant spe-
3 cies;

4 “(B) regional native plant habitat conserva-
5 tion and mitigation;

6 “(C) native revegetation;

7 “(D) elimination of invasive species to cre-
8 ate fuel breaks for the prevention and control of
9 wildfires; and

10 “(E) 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)—*

9 (A) *in paragraph (1), by striking “the*
 10 *roads as” and all that follows and inserting “the*
 11 *roads as—*

12 “*(A) National Scenic Byways;*

13 “*(B) All-American Roads; or*

14 “*(C) America’s Byways.*”;

15 (B) *in paragraph (3)—*

16 (i) *by striking “To be considered” and*
 17 *inserting the following:*

18 “*(A) IN GENERAL.—To be considered*”;

19 (ii) *in subparagraph (A) (as des-*
 20 *ignated by clause (i))—*

21 (I) *by inserting “, an Indian*
 22 *tribe, ” after “nominated by a State”;*
 23 *and*

1 (II) by inserting “, an Indian sce-
2 nic byway,” after “designated as a
3 State scenic byway”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(B) *NOMINATION BY INDIAN TRIBES.*—An
7 Indian tribe may nominate a road as a National
8 Scenic Byway under subparagraph (A) only if a
9 Federal land management agency (other than the
10 Bureau of Indian Affairs), a State, or a political
11 subdivision of a State does not have—

12 “(i) jurisdiction over the road; or

13 “(ii) responsibility for managing the
14 road.

15 “(C) *SAFETY.*—Indian tribes shall main-
16 tain the safety and quality of roads nominated
17 by the Indian tribe under subparagraph (A).”;
18 and

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

20 “(4) *RECIPROCAL NOTIFICATION.*—States, Fed-
21 eral land management agencies, and Indian tribes
22 shall notify each other regarding nominations under
23 this subsection for roads that—

1 “(A) are within the jurisdictional boundary
2 of the State, Federal land management agency,
3 or Indian tribe; or

4 “(B) directly connect to roads for which the
5 State, Federal land management agency, or In-
6 dian tribe is responsible.”;

7 (2) in subsection (b)—

8 (A) in paragraph (1)—

9 (i) by inserting “and Indian tribes”
10 after “provide technical assistance to
11 States”;

12 (ii) in subparagraph (A), by striking
13 “designated as” and all that follows and in-
14 serting “designated as—

15 “(i) National Scenic Byways;

16 “(ii) All-American Roads;

17 “(iii) America’s Byways;

18 “(iv) State scenic byways; or

19 “(v) Indian scenic byways; and”;

20 (iii) in subparagraph (B), by inserting
21 “or Indian” after “State”;

22 (B) in paragraph (2)—

23 (i) in subparagraph (A), by striking
24 “Byway or All-American Road” and insert-

1 ing “Byway, All-American Road, or 1 of
2 America’s Byways”;
3 (ii) in subparagraph (B)—
4 (I) by striking “State-designated”
5 and inserting “State or Indian”; and
6 (II) by striking “designation as
7 a” and all that follows and inserting
8 “designation as—
9 “(i) a National Scenic Byway;
10 “(ii) an All-American Road; or
11 “(iii) 1 of America’s Byways; and”;
12 and
13 (iii) in subparagraph (C), by inserting
14 “or Indian” after “State”;
15 (3) in subsection (c)—
16 (A) in paragraph (1), by inserting “or In-
17 dian” after “State”;
18 (B) in paragraph (3)—
19 (i) by inserting “Indian scenic
20 byway,” after “improvements to a State sce-
21 nic byway,”; and
22 (ii) by inserting “Indian scenic
23 byway,” after “designation as a State sce-
24 nic byway,”; and

1 (C) in paragraph (4), by striking “passing
2 lane,”; and

3 (4) in subsection (e), by inserting “or Indian
4 tribe” after “State”.

5 (b) *RESEARCH, TECHNICAL ASSISTANCE, MARKETING,*
6 *AND PROMOTION.*—Section 162 of title 23, United States
7 *Code, is amended—*

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

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

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

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

19 “(2) *COOPERATION, GRANTS, AND CONTRACTS.*—
20 *The Secretary may make grants to, or enter into con-*
21 *tracts, cooperative agreements, and other transactions*
22 *with, any Federal agency, State agency, authority,*
23 *association, institution, for-profit or nonprofit cor-*
24 *poration, organization, or person, to carry out*
25 *projects and activities under this subsection.*

1 “(3) *FUNDS.*—*The Secretary may use not more*
2 *than \$1,877,258 for each fiscal year of funds made*
3 *available for the National Scenic Byways Program to*
4 *carry out projects and activities under this sub-*
5 *section.*

6 “(4) *PRIORITY.*—*The Secretary shall give pri-*
7 *ority under this subsection to partnerships that lever-*
8 *age Federal funds for research, technical assistance,*
9 *marketing and promotion.”; and*

10 (3) *in subsection (g) (as redesignated by para-*
11 *graph (1)), by striking “80 percent” and inserting*
12 *“the share applicable under section 120, as adjusted*
13 *under subsection (d) of that section”.*

14 **SEC. 1603. RECREATIONAL TRAILS PROGRAM.**

15 (a) *RECREATIONAL TRAILS PROGRAM FORMULA.*—
16 *Section 104(h)(1) of title 23, United States Code, is*
17 *amended—*

18 (1) *by striking “Whenever” and inserting the fol-*
19 *lowing:*

20 “(A) *IN GENERAL.*—*In any case in which”;*

21 (2) *by striking “research and technical assist-*
22 *ance under the recreational trails program and for*
23 *administration of the National Recreational Trails*
24 *Advisory Committee” and inserting “research, tech-*

1 *nical assistance, and training under the recreational*
2 *trails program”;* and

3 *(3) by striking “The Secretary” and inserting*
4 *the following:*

5 *“(B) CONTRACTS AND AGREEMENTS.—The*
6 *Secretary”.*

7 *(b) RECREATIONAL TRAILS PROGRAM ADMINISTRA-*
8 *TION.—Section 206 of title 23, United States Code, is*
9 *amended—*

10 *(1) in subsection (d)—*

11 *(A) by striking paragraph (2) and inserting*
12 *the following:*

13 *“(2) PERMISSIBLE USES.—Permissible uses of*
14 *funds apportioned to a State for a fiscal year to carry*
15 *out this section include—*

16 *“(A) maintenance and restoration of rec-*
17 *reational trails;*

18 *“(B) development and rehabilitation of*
19 *trailside and trailhead facilities and trail link-*
20 *ages for recreational trails;*

21 *“(C) purchase and lease of recreational trail*
22 *construction and maintenance equipment;*

23 *“(D) construction of new recreational trails,*
24 *except that, in the case of new recreational trails*

1 *crossing Federal land, construction of the trails*
2 *shall be—*

3 “(i) *permissible under other law;*

4 “(ii) *necessary and recommended by a*
5 *statewide comprehensive outdoor recreation*
6 *plan that is—*

7 “(I) *required under the Land and*
8 *Water Conservation Fund Act of 1965*
9 *(16 U.S.C. 460l–4 et seq.); and*

10 “(II) *in effect;*

11 “(iii) *approved by the administering*
12 *agency of the State designated under sub-*
13 *section (c)(1)(A); and*

14 “(iv) *approved by each Federal agency*
15 *having jurisdiction over the affected land,*
16 *under such terms and conditions as the*
17 *head of the Federal agency determines to be*
18 *appropriate, except that the approval shall*
19 *be contingent on compliance by the Federal*
20 *agency with all applicable laws,*
21 *including—*

22 “(I) *the National Environmental*
23 *Policy Act of 1969 (42 U.S.C. 4321 et*
24 *seq.);*

1 “(II) the *Forest and Rangeland*
2 *Renewable Resources Planning Act of*
3 *1974 (16 U.S.C. 1600 et seq.); and*

4 “(III) the *Federal Land Policy*
5 *and Management Act of 1976 (43*
6 *U.S.C. 1701 et seq.);*

7 “(E) *acquisition of easements and fee sim-*
8 *ple title to property for recreational trails or rec-*
9 *reational trail corridors;*

10 “(F) *assessment of trail conditions for ac-*
11 *cessibility and maintenance;*

12 “(G) *use of trail crews, youth conservation*
13 *or service corps, or other appropriate means to*
14 *carry out activities under this section;*

15 “(H) *development and dissemination of*
16 *publications and operation of educational pro-*
17 *grams to promote safety and environmental pro-*
18 *tection, as those objectives relate to the use of rec-*
19 *reational trails, supporting non-law enforcement*
20 *trail safety and trail use monitoring patrol pro-*
21 *grams, and providing trail-related training, but*
22 *in an amount not to exceed 5 percent of the ap-*
23 *portionment made to the State for the fiscal*
24 *year; and*

1 “(I) payment of costs to the State incurred
2 in administering the program, but in an amount
3 not to exceed 7 percent of the apportionment
4 made to the State for the fiscal year to carry out
5 this section.”; and

6 (B) in paragraph (3)—

7 (i) in subparagraph (D), by striking
8 “(2)(F)” and inserting “(2)(I)”; and

9 (ii) by adding at the end the following:

10 “(E) USE OF YOUTH CONSERVATION OR
11 SERVICE CORPS.—A State shall make available
12 not less than 10 percent of the apportionments of
13 the State to provide grants to, or to enter into
14 cooperative agreements or contracts with, quali-
15 fied youth conservation or service corps to per-
16 form recreational trails program activities.”;

17 (2) in subsection (f)—

18 (A) in paragraph (1)—

19 (i) by inserting “and the Federal share
20 of the administrative costs of a State” after
21 “project”; and

22 (ii) by striking “not exceed 80 percent”
23 and inserting “be determined in accordance
24 with section 120”;

25 (B) in paragraph (2)—

1 (i) in subparagraph (A), by striking
2 “80 percent of” and inserting “the amount
3 determined in accordance with section 120
4 for”; and

5 (ii) in subparagraph (B), by inserting
6 “sponsoring the project” after “Federal
7 agency”;

8 (C) by striking paragraph (5);

9 (D) by redesignating paragraph (4) as
10 paragraph (5);

11 (E) by inserting after paragraph (3) the fol-
12 lowing:

13 “(4) *USE OF RECREATIONAL TRAILS PROGRAM*
14 *FUNDS TO MATCH OTHER FEDERAL PROGRAM*
15 *FUNDS.—Notwithstanding any other provision of law,*
16 *funds made available under this section may be used*
17 *to pay the non-Federal matching share for other Fed-*
18 *eral program funds that are—*

19 “(A) expended in accordance with the re-
20 quirements of the Federal program relating to
21 activities funded and populations served; and

22 “(B) expended on a project that is eligible
23 for assistance under this section.”; and

24 (F) in paragraph (5) (as redesignated by
25 subparagraph (D)), by striking “80 percent” and

1 inserting “the Federal share as determined in ac-
2 cordance with section 120”; and

3 (3) in subsection (h)—

4 (A) in paragraph (1), by inserting after
5 subparagraph (B) the following:

6 “(C) *PLANNING AND ENVIRONMENTAL AS-*
7 *SESSMENT COSTS INCURRED PRIOR TO PROJECT*
8 *APPROVAL.—A project funded under any of sub-*
9 *paragraphs (A) through (H) of subsection (d)(2)*
10 *may permit preapproval planning and environ-*
11 *mental compliance costs incurred not more than*
12 *18 months before project approval to be credited*
13 *toward the non-Federal share in accordance with*
14 *subsection (f).”;* and

15 (B) by striking paragraph (2) and inserting
16 the following:

17 “(2) *WAIVER OF HIGHWAY PROGRAM REQUIRE-*
18 *MENTS.—A project funded under this section—*

19 “(A) *is intended to enhance recreational op-*
20 *portunity;*

21 “(B) *is not considered to be a highway*
22 *project; and*

23 “(C) *is not subject to—*

24 “(i) *section 112, 114, 116, 134, 135,*
25 *138, 217, or 301 of this title; or*

1 “(ii) section 303 of title 49.”.

2 **SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.**

3 Subsection 103(c) of title 23, United States Code, is
4 amended by adding at the end the following:

5 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the Interstate System shall
8 not be considered to be a historic site under sec-
9 tion 303 of title 49 or section 138 of this title,
10 regardless of whether the Interstate System or
11 portions of the Interstate System are listed on, or
12 eligible for listing on, the National Register of
13 Historic Places.

14 “(B) INDIVIDUAL ELEMENTS.—A portion of
15 the Interstate System that possesses an inde-
16 pendent feature of historic significance, such as
17 a historic bridge or a highly significant engi-
18 neering feature, that would qualify independ-
19 ently for listing on the National Register of His-
20 toric Places, shall be considered to be a historic
21 site under section 303 of title 49 or section 138
22 of this title, as applicable.”.

23 **SEC. 1605. STANDARDS.**

24 Section 109 of title 23, United States Code, is amended
25 by striking subsection (p) and inserting the following:

1 “(p) *CONTEXT SENSITIVE DESIGN.*—

2 “(1) *IN GENERAL.*—*The Secretary shall encour-*
3 *age States to design projects funded under this title*
4 *that—*

5 “(A) *allow for the preservation of environ-*
6 *mental, scenic, or historic values;*

7 “(B) *ensure the safe use of the facility;*

8 “(C) *provide for consideration of the context*
9 *of the locality;*

10 “(D) *encourage access for other modes of*
11 *transportation; and*

12 “(E) *comply with subsection (a).*

13 “(2) *APPROVAL BY SECRETARY.*—*Notwith-*
14 *standing subsections (b) and (c), the Secretary may*
15 *approve a project described in paragraph (1) for the*
16 *National Highway System if the project is designed*
17 *to achieve the criteria specified in that paragraph.”.*

18 **SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.**

19 *Section 102 of title 23, United States Code, is amended*
20 *by striking subsection (a) and inserting the following:*

21 “(a) *HIGH OCCUPANCY VEHICLE LANE PASSENGER*
22 *REQUIREMENTS.*—

23 “(1) *DEFINITIONS.*—*In this subsection:*

24 “(A) *RESPONSIBLE AGENCY.*—*The term ‘re-*
25 *sponsible agency’ means—*

1 “(i) a State transportation depart-
2 ment;

3 “(ii) a local agency in a State that is
4 responsible for transportation matters; and

5 “(iii) a public authority, or a public
6 or private entity designated by a State, to
7 collect a toll from motor vehicles at an eligi-
8 ble toll facility.

9 “(B) *SERIOUSLY DEGRADED.*—The term ‘se-
10 riously degraded’, with respect to a high occu-
11 pancy vehicle lane, means, in the case of a high
12 occupancy vehicle lane, the minimum average
13 operating speed, performance threshold, and as-
14 sociated time period of the high occupancy vehi-
15 cle lane, calculated and determined jointly by all
16 applicable responsible agencies and based on con-
17 ditions unique to the roadway, are unsatisfac-
18 tory.

19 “(2) *REQUIREMENTS.*—

20 “(A) *IN GENERAL.*—Subject to subpara-
21 graph (B), for each State, 1 or more responsible
22 agencies shall establish the occupancy require-
23 ments of vehicles operating on high occupancy
24 vehicle lanes.

1 “(B) *MINIMUM NUMBER OF OCCUPANTS.*—
2 *Except as provided in paragraph (3), an occu-*
3 *pancy requirement established under subpara-*
4 *graph (A) shall—*

5 “(i) *require at least 2 occupants per*
6 *vehicle for a vehicle operating on a high oc-*
7 *cupancy vehicle lane; and*

8 “(ii) *in the case of a high occupancy*
9 *vehicle lane that traverses an adjacent*
10 *State, be established in consultation with*
11 *the adjacent State.*

12 “(3) *EXCEPTIONS TO HOV OCCUPANCY REQUIRE-*
13 *MENTS.*—

14 “(A) *MOTORCYCLES.*—*For the purpose of*
15 *this subsection, a motorcycle—*

16 “(i) *shall not be considered to be a sin-*
17 *gle occupant vehicle; and*

18 “(ii) *shall be allowed to use a high oc-*
19 *cupancy vehicle lane unless a responsible*
20 *agency—*

21 “(I) *certifies to the Secretary the*
22 *use of a high occupancy vehicle lane by*
23 *a motorcycle would create a safety haz-*
24 *ard; and*

1 “(II) restricts that the use of the
2 high occupancy vehicle lane by motor-
3 cycles.

4 “(B) *LOW EMISSION AND ENERGY-EFFI-*
5 *CIENT VEHICLES.*—

6 “(i) *DEFINITION OF LOW EMISSION*
7 *AND ENERGY-EFFICIENT VEHICLE.*—*In this*
8 *subparagraph, the term ‘low emission and*
9 *energy-efficient vehicle’ means a vehicle*
10 *that—*

11 “(I) *meets Tier II emission levels*
12 *established in regulations promulgated*
13 *by the Administrator of the Environ-*
14 *mental Protection Agency under sec-*
15 *tion 202(i) of the Clean Air Act (42*
16 *U.S.C. 7521(i)) for that make and*
17 *model year; and*

18 “(I)(aa) *is certified by the Admin-*
19 *istrator of the Environmental Protec-*
20 *tion Agency, in consultation with the*
21 *manufacturer, to have achieved not less*
22 *than a 50-percent increase in city fuel*
23 *economy or not less than a 25-percent*
24 *increase in combined city-highway fuel*
25 *economy relative to a comparable vehi-*

1 *cle that is an internal combustion gas-*
2 *oline fueled vehicle (other than a vehi-*
3 *cle that has propulsion energy from on-*
4 *board hybrid sources); or*

5 *“(bb) is a dedicated alternative*
6 *fueled vehicle under section 301 of the*
7 *Energy Policy Act of 1992 (42 U.S.C.*
8 *13211).*

9 *“(ii) COMPARABLE VEHICLE DETER-*
10 *MINATION.—Not later than 180 days after*
11 *the date of enactment of the Safe, Afford-*
12 *able, Flexible, and Efficient Transportation*
13 *Equity Act of 2005, the Administrator of*
14 *the Environmental Protection Agency, in*
15 *accordance with section 32908(b) of title 49,*
16 *United States Code, shall establish guide-*
17 *lines and procedures for making the vehicle*
18 *comparisons and performance calculations*
19 *described in clause (i)(I)(aa).*

20 *“(iii) HOV LANE PERFORMANCE.—*

21 *“(I) IN GENERAL.—The respon-*
22 *sible agency may not permit quali-*
23 *fying low emission and energy-efficient*
24 *vehicles that do not meet applicable oc-*
25 *cupancy requirements (as determined*

1 by the responsible agency) to use high
2 occupancy vehicle lanes if the perform-
3 ance of the lanes is seriously degraded.

4 “(II) *MANAGEMENT.*—In man-
5 aging the use of high occupancy vehicle
6 lanes by low emission and energy effi-
7 cient vehicles that do not meet applica-
8 ble occupancy requirements, the re-
9 sponsible agency may increase the per-
10 centages described in clause (i)(I)(aa).

11 “(iv) *EXEMPTION FOR LOW EMISSION*
12 *AND ENERGY-EFFICIENT VEHICLES.*—A re-
13 sponsible agency may permit qualifying low
14 emission and energy-efficient vehicles that
15 do not meet applicable occupancy require-
16 ments (as determined by the responsible
17 agency) to use high occupancy vehicle lanes
18 if the responsible agency—

19 “(I) establishes a program that
20 addresses how those qualifying low
21 emission and energy-efficient vehicles
22 are selected and certified;

23 “(II) establishes requirements for
24 labeling qualifying low emission and
25 energy-efficient vehicles (including pro-

1 *cedures for enforcing those require-*
2 *ments);*

3 *“(III) continuously monitors,*
4 *evaluates, and reports to the Secretary*
5 *on performance; and*

6 *“(IV) imposes such restrictions on*
7 *the use on high occupancy vehicle lanes*
8 *by vehicles that do not satisfy estab-*
9 *lished occupancy requirements as are*
10 *necessary to ensure that the perform-*
11 *ance of individual high occupancy ve-*
12 *hicle lanes, and the entire high occu-*
13 *pancy vehicle lane system, will not be-*
14 *come seriously degraded.*

15 *“(C) TOLLING OF VEHICLES.—*

16 *“(i) IN GENERAL.—A responsible agen-*
17 *cy may permit vehicles, in addition to the*
18 *vehicles described in paragraphs (A), (B),*
19 *and (D) that do not satisfy established occu-*
20 *pancy requirements, to use a high occu-*
21 *pancy vehicle lane only if the responsible*
22 *agency charges those vehicles a toll.*

23 *“(ii) APPLICABLE AUTHORITY.—In im-*
24 *posing a toll under clause (i), a responsible*
25 *agency shall—*

1 “(I) be subject to section 129;

2 “(II) establish a toll program that
3 addresses ways in which motorists may
4 enroll and participate in the program;

5 “(III) develop, manage, and
6 maintain a system that will automati-
7 cally collect the tolls from covered vehi-
8 cles;

9 “(IV) continuously monitor,
10 evaluate, and report on performance of
11 the system;

12 “(V) establish such policies and
13 procedures as are necessary—

14 “(aa) to vary the toll charged
15 in order to manage the demand
16 for use of high occupancy vehicle
17 lanes; and

18 “(bb) to enforce violations;
19 and

20 “(VI) establish procedures to im-
21 pose such restrictions on the use of high
22 occupancy vehicle lanes by vehicles that
23 do not satisfy established occupancy re-
24 quirements as are necessary to ensure
25 that the performance of individual

1 *high occupancy vehicle lanes, and the*
2 *entire high occupancy vehicle lane sys-*
3 *tem, will not become seriously de-*
4 *graded.*

5 “(D) *DESIGNATED PUBLIC TRANSPOR-*
6 *TATION VEHICLES.—*

7 “(i) *DEFINITION OF DESIGNATED PUB-*
8 *LIC TRANSPORTATION VEHICLE.—In this*
9 *subparagraph, the term ‘designated public*
10 *transportation vehicle’ means a vehicle*
11 *that—*

12 “(I) *provides designated public*
13 *transportation (as defined in section*
14 *221 of the Americans with Disabilities*
15 *Act of 1990 (42 U.S.C. 12141)); and*

16 “(II)(aa) *is owned or operated by*
17 *a public entity; or*

18 “(bb) *is operated under a contract*
19 *with a public entity.*

20 “(ii) *USE OF HIGH OCCUPANCY VEHI-*
21 *CLE LANES.—A responsible agency may*
22 *permit designated public transportation ve-*
23 *hicles that do not satisfy established occu-*
24 *pancy requirements to use high occupancy*
25 *vehicle lanes if the responsible agency—*

1 “(I) requires the clear and identi-
2 fiable labeling of each designated pub-
3 lic transportation vehicle operating
4 under a contract with a public entity
5 with the name of the public entity on
6 all sides of the vehicle;

7 “(II) continuously monitors, eval-
8 uates, and reports on performance of
9 those designated public transportation
10 vehicles; and

11 “(III) imposes such restrictions on
12 the use of high occupancy vehicle lanes
13 by designated public transportation ve-
14 hicles as are necessary to ensure that
15 the performance of individual high oc-
16 cupancy vehicle lanes, and the entire
17 high occupancy vehicle lane system,
18 will not become seriously degraded.

19 “(E) HOV LANE MANAGEMENT, OPERATION,
20 AND MONITORING.—

21 “(i) IN GENERAL.—A responsible agen-
22 cy that permits any of the exceptions speci-
23 fied in this paragraph shall comply with
24 clauses (ii) and (iii).

1 “(ii) *PERFORMANCE MONITORING,*
2 *EVALUATION, AND REPORTING.*—A respon-
3 sible agency described in clause (i) shall es-
4 tablish, manage, and support a performance
5 monitoring, evaluation, and reporting pro-
6 gram under which the responsible agency
7 continuously monitors, assesses, and reports
8 on the effects that any vehicle permitted to
9 use a high occupancy vehicle lane under an
10 exception under this paragraph may have
11 on the operation of—

12 “(I) *individual high occupancy*
13 *vehicle lanes; and*

14 “(II) *the entire high occupancy*
15 *vehicle lane system.*

16 “(iii) *OPERATION OF HOV LANE OR*
17 *SYSTEM.*—A responsible agency described in
18 clause (i) shall limit use of, or cease to use,
19 any of the exceptions specified in this para-
20 graph if the presence of any vehicle per-
21 mitted to use a high occupancy vehicle lane
22 under an exception under this paragraph
23 seriously degrades the operation of—

24 “(I) *individual high occupancy*
25 *vehicle lanes; and*

1 “(II) the entire high occupancy
2 vehicle lane system.”.

3 **SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN**
4 **WALKWAYS.**

5 (a) *IN GENERAL.*—Section 217 of title 23, United
6 States Code, is amended—

7 (1) in subsection (a), by inserting “pedestrian
8 and” after “safe”;

9 (2) in subsection (e), by striking “bicycles” each
10 place it appears and inserting “pedestrians or
11 bicyclists”;

12 (3) by striking subsection (f) and inserting the
13 following:

14 “(f) *FEDERAL SHARE.*—The Federal share of the con-
15 struction of bicycle transportation facilities and pedestrian
16 walkways, and for carrying out nonconstruction projects re-
17 lating to safe pedestrian and bicycle use, shall be deter-
18 mined in accordance with section 120(b).”;

19 (4) by redesignating subsection (j) as subsection
20 (k);

21 (5) by inserting after subsection (i) the following:

22 “(j) *BICYCLE AND PEDESTRIAN SAFETY GRANTS.*—

23 “(1) *IN GENERAL.*—The Secretary shall select
24 and make grants to a national, nonprofit organiza-

1 *tion engaged in promoting bicycle and pedestrian*
2 *safety—*

3 *“(A) to operate a national bicycle and pe-*
4 *destrian clearinghouse;*

5 *“(B) to develop information and edu-*
6 *cational programs regarding walking and bicy-*
7 *cling; and*

8 *“(C) to disseminate techniques and strate-*
9 *gies for improving bicycle and pedestrian safety.*

10 *“(2) FUNDING.—The Secretary may use funds*
11 *set aside under section 104(n) to carry out this sub-*
12 *section.*

13 *“(3) APPLICABILITY OF TITLE 23.—Funds au-*
14 *thorized to be appropriated to carry out this sub-*
15 *section shall be available for obligation in the same*
16 *manner as if the funds were apportioned under sec-*
17 *tion 104, except that the funds shall remain available*
18 *until expended.”; and*

19 *(6) in subsection (k) (as redesignated by para-*
20 *graph (4))—*

21 *(A) by redesignating paragraph (4) as*
22 *paragraph (5); and*

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

1 “(4) *SHARED USE PATH.*—The term ‘shared use
2 *path*’ means a multiuse trail or other path that is—

3 “(A) physically separated from motorized
4 vehicular traffic by an open space or barrier, ei-
5 ther within a highway right-of-way or within an
6 independent right-of-way; and

7 “(B) usable for transportation purposes (in-
8 cluding by pedestrians, bicyclists, skaters, eques-
9 trians, and other nonmotorized users).”.

10 (b) *RESERVATION OF FUNDS.*—Section 104 of title 23,
11 *United States Code* (as amended by section 1522), is
12 amended by adding at the end the following:

13 “(n) *BICYCLE AND PEDESTRIAN SAFETY GRANTS.*—
14 *On October 1 of each of fiscal years 2005 through 2009,*
15 *the Secretary, after making the deductions authorized by*
16 *subsections (a) and (f), shall set aside \$469,314 of the re-*
17 *maining funds apportioned under subsection (b)(3) for use*
18 *in carrying out the bicycle and pedestrian safety grant pro-*
19 *gram under section 217.”.*

20 **SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE**
21 **RIGHTS-OF-WAY.**

22 Section 111 of title 23, *United States Code*, is amended
23 by adding at the end the following:

24 “(d) *IDLING REDUCTION FACILITIES IN INTERSTATE*
25 *RIGHTS-OF-WAY.*—

1 “(1) *IN GENERAL.*—*Notwithstanding subsection*
2 *(a), a State may—*

3 “(A) *permit electrification or other idling*
4 *reduction facilities and equipment, for use by*
5 *motor vehicles used for commercial purposes, to*
6 *be placed in rest and recreation areas, and in*
7 *safety rest areas, constructed or located on*
8 *rights-of-way of the Interstate System in the*
9 *State, so long as those idling reduction measures*
10 *do not—*

11 “(i) *reduce the existing number of des-*
12 *ignated truck parking spaces at any given*
13 *rest or recreation area; or*

14 “(ii) *preclude the use of those spaces by*
15 *trucks employing alternative idle reduction*
16 *technologies; and*

17 “(B) *charge a fee, or permit the charging of*
18 *a fee, for the use of those parking spaces actively*
19 *providing power to a truck to reduce idling.*

20 “(2) *PURPOSE.*—*The exclusive purpose of the fa-*
21 *cilities described in paragraph (1) (or similar tech-*
22 *nologies) shall be to enable operators of motor vehicles*
23 *used for commercial purposes—*

24 “(A) *to reduce idling of a truck while*
25 *parked in the rest or recreation area; and*

1 “(B) to use installed or other equipment
2 specifically designed to reduce idling of a truck,
3 or provide alternative power for supporting driv-
4 er comfort, while parked.”.

5 **SEC. 1609. TOLL PROGRAMS.**

6 (a) *INTERSTATE SYSTEM RECONSTRUCTION AND RE-*
7 *HABILITATION PILOT PROGRAM.*—Section 1216(b) of the
8 *Transportation Equity Act for the 21st Century (23 U.S.C.*
9 *129 note; 112 Stat. 212)*—

10 (1) is amended—

11 (A) in paragraph (1)—

12 (i) by striking “The Secretary” and
13 inserting “Notwithstanding section 301, the
14 Secretary”; and

15 (ii) by striking “that could not other-
16 wise be adequately maintained or function-
17 ally improved without the collection of
18 tolls”;

19 (B) by striking paragraph (2) and inserting
20 the following:

21 “(2) *LIMITATION.*—The Secretary may permit
22 the collection of tolls under this subsection on 1 facil-
23 ity in the State of Virginia.”;

24 (C) in paragraph (3), by striking subpara-
25 graph (C) and inserting the following:

1 “(C) *An analysis demonstrating that fi-*
2 *nancing the reconstruction or rehabilitation of*
3 *the facility with the collection of tolls under this*
4 *pilot program is the most efficient, economical,*
5 *or expeditious way to advance the project.”; and*

6 (D) *in paragraph (4)—*

7 (i) *by striking subparagraph (A) and*
8 *inserting the following:*

9 “(A) *the State’s analysis showing that fi-*
10 *nancing the reconstruction or rehabilitation of a*
11 *facility with the collection of tolls under the pilot*
12 *program is the most efficient, economical, or ex-*
13 *peditious way to advance the project;”;*

14 (ii) *by striking subparagraph (B) and*
15 *inserting the following:*

16 “(B) *the facility needs reconstruction or re-*
17 *habilitation, including major work that may re-*
18 *quire replacing sections of the existing facility on*
19 *new alignment;”;*

20 (iii) *by striking subparagraph (C);*

21 *and*

22 (iv) *by redesignating subparagraphs*
23 *(D) and (E) as subparagraphs (C) and (D),*
24 *respectively;*

1 (2) is redesignated as subsection (d) of section
2 129 of title 23, United States Code, and moved to ap-
3 pear at the end of that section; and

4 (3) by striking “of title 23, United States Code”
5 each place it appears.

6 (b) *FAST AND SENSIBLE TOLL (FAST) LANES PRO-*
7 *GRAM.*—Section 129 of title 23, United States Code (as
8 amended by subsection (a)(2)), is amended by adding at
9 the end the following:

10 “(e) *FAST AND SENSIBLE TOLL (FAST) LANES PRO-*
11 *GRAM.*—

12 “(1) *DEFINITIONS.*—In this subsection:

13 “(A) *ELIGIBLE TOLL FACILITY.*—The term
14 ‘eligible toll facility’ includes—

15 “(i) a facility in existence on the date
16 of enactment of this subsection that collects
17 tolls;

18 “(ii) a facility in existence on the date
19 of enactment of this subsection that serves
20 high occupancy vehicles;

21 “(iii) a facility modified or constructed
22 after the date of enactment of this subsection
23 to create additional tolled capacity (includ-
24 ing a facility constructed by a private enti-
25 ty or using private funds); and

1 “(iv) in the case of a new lane added
2 to a previously non-tolled facility, only the
3 new lane.

4 “(B) NONATTAINMENT AREA.—The term
5 ‘nonattainment area’ has the meaning given the
6 term in section 171 of the Clean Air Act (42
7 U.S.C. 7501).

8 “(2) ESTABLISHMENT.—Notwithstanding sec-
9 tions 129 and 301, the Secretary shall permit a State,
10 public authority, or a public or private entity des-
11 ignated by a State, to collect a toll from motor vehi-
12 cles at an eligible toll facility for any highway,
13 bridge, or tunnel, including facilities on the Interstate
14 System—

15 “(A) to manage high levels of congestion;

16 “(B) to reduce emissions in a nonattain-
17 ment area or maintenance area; or

18 “(C) to finance the expansion of a highway,
19 for the purpose of reducing traffic congestion, by
20 constructing 1 or more additional lanes (includ-
21 ing bridge, tunnel, support, and other structures
22 necessary for that construction) on the Interstate
23 System.

24 “(3) LIMITATION ON USE OF REVENUES.—

25 “(A) USE.—

1 “(i) *IN GENERAL.*—Toll revenues re-
2 ceived under paragraph (2) shall be used by
3 a State, public authority, or private entity
4 designated by a State, for—

5 “(I) debt service for debt incurred
6 on 1 or more highway or transit
7 projects carried out under this title or
8 title 49;

9 “(II) a reasonable return on in-
10 vestment of any private financing;

11 “(III) the costs necessary for
12 proper operation and maintenance of
13 any facilities under paragraph (2) (in-
14 cluding reconstruction, resurfacing,
15 restoration, and rehabilitation); or

16 “(IV) if the State, public author-
17 ity, or private entity annually certifies
18 that the tolled facility is being ade-
19 quately operated and maintained, any
20 other purpose relating to a highway or
21 transit project carried out under this
22 title or title 49.

23 “(B) *REQUIREMENTS.*—

24 “(i) *VARIABLE PRICE REQUIREMENT.*—
25 A facility that charges tolls under this sub-

1 *section may establish a toll that varies in*
2 *price according to time of day or level of*
3 *traffic, as appropriate to manage congestion*
4 *or improve air quality.*

5 “(ii) *HOV VARIABLE PRICING RE-*
6 *QUIREMENT.—The Secretary shall require,*
7 *for each high occupancy vehicle facility that*
8 *charges tolls under this subsection, that the*
9 *tolls vary in price according to time of day*
10 *or level of traffic, as appropriate to manage*
11 *congestion or improve air quality.*

12 “(iii) *HOV PASSENGER REQUIRE-*
13 *MENTS.—In addition to the exceptions to*
14 *the high occupancy vehicle passenger re-*
15 *quirements established under section*
16 *102(a)(2), a State may permit motor vehi-*
17 *cles with fewer than 2 occupants to operate*
18 *in high occupancy vehicle lanes as part of*
19 *a variable toll pricing program established*
20 *under this subsection.*

21 “(C) *AGREEMENT.—*

22 “(i) *IN GENERAL.—Before the Sec-*
23 *retary may permit a facility to charge tolls*
24 *under this subsection, the Secretary and the*
25 *applicable State, public authority, or pri-*

1 *vate entity designated by a State shall enter*
2 *into an agreement for each facility incor-*
3 *porating the conditions described in sub-*
4 *paragraphs (A) and (B).*

5 “(ii) *TERMINATION.*—*An agreement*
6 *under clause (i) shall terminate with respect*
7 *to a facility upon the decision of the State,*
8 *public authority, or private entity des-*
9 *ignated by a State to discontinue the vari-*
10 *able tolling program under this subsection*
11 *for the facility.*

12 “(iii) *DEBT.*—

13 “(I) *IN GENERAL.*—*If there is any*
14 *debt outstanding on a facility at the*
15 *time at which the decision is made to*
16 *discontinue the program under this*
17 *subsection with respect to the facility,*
18 *the facility may continue to charge*
19 *tolls in accordance with the terms of*
20 *the agreement until such time as the*
21 *debt is retired.*

22 “(II) *NOTICE.*—*On retirement of*
23 *the debt of a tolled facility, the appli-*
24 *cable State, public authority, or pri-*
25 *vate entity designated by a State shall*

1 *provide notice to the public of that re-*
2 *tirement.*

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, public*
11 *authority, or private entity designated by a State*
12 *shall provide to the Secretary—*

13 “(A) *a description of the congestion or air*
14 *quality problems sought to be addressed under*
15 *the program;*

16 “(B) *a description of—*

17 “(i) *the goals sought to be achieved*
18 *under the program; and*

19 “(ii) *the performance measures that*
20 *would be used to gauge the success made to-*
21 *ward reaching those goals; and*

22 “(C) *such other information as the Sec-*
23 *retary may require.*

24 “(5) *AUTOMATION.—Fees collected from motorists*
25 *using a FAST lane shall be collected only through the*

1 *use of noncash electronic technology that optimizes the*
2 *free flow of traffic on the tolled facility.*

3 “(6) *INTEROPERABILITY.*—

4 “(A) *RULE.*—

5 “(i) *IN GENERAL.*—*Not later than 180*
6 *days after the date of enactment of this*
7 *paragraph, the Secretary shall promulgate*
8 *a final rule specifying requirements, stand-*
9 *ards, or performance specifications for auto-*
10 *mated toll collection systems implemented*
11 *under this section.*

12 “(ii) *DEVELOPMENT.*—*In developing*
13 *that rule, which shall be designed to maxi-*
14 *mize the interoperability of electronic collec-*
15 *tion systems, the Secretary shall, to the*
16 *maximum extent practicable—*

17 “(I) *seek to accelerate progress to-*
18 *ward the national goal of achieving a*
19 *nationwide interoperable electronic toll*
20 *collection system;*

21 “(II) *take into account the use of*
22 *noncash electronic technology currently*
23 *deployed within an appropriate geo-*
24 *graphical area of travel and the*

1 *noncash electronic technology likely to*
2 *be in use within the next 5 years; and*

3 *“(III) seek to minimize additional*
4 *costs and maximize convenience to*
5 *users of toll facility and to the toll fa-*
6 *cility owner or operator.*

7 *“(B) FUTURE MODIFICATIONS.—As the state*
8 *of technology progresses, the Secretary shall mod-*
9 *ify the rule promulgated under subparagraph*
10 *(A), as appropriate.*

11 *“(7) REPORTING.—*

12 *“(A) IN GENERAL.—The Secretary, in co-*
13 *operation with State and local agencies and*
14 *other program participants and with oppor-*
15 *tunity for public comment, shall—*

16 *“(i) develop and publish performance*
17 *goals for each FAST lane project;*

18 *“(ii) establish a program for regular*
19 *monitoring and reporting on the achieve-*
20 *ment of performance goals, including—*

21 *“(I) effects on travel, traffic, and*
22 *air quality;*

23 *“(II) distribution of benefits and*
24 *burdens;*

1 “(III) use of alternative transpor-
2 tation modes; and

3 “(IV) use of revenues to meet
4 transportation or impact mitigation
5 needs.

6 “(B) REPORTS TO CONGRESS.—The Sec-
7 retary shall submit to the Committee on Envi-
8 ronment and Public Works of the Senate and the
9 Committee on Transportation and Infrastructure
10 of the House of Representatives—

11 “(i) not later than 1 year after the
12 date of enactment of this subsection, and
13 annually thereafter, a report that describes
14 in detail the uses of funds under this sub-
15 section in accordance with paragraph
16 (8)(D); and

17 “(ii) not later than 3 years after the
18 date of enactment of this subsection, and
19 every 3 years thereafter, a report that de-
20 scribes any success of the program under
21 this subsection in meeting congestion reduc-
22 tion and other performance goals established
23 for FAST lane programs.

24 “(8) FUNDING.—

1 “(A) *AUTHORIZATION OF APPROPRIA-*
2 *TIONS.—There is authorized to be appropriated*
3 *from the Highway Trust Fund (other than the*
4 *Mass Transit Account) to carry out pre-imple-*
5 *mentation studies and post-implementation eval-*
6 *uations of projects planned or implemented*
7 *under this subsection \$10,324,918 for each of fis-*
8 *cal years 2005 through 2009.*

9 “(B) *AVAILABILITY.—Funds allocated by*
10 *the Secretary to a State under this subsection*
11 *shall remain available for obligation by the State*
12 *for a period of 3 years after the last day of the*
13 *fiscal year for which the funds were authorized.*

14 “(C) *CONTRACT AUTHORITY.—Funds au-*
15 *thorized to be appropriated under this para-*
16 *graph shall be available for obligation in the*
17 *same manner as if the funds were apportioned*
18 *under this chapter, except that the Federal share*
19 *of the cost of any project carried out under this*
20 *subsection and the availability of funds author-*
21 *ized by this paragraph shall be determined in*
22 *accordance with this subsection.*

23 “(D) *PROGRAM PROMOTION.—Notwith-*
24 *standing any other provision of this section, the*
25 *Secretary shall use an amount not to exceed 2*

1 *percent of the funds made available under sub-*
2 *paragraph (A)—*

3 “(i) *to make grants to promote the*
4 *purposes of the program under this sub-*
5 *section;*

6 “(ii) *to provide technical support to*
7 *State and local governments or other public*
8 *or private entities involved in implementing*
9 *or considering FAST lane programs; and*

10 “(iii) *to conduct research on variable*
11 *pricing that will support State or local ef-*
12 *forts to initiate those pricing requirements.*

13 “(E) *EFFECT ON OTHER APPORTIONMENTS*
14 *AND ALLOCATIONS.—Revenues collected from tolls*
15 *established under this subsection shall not be*
16 *taken into account in determining the apporportion-*
17 *ments and allocations that any State or trans-*
18 *portation district within a State shall be entitled*
19 *to receive under or in accordance with this chap-*
20 *ter.*

21 “(9) *COMPLIANCE.—The Secretary shall ensure*
22 *that any project or activity carried out under this*
23 *section complies with requirements under section 106*
24 *of this title and section 307 of title 49.*

1 “(10) *VOLUNTARY USE*.—Nothing in this sub-
2 section requires any highway user to use a *FAST*
3 lane.

4 “(11) *ENVIRONMENTAL REQUIREMENTS*.—Noth-
5 ing in this subsection affects any environmental re-
6 quirement applicable to the construction or operation
7 of an eligible toll facility under this title or any other
8 provision of law.”.

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 2005*, 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 (a) *IN GENERAL.*—Section 104(b)(2) of title 23,
4 *United States Code*, is 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)*—

17 (i) *by striking “area as described in*
18 *section 149(b) for ozone,” and inserting*
19 *“area for ozone (as described in section*
20 *149(b) or for PM–2.5”;* and

21 (ii) *by striking the period at the end*
22 *and inserting a semicolon;*

23 (2) *by adding at the end the following:*

24 “(viii) 1.0 *if, at the time of apportion-*
25 *ment, any county that is not designated as*
26 *a nonattainment or maintenance area*

1 under the 1-hour ozone standard is des-
2 ignated as nonattainment under the 8-hour
3 ozone standard; or

4 “(ix) 1.2 if, at the time of apportion-
5 ment, the area is not a nonattainment or
6 maintenance area as described in section
7 149(b) for ozone or carbon monoxide, but is
8 an area designated nonattainment under
9 the PM-2.5 standard.”;

10 (3) by striking subparagraph (C) and inserting
11 the following:

12 “(C) *ADDITIONAL ADJUSTMENT FOR CAR-*
13 *BON MONOXIDE AREAS.—If, in addition to being*
14 *designated as a nonattainment or maintenance*
15 *area for ozone as described in section 149(b), any*
16 *county within the area was also classified under*
17 *subpart 3 of part D of title I of the Clean Air*
18 *Act (42 U.S.C. 7512 et seq.) as a nonattainment*
19 *or maintenance area described in section 149(b)*
20 *for carbon monoxide, the weighted nonattain-*
21 *ment or maintenance area population of the*
22 *county, as determined under clauses (i) through*
23 *(vi) or clause (viii) of subparagraph (B), shall be*
24 *further multiplied by a factor of 1.2.”;*

1 (4) by redesignating subparagraph (D) and (E)
2 as subparagraphs (E) and (F) respectively; and

3 (5) by inserting after subparagraph (C) the fol-
4 lowing:

5 “(D) *ADDITIONAL ADJUSTMENT FOR PM 2.5*
6 *AREAS.—If, in addition to being designated as a*
7 *nonattainment or maintenance area for ozone or*
8 *carbon monoxide, or both as described in section*
9 *149(b), any county within the area was also des-*
10 *ignated under the PM–2.5 standard as a non-*
11 *attainment or maintenance area, the weighted*
12 *nonattainment or maintenance area population*
13 *of those counties shall be further multiplied by a*
14 *factor of 1.2.”.*

15 (b) *CONFORMING AMENDMENT.—Section 149(c)(2) of*
16 *title 23, United States Code, is amended by striking*
17 *“104(b)(2)(D)” and inserting “104(b)(2)(E)”.*

18 **SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.**

19 (a) *ELIGIBLE PROJECTS.—Section 149(b) of title 23,*
20 *United States Code, is amended—*

21 (1) in paragraph (4), by striking “or” at the
22 end;

23 (2) in paragraph (5), by striking the period at
24 the end and inserting a semicolon; and

25 (3) by adding at the end the following:

1 “(6) if the project or program is for the purchase
2 of alternative fuel (as defined in section 301 of the
3 Energy Policy Act of 1992 (42 U.S.C. 13211)) or bio-
4 diesel;

5 “(7) if the project or program involves the pur-
6 chase of integrated, interoperable emergency commu-
7 nications equipment; or

8 “(8) if the project or program is for—

9 “(A) diesel retrofit technologies that are—

10 “(i) for motor vehicles (as defined in
11 section 216 of the Clean Air Act (42 U.S.C.
12 7550)); or

13 “(ii) published in the list under sub-
14 section (f)(5) for non-road vehicles and non-
15 road engines (as defined in section 216 of
16 the Clean Air Act (42 U.S.C. 7550)) that
17 are used in construction projects that are—

18 “(I) located in nonattainment or
19 maintenance areas for ozone, PM_{10} , or
20 $PM_{2.5}$ (as defined under the Clean Air
21 Act (42 U.S.C. 7401 et seq.)); and

22 “(II) funded, in whole or in part,
23 under this title; or

24 “(B) outreach activities that are designed to
25 provide information and technical assistance to

1 *the owners and operators of diesel equipment*
2 *and vehicles regarding the emission reduction*
3 *strategy.”.*

4 ***(b) STATES RECEIVING MINIMUM APPORTIONMENT.—***
5 *Section 149(c) of title 23, United States Code, is amended—*

6 (1) *in paragraph (1), by striking “for any*
7 *project eligible under the surface transportation pro-*
8 *gram under section 133.” and inserting the following:*
9 *“for any project in the State that—*

10 *“(A) would otherwise be eligible under this*
11 *section as if the project were carried out in a*
12 *nonattainment or maintenance area; or*

13 *“(B) is eligible under the surface transpor-*
14 *tation program under section 133.”; and*

15 (2) *in paragraph (2), by striking “for any*
16 *project in the State eligible under section 133.” and*
17 *inserting the following: “for any project in the State*
18 *that—*

19 *“(A) would otherwise be eligible under this*
20 *section as if the project were carried out in a*
21 *nonattainment or maintenance area; or*

22 *“(B) is eligible under the surface transpor-*
23 *tation program under section 133.”.*

1 (c) *RESPONSIBILITY OF STATES.*—Section 149 of title
2 23, United States Code, is amended by adding at the end
3 the following:

4 “(f) *COST-EFFECTIVE EMISSION REDUCTION STRATE-*
5 *GIES.*—

6 “(1) *DEFINITIONS.*—In this subsection:

7 “(A) *ADMINISTRATOR.*—The term ‘Adminis-

8 *trator’* means the Administrator of the Environ-9 *mental Protection Agency.*

10 “(B) *CMAQ RESOURCES.*—The term ‘CMAQ

11 *resources’* means resources available to a State to12 *carry out the congestion mitigation and air*13 *quality improvement program under this section.*

14 “(C) *DIESEL RETROFIT TECHNOLOGY.*—The

15 *term ‘diesel retrofit technology’* means a replace-16 *ment, repowering, rebuilding, after treatment, or*17 *other technology, as determined by the Adminis-*18 *trator.*

19 “(2) *EMISSION REDUCTION STRATEGIES.*—Each

20 *State shall develop, implement, and periodically re-*21 *vis* *emission reduction strategies comprised of any*22 *methods determined to be appropriate by the State*23 *that are consistent with section 209 of the Clean Air*24 *Act (42 U.S.C. 7542) for engines and vehicles that are*25 *used in construction projects that are—*

1 “(A) located in nonattainment areas for
2 ozone, PM_{10} , or $PM_{2.5}$ (as defined under the
3 Clean Air Act (42 U.S.C. 7401 et seq.)); and

4 “(B) funded, in whole or in part, under this
5 title.

6 “(3) STATE CONSIDERATIONS.—In developing
7 emission reduction strategies, each State—

8 “(A) may include any means to reduce
9 emissions that are determined to be appropriate
10 by the State; but

11 “(B) shall—

12 “(i) consider guidance issued by the
13 Administrator under paragraph (5);

14 “(ii) limit technologies to those identi-
15 fied by the Administrator under paragraph
16 (5);

17 “(iii) provide contractors with guid-
18 ance and technical assistance regarding the
19 implementation of emission reduction strat-
20 egies;

21 “(iv) give special consideration to
22 small businesses that participate in projects
23 funded under this title;

24 “(v) place priority on the use of—

1 “(I) diesel retrofit technologies
2 and activities;

3 “(II) cost-effective strategies;

4 “(III) financial incentives using
5 CMAQ resources and State resources;
6 and

7 “(IV) strategies that maximize
8 health benefits; and

9 “(vi) not include any activities prohib-
10 ited by paragraph (4).

11 “(4) STATE LIMITATIONS.—Emission reduction
12 strategies may not—

13 “(A) authorize or recommend the use of
14 bans on equipment or vehicle use during speci-
15 fied periods of a day;

16 “(B) authorize or recommend the use of con-
17 tract procedures that would require retrofit ac-
18 tivities, unless funds are made available by the
19 State under this section or other State authority
20 to offset the cost of those activities; or

21 “(C) authorize the use of contract proce-
22 dures that would discriminate between bidders
23 on the basis of a bidder’s existing equipment or
24 existing vehicle emission technology.

1 “(5) *EMISSION REDUCTION STRATEGY GUID-*
2 *ANCE.—The Administrator, in consultation with the*
3 *Secretary, shall publish a nonbinding list of emission*
4 *reduction strategies and supporting technical infor-*
5 *mation for—*

6 “(A) *diesel emission reduction technologies*
7 *certified or verified by the Administrator, the*
8 *California Air Resources Board, or any other en-*
9 *tity recognized by the Administrator for the*
10 *same purpose;*

11 “(B) *diesel emission reduction technologies*
12 *identified by the Administrator as having an ap-*
13 *plication and approvable test plan for*
14 *verification by the Administrator or the Cali-*
15 *fornia Air Resources board that is submitted not*
16 *later than 18 months of the date of enactment of*
17 *this Act;*

18 “(C) *available information regarding the*
19 *emission reduction effectiveness and cost effec-*
20 *tiveness of technologies identified in this para-*
21 *graph, taking into consideration health effects;*

22 “(D) *options and recommendations for the*
23 *structure and content of emission reduction*
24 *strategies including—*

1 “(i) *emission reduction performance*
2 *criteria;*

3 “(ii) *financial incentives that use*
4 *CMAQ resources and State resources;*

5 “(iii) *procedures to facilitate access by*
6 *contractors to financial incentives;*

7 “(iv) *contract incentives, allowances,*
8 *and procedures;*

9 “(v) *methods of voluntary emission re-*
10 *ductions; and*

11 “(vi) *other means that may be em-*
12 *ployed to reduce emissions from construc-*
13 *tion activities; and*

14 “(6) *PRIORITY.—States and metropolitan plan-*
15 *ning organizations shall give priority in distributing*
16 *funds received for congestion management and air*
17 *quality projects and programs to finance of diesel ret-*
18 *rofit and cost-effective emission reduction activities*
19 *identified by States in the emission reduction strate-*
20 *gies developed under this subsection.*

21 “(7) *NO EFFECT ON AUTHORITY OR RESTRIC-*
22 *TIONS.—Nothing in this subsection modifies any au-*
23 *thority or restriction established under the Clean Air*
24 *Act (42 U.S.C. 7401 et seq.).”.*

1 (d) *AVAILABILITY OF FUNDS FOR THE STATE OF*
 2 *MAINE.*—*In addition to other eligible uses, the State of*
 3 *Maine may use funds apportioned under section 104(b)(2)*
 4 *to support, through September 30, 2009, the operation of*
 5 *passenger rail service between Boston, Massachusetts, and*
 6 *Portland, Maine.*

7 (e) *RESPONSIBILITY OF THE STATE OF MONTANA.*—
 8 *In addition to other eligible uses, the State of Montana may*
 9 *use funds apportioned under section 104(b)(2) for the oper-*
 10 *ation of public transit activities that serve a nonattainment*
 11 *or maintenance area.*

12 **SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.**

13 Section 149 of title 23, United States Code, is amended
 14 by adding at the end the following:

15 “(g) *INTERAGENCY CONSULTATION.*—*The Secretary*
 16 *shall encourage States and metropolitan planning organi-*
 17 *zations to consult with State and local air quality agencies*
 18 *in nonattainment and maintenance areas on the estimated*
 19 *emission reductions from proposed congestion mitigation*
 20 *and air quality improvement programs and projects.”.*

21 **SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ**
 22 **PROJECTS.**

23 Section 149 of title 23, United States Code, is amended
 24 by adding at the end the following:

25 “(h) *EVALUATION AND ASSESSMENT OF PROJECTS.*—

1 “(1) *IN GENERAL.*—*The Secretary, in consulta-*
2 *tion with the Administrator of the Environmental*
3 *Protection Agency, shall evaluate and assess a rep-*
4 *resentative sample of projects funded under the con-*
5 *gestion mitigation and air quality program to—*

6 “(A) *determine the direct and indirect im-*
7 *pect of the projects on air quality and congestion*
8 *levels; and*

9 “(B) *ensure the effective implementation of*
10 *the program.*

11 “(2) *DATABASE.*—*Using appropriate assessments*
12 *of projects funded under the congestion mitigation*
13 *and air quality program and results from other re-*
14 *search, the Secretary shall maintain and disseminate*
15 *a cumulative database describing the impacts of the*
16 *projects.*

17 “(3) *CONSIDERATION.*—*The Secretary, in con-*
18 *sultation with the Administrator of the Environ-*
19 *mental Protection Agency, shall consider the rec-*
20 *ommendations and findings of the report submitted to*
21 *Congress under section 1110(e) of the Transportation*
22 *Equity Act for the 21st Century (112 Stat. 144), in-*
23 *cluding recommendations and findings that would*
24 *improve the operation and evaluation of the conges-*

1 *tion mitigation and air quality improvement pro-*
2 *gram under section 149.”.*

3 **SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY**

4 **TIMELINES, REQUIREMENTS, AND HORIZON.**

5 *(a) METROPOLITAN PLANNING.—*

6 *(1) DEVELOPMENT OF LONG-RANGE TRANSPOR-*
7 *TATION PLAN.—Section 134(g)(1) of title 23, United*
8 *States Code, is amended by striking “periodically, ac-*
9 *ording to a schedule that the Secretary determines to*
10 *be appropriate,” and inserting “every 4 years (or*
11 *more frequently, in a case in which the metropolitan*
12 *planning organization elects to update a transpor-*
13 *tation plan more frequently) in areas designated as*
14 *nonattainment, as defined in section 107(d) of the*
15 *Clean Air Act (42 U.S.C. 7407(d)), and in areas that*
16 *were nonattainment that have been redesignated to*
17 *attainment in accordance with section 107(d)(3) of*
18 *that Act (42 U.S.C. 7407(d)(3)), with a maintenance*
19 *plan under section 175A of that Act (42 U.S.C.*
20 *7505a), or every 5 years (or more frequently, in a*
21 *case in which the metropolitan planning organization*
22 *elects to update a transportation plan more fre-*
23 *quently) in areas designated as attainment (as de-*
24 *finied in section 107(d) of that Act (42 U.S.C.*
25 *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 2005, 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 *2004);*

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.”; and

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 *2004), 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,*
20 *including—*

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, 2004), 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 *2004).*

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.”.*

18 **SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.**

19 *Section 176(c) of the Clean Air Act (42 U.S.C.*
20 *7506(c)) is amended by striking paragraph (3) and insert-*
21 *ing the following:*

22 “(3) *METHODS OF CONFORMITY DETERMINATION*
23 *BEFORE BUDGET IS AVAILABLE.—*

24 “(A) *IN GENERAL.*—*Until such time as a*
25 *motor vehicle emission budget from an imple-*

1 *mentation plan submitted for a national ambi-*
2 *ent air quality standard is determined to be ade-*
3 *quate in accordance with section 93.118(e)(4) of*
4 *title 40, Code of Federal Regulations (as in effect*
5 *on October 1, 2004), or the submitted implemen-*
6 *tation plan is approved, conformity of such a*
7 *plan, program, or project shall be demonstrated,*
8 *in accordance with clauses (i) and (ii) and as se-*
9 *lected through the consultation process required*
10 *under paragraph (4)(D)(i), with—*

11 *“(i) a motor vehicle emission budget*
12 *that has been found adequate in accordance*
13 *with section 93.118(e)(4) of title 40, Code of*
14 *Federal Regulations (as in effect on October*
15 *1, 2004), or that has been approved, from*
16 *an implementation plan for the most recent*
17 *prior applicable national ambient air qual-*
18 *ity standard addressing the same pollutant;*
19 *or*

20 *“(ii) other such tests as the Adminis-*
21 *trator shall determine to ensure that—*

22 *“(I) the transportation plan or*
23 *program—*

1 “(aa) is consistent with the
2 most recent estimates of mobile
3 source emissions;

4 “(bb) provides for the expedi-
5 tious implementation of transpor-
6 tation control measures in the ap-
7 plicable implementation plan;
8 and

9 “(cc) with respect to an ozone
10 or carbon monoxide nonattain-
11 ment area, contributes to annual
12 emissions reductions consistent
13 with sections 182(b)(1) and
14 187(a)(7); and

15 “(II) the transportation project—

16 “(aa) comes from a con-
17 forming transportation plan and
18 program described in this sub-
19 paragraph; and

20 “(bb) in a carbon monoxide
21 nonattainment area, eliminates or
22 reduces the severity and number
23 of violations of the carbon mon-
24 oxide standards in the area sub-
25 stantially affected by the project.

1 “(B) *DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NON-ATTAINMENT AREA.*—*A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual transportation project taken as a whole during the environmental review phase of transportation project development.*”.

10 **SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.**

11 **MENTS.**

12 *Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—*

13 (1) *by redesignating paragraph (8) as paragraph (9); and*

14 (2) *by inserting after paragraph (7) the following:*

15 (1) *by redesignating paragraph (8) as paragraph (9); and*

16 (2) *by inserting after paragraph (7) the following:*

17 (1) *by redesignating paragraph (8) as paragraph (9); and*

18 (2) *by inserting after paragraph (7) the following:*

19 “(8) *SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.*—

20 “(A) *IN GENERAL.*—*Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—*

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*

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*
12 *require—*

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 adopted by the*
22 *State pursuant to subparagraph (B).*

23 “(F) *EFFECT OF ADOPTION.—Adoption of a*
24 *substitute control measure shall constitute rescis-*

1 *sion of the previously applicable control meas-*
 2 *ure.”.*

3 **SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED**
 4 **BY EXCEPTIONAL EVENTS.**

5 *(a) IN GENERAL.—Section 319 of the Clean Air Act*
 6 *(42 U.S.C. 7619) is amended—*

7 *(1) by striking the section heading and all that*
 8 *follows through “after notice and opportunity for pub-*
 9 *lic hearing” and inserting the following:*

10 **“SEC. 319. AIR QUALITY MONITORING.**

11 *“(a) IN GENERAL.—After notice and opportunity for*
 12 *public hearing”; and*

13 *(2) by adding at the end the following:*

14 **“(b) AIR QUALITY MONITORING DATA INFLUENCED BY**
 15 **EXCEPTIONAL EVENTS.—**

16 **“(1) DEFINITION OF EXCEPTIONAL EVENT.—In**
 17 **this section:**

18 **“(A) IN GENERAL.—The term ‘exceptional**
 19 **event’ means an event that—**

20 **“(i) affects air quality;**

21 **“(ii) is not reasonably controllable or**
 22 **preventable;**

23 **“(iii) is—**

24 **“(I) a natural event; or**

1 “(II) *an event caused by human*
2 *activity that is unlikely to recur at a*
3 *particular location; and*

4 “(iv) *is determined by the Adminis-*
5 *trator through the process established in the*
6 *regulations promulgated under paragraph*
7 *(2) to be an exceptional event.*

8 “(B) *EXCLUSIONS.—The term ‘exceptional*
9 *event’ does not include—*

10 “(i) *stagnation of air masses or mete-*
11 *orological inversions;*

12 “(ii) *a meteorological event involving*
13 *high temperatures or lack of precipitation;*
14 *or*

15 “(iii) *air pollution relating to source*
16 *noncompliance.*

17 “(2) *REGULATIONS.—*

18 “(A) *PROPOSED REGULATIONS.—Not later*
19 *than March 1, 2006, after consultation with Fed-*
20 *eral land managers and State air pollution con-*
21 *trol agencies, the Administrator shall publish in*
22 *the Federal Register proposed regulations gov-*
23 *erning the review and handling of air quality*
24 *monitoring data influenced by exceptional*
25 *events.*

1 “(B) *FINAL REGULATIONS.*—Not later than
2 1 year after the date on which the Administrator
3 publishes proposed regulations under subpara-
4 graph (A), and after providing an opportunity
5 for interested persons to make oral presentations
6 of views, data, and arguments regarding the pro-
7 posed regulations, the Administrator shall pro-
8 mulgate final regulations governing the review
9 and handling of air quality monitoring data in-
10 fluenced by an exceptional event that are con-
11 sistent with paragraph (3).

12 “(3) *PRINCIPLES AND REQUIREMENTS.*—

13 “(A) *PRINCIPLES.*—In promulgating regu-
14 lations under this section, the Administrator
15 shall follow—

16 “(i) the principle that protection of
17 public health is the highest priority;

18 “(ii) the principle that timely informa-
19 tion should be provided to the public in any
20 case in which the air quality is unhealthy;

21 “(iii) the principle that all ambient
22 air quality data should be included in a
23 timely manner, an appropriate Federal air
24 quality database that is accessible to the
25 public;

1 “(iv) the principle that each State
2 must take necessary measures to safeguard
3 public health regardless of the source of the
4 air pollution; and

5 “(v) the principle that air quality data
6 should be carefully screened to ensure that
7 events not likely to recur are represented ac-
8 curately in all monitoring data and anal-
9 yses.

10 “(B) *REQUIREMENTS.*—Regulations pro-
11 mulgated under this section shall, at a min-
12 imum, provide that—

13 “(i) the occurrence of an exceptional
14 event must be demonstrated by reliable, ac-
15 curate data that is promptly produced and
16 provided by Federal, State, or local govern-
17 ment agencies;

18 “(ii) a clear causal relationship must
19 exist between the measured exceedances of a
20 national ambient air quality standard and
21 the exceptional event to demonstrate that
22 the exceptional event caused a specific air
23 pollution concentration at a particular air
24 quality monitoring location;

1 “(iii) there is a public process for de-
2 termining whether an event is exceptional;
3 and

4 “(iv) there are criteria and procedures
5 for the Governor of a State to petition the
6 Administrator to exclude air quality moni-
7 toring data that is directly due to excep-
8 tional events from use in determinations by
9 the Environmental Protection Agency with
10 respect to exceedances or violations of the
11 national ambient air quality standards.

12 “(4) *INTERIM PROVISION.*—Until the effective
13 date of a regulation promulgated under paragraph
14 (2), the following guidance issued by the Adminis-
15 trator shall continue to apply:

16 “(A) Guidance on the identification and use
17 of air quality data affected by exceptional events
18 (July 1986).

19 “(B) Areas affected by PM-10 natural
20 events, May 30, 1996.

21 “(C) Appendices I, K, and N to part 50 of
22 title 40, Code of Federal Regulations.”.

23 **SEC. 1619. CONFORMING AMENDMENTS.**

24 Section 176(c)(4) of the Clean Air Act (42 U.S.C.
25 7506(c)(4) is amended—

1 (1) *by redesignating subparagraphs (B) through*
 2 *(D) as subparagraphs (D) through (F), respectively;*

3 (2) *by striking “(4)(A) No later than one year*
 4 *after the date of enactment of the Clean Air Act*
 5 *Amendments of 1990, the Administrator shall pro-*
 6 *mulgate” and inserting the following:*

7 “(4) *CRITERIA AND PROCEDURES FOR DETER-*
 8 *MINING CONFORMITY.—*

9 “(A) *IN GENERAL.—The Administrator*
 10 *shall promulgate, and periodically update,”;*

11 (3) *in subparagraph (A)—*

12 (A) *in the second sentence, by striking “No*
 13 *later than one year after such date of enactment,*
 14 *the Administrator, with the concurrence of the*
 15 *Secretary of Transportation, shall promulgate”*
 16 *and inserting the following:*

17 “(B) *TRANSPORTATION PLANS, PROGRAMS,*
 18 *AND PROJECTS.—The Administrator, with the*
 19 *concurrence of the Secretary of Transportation,*
 20 *shall promulgate, and periodically update,”; and*

21 (B) *in the third sentence, by striking “A*
 22 *suit” and inserting the following:*

23 “(C) *CIVIL ACTION TO COMPEL PROMULGA-*
 24 *TION.—A civil action”;* and

1 (4) *by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:*

2 “(E) *INCLUSION OF CRITERIA AND PROCEDURES IN SIP.*—*Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator’s criteria and procedures for consultation required by subparagraph (D)(i).”*

14 **SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.**

16 (a) *HIGHWAY STORMWATER MITIGATION PROJECTS.*—
17 *Section 133(d) of title 23, United States Code (as amended*
18 *by section 1401(a)(2)(B)), is amended by adding at the end*
19 *the following:*

20 “(5) *HIGHWAY STORMWATER DISCHARGE MITIGATION PROJECTS.*—*Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.”*

1 (b) *HIGHWAY STORMWATER DISCHARGE MITIGATION*
 2 *PROGRAM.*—Subchapter I of chapter 1 of title 23, United
 3 States Code (as amended by section 1601(a)), is amended
 4 by adding at the end the following:

5 **“§ 167. Highway stormwater discharge mitigation pro-**
 6 **gram**

7 “(a) *DEFINITIONS.*—In this section:

8 “(1) *ADMINISTRATOR.*—The term ‘Adminis-

9 trator’ means the Administrator of the Environ-

10 mental Protection Agency.

11 “(2) *ELIGIBLE MITIGATION PROJECT.*—The term

12 ‘eligible mitigation project’ means a practice or tech-

13 nique that—

14 “(A) improves stormwater discharge water

15 quality;

16 “(B) attains preconstruction hydrology;

17 “(C) promotes infiltration of stormwater

18 into groundwater;

19 “(D) recharges groundwater;

20 “(E) minimizes stream bank erosion;

21 “(F) promotes natural filters;

22 “(G) otherwise mitigates water quality im-

23 pacts of highway stormwater discharges, im-

24 proves surface water quality, or enhances

25 groundwater recharge; or

1 “(H) reduces flooding caused by highway
2 stormwater discharge.

3 “(3) *FEDERAL-AID HIGHWAY AND ASSOCIATED*
4 *FACILITY.*—The term ‘Federal-aid highway and asso-
5 ciated facility’ means—

6 “(A) a Federal-aid highway; or

7 “(B) a facility or land owned by a State (or
8 political subdivision of a State) that is directly
9 associated with the Federal-aid highway.

10 “(4) *HIGHWAY STORMWATER DISCHARGE.*—The
11 term ‘highway stormwater discharge’ means
12 stormwater discharge from a Federal-aid highway, or
13 a Federal-aid highway and associated facility, that
14 was constructed before the date of enactment of this
15 section.

16 “(5) *HIGHWAY STORMWATER DISCHARGE MITI-*
17 *GATION.*—The term ‘highway stormwater discharge
18 mitigation’ means—

19 “(A) the reduction of water quality impacts
20 of stormwater discharges from Federal-aid high-
21 ways or Federal-aid highways and associated fa-
22 cilities; or

23 “(B) the enhancement of groundwater re-
24 charge from stormwater discharges from Federal-

1 *aid highways or Federal-aid highways and asso-*
2 *ciated facilities.*

3 “(6) *PROGRAM.*—*The term ‘program’ means the*
4 *highway stormwater discharge mitigation program*
5 *established under subsection (b).*

6 “(b) *ESTABLISHMENT.*—*The Secretary shall establish*
7 *a highway stormwater discharge mitigation program—*

8 “(1) *to improve the quality of stormwater dis-*
9 *charge from Federal-aid highways or Federal-aid*
10 *highways and associated facilities; and*

11 “(2) *to enhance groundwater recharge.*

12 “(c) *PRIORITY OF PROJECTS.*—*For projects funded*
13 *from the allocation under section 133(d)(6), a State shall*
14 *give priority to projects sponsored by a State or local gov-*
15 *ernment that assist the State or local government in com-*
16 *plying with the Federal Water Pollution Control Act (33*
17 *U.S.C. 1251 et seq.).*

18 “(d) *GUIDANCE.*—

19 “(1) *IN GENERAL.*—*Not later than 180 days*
20 *after the date of enactment of this section, the Sec-*
21 *retary, in consultation with the Administrator, shall*
22 *issue guidance to assist States in carrying out this*
23 *section.*

24 “(2) *REQUIREMENTS FOR GUIDANCE.*—*The guid-*
25 *ance issued under paragraph (1) shall include infor-*

1 **SEC. 1622. CLEAN SCHOOL BUS PROGRAM.**

2 (a) *DEFINITIONS.*—*In this section:*

3 (1) *ADMINISTRATOR.*—*The term “Adminis-*
4 *trator” means the Administrator of the Environ-*
5 *mental Protection Agency.*

6 (2) *ALTERNATIVE FUEL.*—*The term “alternative*
7 *fuel” means—*

8 (A) *liquefied natural gas, compressed nat-*
9 *ural gas, liquefied petroleum gas, hydrogen, or*
10 *propane;*

11 (B) *methanol or ethanol at no less than 85*
12 *percent by volume; or*

13 (C) *biodiesel conforming with standards*
14 *published by the American Society for Testing*
15 *and Materials as of the date of enactment of this*
16 *Act.*

17 (3) *CLEAN SCHOOL BUS.*—*The term “clean*
18 *school bus” means a school bus with a gross vehicle*
19 *weight of greater than 14,000 pounds that—*

20 (A) *is powered by a heavy duty engine; and*

21 (B) *is operated solely on an alternative fuel*
22 *or ultra-low sulfur diesel fuel.*

23 (4) *ELIGIBLE RECIPIENT.*—

24 (A) *IN GENERAL.*—*Subject to subparagraph*

25 (B), *the term “eligible recipient” means—*

1 (i) 1 or more local or State govern-
2 mental entities responsible for—

3 (I) providing school bus service to
4 1 or more public school systems; or

5 (II) the purchase of school buses;

6 (ii) 1 or more contracting entities that
7 provide school bus service to 1 or more pub-
8 lic school systems; or

9 (iii) a nonprofit school transportation
10 association.

11 (B) SPECIAL REQUIREMENTS.—In the case
12 of eligible recipients identified under clauses (ii)
13 and (iii), the Administrator shall establish time-
14 ly and appropriate requirements for notice and
15 may establish timely and appropriate require-
16 ments for approval by the public school systems
17 that would be served by buses purchased or ret-
18 rofit using grant funds made available under
19 this section.

20 (5) RETROFIT TECHNOLOGY.—The term “retrofit
21 technology” means a particulate filter or other emis-
22 sions control equipment that is verified or certified by
23 the Administrator or the California Air Resources
24 Board as an effective emission reduction technology
25 when installed on an existing school bus.

1 (6) *SECRETARY.*—*The term “Secretary” means*
2 *the Secretary of Energy.*

3 (7) *ULTRA-LOW SULFUR DIESEL FUEL.*—*The*
4 *term “ultra-low sulfur diesel fuel” means diesel fuel*
5 *that contains sulfur at not more than 15 parts per*
6 *million.*

7 (b) *PROGRAM FOR RETROFIT OR REPLACEMENT OF*
8 *CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL*
9 *BUSES.*—

10 (1) *ESTABLISHMENT.*—

11 (A) *IN GENERAL.*—*The Administrator, in*
12 *consultation with the Secretary and other appro-*
13 *priate Federal departments and agencies, shall*
14 *establish a program for awarding grants on a*
15 *competitive basis to eligible recipients for the re-*
16 *placement, retrofit (including repowering,*
17 *aftertreatment, and remanufactured engines) of,*
18 *or purchase of alternative fuels for, certain exist-*
19 *ing school buses.*

20 (B) *BALANCING.*—*In awarding grants*
21 *under this section, the Administrator shall, to*
22 *the maximum extent practicable, achieve an ap-*
23 *propriate balance between awarding grants—*

24 (i) *to replace school buses;*

25 (ii) *to install retrofit technologies; and*

1 (iii) to purchase and use alternative
2 fuel.

3 (2) *PRIORITY OF GRANT APPLICATIONS.*—

4 (A) *REPLACEMENT.*—*In the case of grant*
5 *applications to replace school buses, the Admin-*
6 *istrator shall give priority to applicants that*
7 *propose to replace school buses manufactured be-*
8 *fore model year 1977.*

9 (B) *RETROFITTING.*—*In the case of grant*
10 *applications to retrofit school buses, the Admin-*
11 *istrator shall give priority to applicants that*
12 *propose to retrofit school buses manufactured in*
13 *or after model year 1991.*

14 (3) *USE OF SCHOOL BUS FLEET.*—

15 (A) *IN GENERAL.*—*All school buses acquired*
16 *or retrofitted with funds provided under this sec-*
17 *tion shall be operated as part of the school bus*
18 *fleet for which the grant was made for not less*
19 *than 5 years.*

20 (B) *MAINTENANCE, OPERATION, AND FUEL-*
21 *ING.*—*New school buses and retrofit technology*
22 *shall be maintained, operated, and fueled accord-*
23 *ing to manufacturer recommendations or State*
24 *requirements.*

1 (4) *RETROFIT GRANTS.*—*The Administrator may*
2 *award grants for up to 100 percent of the retrofit*
3 *technologies and installation costs.*

4 (5) *REPLACEMENT GRANTS.*—

5 (A) *ELIGIBILITY FOR 50 PERCENT*
6 *GRANTS.*—*The Administrator may award grants*
7 *for replacement of school buses in the amount of*
8 *up to 1/2 of the acquisition costs (including fuel-*
9 *ing infrastructure) for —*

10 (i) *clean school buses with engines*
11 *manufactured in model year 2005 or 2006*
12 *that emit not more than—*

13 (I) *1.8 grams per brake horse-*
14 *power-hour of non-methane hydro-*
15 *carbons and oxides of nitrogen; and*

16 (II) *.01 grams per brake horse-*
17 *power-hour of particulate matter; or*

18 (ii) *clean school buses with engines*
19 *manufactured in model year 2007, 2008, or*
20 *2009 that satisfy regulatory requirements*
21 *established by the Administrator for emis-*
22 *sions of oxides of nitrogen and particulate*
23 *matter to be applicable for school buses*
24 *manufactured in model year 2010.*

1 (B) *ELIGIBILITY FOR 25 PERCENT*
 2 *GRANTS.—The Administrator may award grants*
 3 *for replacement of school buses in the amount of*
 4 *up to 1/4 of the acquisition costs (including fuel-*
 5 *ing infrastructure) for —*

6 (i) *clean school buses with engines*
 7 *manufactured in model year 2005 or 2006*
 8 *that emit not more than—*

9 (I) *2.5 grams per brake horse-*
 10 *power-hour of non-methane hydro-*
 11 *carbons and oxides of nitrogen; and*

12 (II) *.01 grams per brake horse-*
 13 *power-hour of particulate matter; or*

14 (ii) *clean school buses with engines*
 15 *manufactured in model year 2007 or there-*
 16 *after that satisfy regulatory requirements*
 17 *established by the Administrator for emis-*
 18 *sions of oxides of nitrogen and particulate*
 19 *matter from school buses manufactured in*
 20 *that model year.*

21 (6) *ULTRA-LOW SULFUR DIESEL FUEL.—*

22 (A) *IN GENERAL.—In the case of a grant re-*
 23 *ipient receiving a grant for the acquisition of*
 24 *ultra-low sulfur diesel fuel school buses with en-*
 25 *gines manufactured in model year 2005 or 2006,*

1 the grant recipient shall provide, to the satisfac-
2 tion of the Administrator—

3 (i) documentation that diesel fuel con-
4 taining sulfur at not more than 15 parts
5 per million is available for carrying out the
6 purposes of the grant; and

7 (ii) a commitment by the applicant to
8 use that fuel in carrying out the purposes of
9 the grant.

10 (7) *DEPLOYMENT AND DISTRIBUTION.*—The Ad-
11 ministrators shall, to the maximum extent
12 practicable—

13 (A) achieve nationwide deployment of clean
14 school buses through the program under this sec-
15 tion; and

16 (B) ensure a broad geographic distribution
17 of grant awards, with no State receiving more
18 than 10 percent of the grant funding made avail-
19 able under this section during a fiscal year.

20 (8) *ANNUAL REPORT.*—

21 (A) *IN GENERAL.*—Not later than January
22 31 of each year, the Administrator shall submit
23 to Congress a report that—

24 (i) evaluates the implementation of this
25 section; and

1 (ii) describes—

2 (I) the total number of grant ap-
3 plications received;

4 (II) the number and types of al-
5 ternative fuel school buses, ultra-low
6 sulfur diesel fuel school buses, and ret-
7 rofitted buses requested in grant appli-
8 cations;

9 (III) grants awarded and the cri-
10 teria used to select the grant recipients;

11 (IV) certified engine emission lev-
12 els of all buses purchased or retrofitted
13 under this section;

14 (V) an evaluation of the in-use
15 emission level of buses purchased or
16 retrofitted under this section; and

17 (VI) any other information the
18 Administrator considers appropriate.

19 (c) *EDUCATION.*—

20 (1) *IN GENERAL.*—Not later than 90 days after
21 the date of enactment of this Act, the Administrator
22 shall develop an education outreach program to pro-
23 mote and explain the grant program.

24 (2) *COORDINATION WITH STAKEHOLDERS.*—The
25 outreach program shall be designed and conducted in

1 *conjunction with national school bus transportation*
2 *associations and other stakeholders.*

3 (3) *COMPONENTS.—The outreach program*
4 *shall—*

5 (A) *inform potential grant recipients on the*
6 *process of applying for grants;*

7 (B) *describe the available technologies and*
8 *the benefits of the technologies;*

9 (C) *explain the benefits of participating in*
10 *the grant program; and*

11 (D) *include, as appropriate, information*
12 *from the annual report required under subsection*
13 *(b)(8).*

14 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
15 *authorized to be appropriated to the Administrator to carry*
16 *out this section, to remain available until expended—*

17 (1) *\$55,000,000 for each of fiscal years 2006 and*
18 *2007; and*

19 (2) *such sums as are necessary for each of fiscal*
20 *years 2008, 2009, and 2010.*

21 **SEC. 1623. CONSERVE BY BICYCLING PROGRAM.**

22 (a) *DEFINITIONS.—In this section:*

23 (1) *PROGRAM.—The term “program” means the*
24 *Conserve by Bicycling Program established by sub-*
25 *section (b).*

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

3 (b) *ESTABLISHMENT.*—*There is established within the*
4 *Department of Transportation a program to be known as*
5 *the “Conserve by Bicycling Program”.*

6 (c) *PROJECTS.*—

7 (1) *IN GENERAL.*—*In carrying out the program,*
8 *the Secretary shall establish not more than 10 pilot*
9 *projects that are—*

10 (A) *dispersed geographically throughout the*
11 *United States; and*

12 (B) *designed to conserve energy resources by*
13 *encouraging the use of bicycles in place of motor*
14 *vehicles.*

15 (2) *REQUIREMENTS.*—*A pilot project described*
16 *in paragraph (1) shall—*

17 (A) *use education and marketing to convert*
18 *motor vehicle trips to bicycle trips;*

19 (B) *document project results and energy*
20 *savings (in estimated units of energy conserved);*

21 (C) *facilitate partnerships among interested*
22 *parties in at least 2 of the fields of—*

23 (i) *transportation;*

24 (ii) *law enforcement;*

25 (iii) *education;*

1 (iv) public health;

2 (v) environment; and

3 (vi) energy;

4 (D) maximize bicycle facility investments;

5 (E) demonstrate methods that may be used
6 in other regions of the United States; and

7 (F) facilitate the continuation of ongoing
8 programs that are sustained by local resources.

9 (3) *COST SHARING*.—At least 20 percent of the
10 cost of each pilot project described in paragraph (1)
11 shall be provided from State or local sources.

12 (d) *ENERGY AND BICYCLING RESEARCH STUDY*.—

13 (1) *IN GENERAL*.—Not later than 2 years after
14 the date of enactment of this Act, the Secretary shall
15 enter into a contract with the National Academy of
16 Sciences for, and the National Academy of Sciences
17 shall conduct and submit to Congress a report on, a
18 study on the feasibility of converting motor vehicle
19 trips to bicycle trips.

20 (2) *COMPONENTS*.—The study shall—

21 (A) document the results or progress of the
22 pilot projects under subsection (b);

23 (B) determine the type and duration of
24 motor vehicle trips that people in the United

1 *States may feasibly make by bicycle, taking into*
 2 *consideration factors such as—*

3 *(i) weather;*

4 *(ii) land use and traffic patterns;*

5 *(iii) the carrying capacity of bicycles;*

6 *and*

7 *(iv) bicycle infrastructure;*

8 *(C) determine any energy savings that*
 9 *would result from the conversion of motor vehicle*
 10 *trips to bicycle trips;*

11 *(D) include a cost-benefit analysis of bicycle*
 12 *infrastructure investments; and*

13 *(E) include a description of any factors*
 14 *that would encourage more motor vehicle trips to*
 15 *be replaced with bicycle trips.*

16 ***Subtitle G—Operations***

17 ***SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND*** 18 ***OPERATIONS.***

19 *(a) SURFACE TRANSPORTATION PROGRAM ELIGI-*
 20 *BILITY.—Section 133(b) of title 23, United States Code (as*
 21 *amended by section 1601(a)(2)), is amended by adding at*
 22 *the end the following:*

23 *“(16) Regional transportation operations col-*
 24 *laboration and coordination activities that are associ-*
 25 *ated with regional improvements, such as traffic inci-*

1 *dent management, technology deployment, emergency*
2 *management and response, traveler information, and*
3 *regional congestion relief.*

4 “(17) *RUSH HOUR CONGESTION RELIEF.*—

5 “(A) *IN GENERAL.*—*Subject to subpara-*
6 *graph (B), a State may spend the funds appor-*
7 *tioned under this section to reduce traffic delays*
8 *caused by motor vehicle accidents and break-*
9 *downs on highways during peak driving times.*

10 “(B) *USE OF FUNDS.*—*A State, metropoli-*
11 *tan planning organization, or local government*
12 *may use the funds under subparagraph (A)—*

13 “(i) *to develop a region-wide coordi-*
14 *nated plan to mitigate traffic delays caused*
15 *by motor vehicle accidents and breakdowns;*

16 “(ii) *to purchase or lease telecommuni-*
17 *cations equipment for first responders;*

18 “(iii) *to purchase or lease towing and*
19 *recovery services;*

20 “(iv) *to pay contractors for towing and*
21 *recovery;*

22 “(v) *to rent vehicle storage areas adja-*
23 *cent to roadways;*

24 “(vi) *to fund service patrols, equip-*
25 *ment, and operations;*

1 “(vii) to purchase incident detection
2 equipment;

3 “(viii) to carry out training.”.

4 (b) *CONGESTION MITIGATION AND AIR QUALITY IM-*
5 *PROVEMENT PROGRAM ELIGIBILITY.*—Section 149(b)(5) of
6 *title 23, United States Code, is amended by inserting “im-*
7 *prove transportation systems management and operations,”*
8 *after “intersections,”.*

9 (c) *TRANSPORTATION SYSTEMS MANAGEMENT AND OP-*
10 *ERATIONS.*—

11 (1) *IN GENERAL.*—Subchapter I of chapter 1 of
12 *title 23, United States Code (as amended by section*
13 *1620(b)), is amended by adding at the end the fol-*
14 *lowing:*

15 **“§ 168. Transportation systems management and oper-**
16 **ations**

17 “(a) *IN GENERAL.*—The Secretary shall carry out a
18 *transportation systems management and operations pro-*
19 *gram to—*

20 “(1) *ensure efficient and effective management*
21 *and operation of transportation systems through col-*
22 *laboration, coordination, and real-time information*
23 *sharing at a regional and Statewide level among—*

24 “(A) *managers and operators of major*
25 *modes of transportation;*

1 “(B) public safety officials; and

2 “(C) the general public; and

3 “(2) manage and operate transportation systems
4 in a coordinated manner to preserve the capacity and
5 maximize the performance of transportation facilities
6 for travelers and carriers.

7 “(b) *AUTHORIZED ACTIVITIES.*—

8 “(1) *IN GENERAL.*—In carrying out the program
9 under subsection (a), the Secretary may carry out ac-
10 tivities to—

11 “(A) encourage managers and operators of
12 major modes of transportation, public safety offi-
13 cials, and transportation planners in urbanized
14 areas that are responsible for conducting the
15 day-to-day management, operations, public safe-
16 ty, and planning of transportation facilities and
17 services to collaborate on and coordinate, on a
18 regional level and in a continuous and sustained
19 manner, improved transportation systems man-
20 agement and operations; and

21 “(B) encourage States to—

22 “(i) establish a system of basic real-
23 time monitoring for the surface transpor-
24 tation system; and

1 “(ii) provide the means to share the
2 data gathered under clause (i) among—

3 “(I) highway, transit, and public
4 safety agencies;

5 “(II) jurisdictions (including
6 States, cities, counties, and metropoli-
7 tan planning organizations);

8 “(III) private-sector entities; and

9 “(IV) the general public.

10 “(2) ACTIVITIES.—Activities to be carried out
11 under paragraph (1) include—

12 “(A) developing a regional concept of oper-
13 ations that defines a regional strategy shared by
14 all transportation and public safety participants
15 with respect to the manner in which the trans-
16 portation systems of the region should be man-
17 aged, operated, and measured;

18 “(B) the sharing of information among op-
19 erators, service providers, public safety officials,
20 and the general public; and

21 “(C) guiding, in a regionally-coordinated
22 manner and in a manner consistent with and
23 integrated into the metropolitan and statewide
24 transportation planning processes and regional
25 intelligent transportation system architecture,

1 *the implementation of regional transportation*
2 *system management and operations initiatives,*
3 *including—*

4 “(i) *emergency evacuation and re-*
5 *sponse;*

6 “(ii) *traffic incident management;*

7 “(iii) *technology deployment; and*

8 “(iv) *traveler information systems de-*
9 *livery.*

10 “(c) *COOPERATION.—In carrying out the program*
11 *under subsection (a), the Secretary may assist and cooper-*
12 *ate with other Federal agencies, State and local govern-*
13 *ments, metropolitan planning organizations, private indus-*
14 *try, and other interested parties to improve regional col-*
15 *laboration and real-time information sharing between man-*
16 *agers and operators of major modes of transportation, pub-*
17 *lic safety officials, emergency managers, and the general*
18 *public to increase the security, safety, and reliability of*
19 *Federal-aid highways.*

20 “(d) *GUIDANCE; REGULATIONS.—*

21 “(1) *IN GENERAL.—In carrying out the program*
22 *under subsection (a), the Secretary may issue guid-*
23 *ance or promulgate regulations for the procurement of*
24 *transportation system management and operations*
25 *facilities, equipment, and services, including—*

1 “(A) equipment procured in preparation for
2 natural disasters, disasters caused by human ac-
3 tivity, and emergencies;

4 “(B) system hardware;

5 “(C) software; and

6 “(D) software integration services.

7 “(2) *CONSIDERATIONS.*—In developing the guid-
8 ance or regulations under paragraph (1), the Sec-
9 retary may consider innovative procurement methods
10 that support the timely and streamlined execution of
11 transportation system management and operations
12 programs and projects.

13 “(3) *FINANCIAL ASSISTANCE.*—The Secretary
14 may authorize the use of funds made available under
15 section 104(b)(3) to provide assistance for regional
16 operations collaboration and coordination activities
17 that are associated with regional improvements, such
18 as—

19 “(A) traffic incident management;

20 “(B) technology deployment;

21 “(C) emergency management and response;

22 “(D) traveler information; and

23 “(E) congestion relief.”.

24 “(2) *CONFORMING AMENDMENT.*—The analysis for
25 subchapter I of chapter 1 of title 23, United States

1 Code (as amended by section 1620(c)), is amended by
2 adding at the end:

“168. Transportation systems management and operations.”.

3 **SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMA-**
4 **TION PROGRAM.**

5 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
6 23, United States Code (as amended by section 1701(c)(1)),
7 is amended by adding at the end the following:

8 **“§ 169. Real-time system management information**
9 **program**

10 “(a) *IN GENERAL.*—The Secretary shall carry out a
11 real-time system management information program to—

12 “(1) provide a nationwide system of basic real-
13 time information for managing and operating the
14 surface transportation system;

15 “(2)(A) identify long-range real-time highway
16 and transit monitoring needs; and

17 “(B) develop plans and strategies for meeting
18 those needs;

19 “(3) provide the capability and means to share
20 the basic real-time information with State and local
21 governments and the traveling public; and

22 “(4) provide the nationwide capability to mon-
23 itor, in real-time, the traffic and travel conditions of
24 major highways in the United States, and to share

1 *that information with State and local governments*
2 *and the traveling public, to—*

3 *“(A) improve the security of the surface*
4 *transportation system;*

5 *“(B) address congestion problems;*

6 *“(C) support improved response to weather*
7 *events; and*

8 *“(D) facilitate the distribution of national*
9 *and regional traveler information.*

10 *“(b) DATA EXCHANGE FORMATS.—Not later than 1*
11 *year after the date of enactment of this section, the Sec-*
12 *retary shall establish data exchange formats to ensure that*
13 *the data provided by highway and transit monitoring sys-*
14 *tems (including statewide incident reporting systems) can*
15 *readily be exchanged between jurisdictions to facilitate the*
16 *nationwide availability of information on traffic and travel*
17 *conditions.*

18 *“(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Not*
19 *later than 2 years after the date of enactment of this section,*
20 *or not later than 5 years after the date of enactment of this*
21 *section if the Secretary determines that adequate real-time*
22 *communications capability will not be available within 2*
23 *years after the date of enactment of this section, each State*
24 *shall establish a statewide incident reporting system to fa-*

1 *facilitate the real-time electronic reporting of highway and*
2 *transit incidents to a central location for use in—*

3 *“(1) monitoring an incident;*

4 *“(2) providing accurate traveler information on*
5 *the incident; and*

6 *“(3) responding to the incident as appropriate.*

7 *“(d) REGIONAL ITS ARCHITECTURE.—*

8 *“(1) IN GENERAL.—In developing or updating*
9 *regional intelligent transportation system architec-*
10 *tures under section 940.9 of title 23, Code of Federal*
11 *Regulations (or any successor regulation), States and*
12 *local governments shall address—*

13 *“(A) the real-time highway and transit in-*
14 *formation needs of the State or local government,*
15 *including coverage, monitoring systems, data fu-*
16 *sion and archiving, and methods of exchanging*
17 *or sharing information; and*

18 *“(B) the systems needed to meet those needs.*

19 *“(2) DATA EXCHANGE FORMATS.—In developing*
20 *or updating regional intelligent transportation system*
21 *architectures, States and local governments are en-*
22 *couraged to incorporate the data exchange formats de-*
23 *veloped by the Secretary under subsection (b) to en-*
24 *sure that the data provided by highway and transit*
25 *monitoring systems can readily be—*

1 “(A) exchanged between jurisdictions; and

2 “(B) shared with the traveling public.

3 “(e) *ELIGIBLE FUNDING*.—Subject to project approval
4 by the Secretary, a State may—

5 “(1) use funds available to the State under sec-
6 tion 505(a) to carry out activities relating to the
7 planning of real-time monitoring elements; and

8 “(2) use funds apportioned to the State under
9 paragraphs (1) and (3) of section 104(b) to carry out
10 activities relating to the planning and deployment of
11 real-time monitoring elements.”.

12 (b) *CONFORMING AMENDMENT*.—The analysis for sub-
13 chapter I of chapter 1 of title 23, United States Code (as
14 amended by section 1701(c)(2)), is amended adding at the
15 end the following:

 “169. Real-time system management information program.”.

16 **SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN**
17 **SERVICES.**

18 Section 112(b)(2) of title 23, United States Code, is
19 amended—

20 (1) in subparagraph (A), by striking “title 40”
21 and all that follows through the period and inserting
22 “title 40.”;

23 (2) by striking subparagraph (B);

1 (3) by redesignating subparagraphs (C) through
2 (F) as subparagraphs (B) through (E), respectively;
3 and

4 (4) by striking subparagraph (G).

5 **SEC. 1704. DESIGNATION OF TRANSPORTATION MANAGE-**
6 **MENT AREAS.**

7 (a) *FUNDING.*—Section 134(d)(3)(C)(vi) of title 23,
8 *United States Code*, is amended by striking subclause (II)
9 and inserting the following:

10 “(II) *FUNDING.*—In addition to
11 funds made available to the metropoli-
12 tan planning organization for the Lake
13 Tahoe Region under this title and
14 chapter 53 of title 49, 1 percent of all
15 funds distributed under section 202
16 shall be used to carry out the transpor-
17 tation planning process for the Lake
18 Tahoe region under this subpara-
19 graph.”.

20 (b) *SPECIAL DESIGNATION.*—For the purpose of any
21 applicable program under title 23, *United States Code*, the
22 city of Norman, Oklahoma, shall be considered to be part
23 of the Oklahoma City urbanized area.

1 ***Subtitle H—Federal-Aid***
2 ***Stewardship***

3 **SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.**

4 *Section 103(c)(4)(B) of title 23, United States Code,*
5 *is amended—*

6 (1) *in clause (ii), by striking “12” and inserting*
7 *“20”; and*

8 (2) *in clause (iii)—*

9 (A) *in subclause (I), by striking “in the*
10 *agreement between the Secretary and the State*
11 *or States”; and*

12 (B) *by adding at the end the following:*

13 “(III) *EXISTING AGREEMENTS.—*

14 *An agreement described in clause (ii)*
15 *that is entered into before the date of*
16 *enactment of this subparagraph shall*
17 *be deemed to include the 20-year time*
18 *limitation described in that clause, re-*
19 *gardless of any earlier construction*
20 *completion date in the agreement.”.*

21 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

22 (a) *IN GENERAL.—Section 106 of title 23, United*
23 *States Code, is amended—*

24 (1) *by striking subsection (e) and inserting the*
25 *following:*

1 “(e) *VALUE ENGINEERING ANALYSIS.*—

2 “(1) *DEFINITION OF VALUE ENGINEERING ANAL-*
3 *YSIS.*—

4 “(A) *IN GENERAL.*—*In this subsection, the*
5 *term ‘value engineering analysis’ means a sys-*
6 *tematic process of review and analysis of a*
7 *project, during the concept and design phases, by*
8 *a multidisciplined team of persons not involved*
9 *in the project, that is conducted to provide rec-*
10 *ommendations such as those described in sub-*
11 *paragraph (B) for—*

12 “(i) *providing the needed functions*
13 *safely, reliably, and at the lowest overall*
14 *cost;*

15 “(ii) *improving the value and quality*
16 *of the project; and*

17 “(iii) *reducing the time to complete the*
18 *project.*

19 “(B) *INCLUSIONS.*—*The recommendations*
20 *referred to in subparagraph (A) include, with re-*
21 *spect to a project—*

22 “(i) *combining or eliminating other-*
23 *wise inefficient use of costly parts of the*
24 *original proposed design for the project; and*

1 “(i) completely redesigning the project
2 using different technologies, materials, or
3 methods so as to accomplish the original
4 purpose of the project.

5 “(2) ANALYSIS.—The State shall provide a value
6 engineering analysis or other cost-reduction analysis
7 for—

8 “(A) each project on the Federal-Aid System
9 with an estimated total cost of \$25,000,000 or
10 more;

11 “(B) a bridge project with an estimated
12 total cost of \$20,000,000 or more; and

13 “(C) any other project the Secretary deter-
14 mines to be appropriate.

15 “(3) MAJOR PROJECTS.—The Secretary may re-
16 quire more than 1 analysis described in paragraph
17 (2) for a major project described in subsection (h).

18 “(4) REQUIREMENTS.—Analyses described in
19 paragraph (1) for a bridge project shall—

20 “(A) include bridge substructure require-
21 ments based on construction material; and

22 “(B) be evaluated—

23 “(i) on engineering and economic
24 bases, taking into consideration acceptable
25 designs for bridges; and

1 “(i) using an analysis of life-cycle
2 costs and duration of project construction.”;
3 and

4 (2) by striking subsections (g) and (h) and in-
5 serting the following:

6 “(g) OVERSIGHT PROGRAM.—

7 “(1) PROGRAM.—

8 “(A) IN GENERAL.—The Secretary shall es-
9 tablish an oversight program to monitor the ef-
10 fective and efficient use of funds made available
11 under this title.

12 “(B) MINIMUM REQUIREMENTS.—At a min-
13 imum, the program shall monitor and respond to
14 all areas relating to financial integrity and
15 project delivery.

16 “(2) FINANCIAL INTEGRITY.—

17 “(A) FINANCIAL MANAGEMENT SYSTEMS.—

18 “(i) IN GENERAL.—The Secretary shall
19 perform annual reviews of the financial
20 management systems of State transpor-
21 tation departments that affect projects ap-
22 proved under subsection (a).

23 “(ii) REVIEW AREAS.—In carrying out
24 clause (i), the Secretary shall use risk as-

1 *assessment procedures to identify areas to be*
2 *reviewed.*

3 “(B) *PROJECT COSTS.*—*The Secretary*
4 *shall—*

5 “(i) *develop minimum standards for*
6 *estimating project costs; and*

7 “(ii) *periodically evaluate practices of*
8 *the States for—*

9 “(I) *estimating project costs;*

10 “(II) *awarding contracts; and*

11 “(III) *reducing project costs.*

12 “(C) *RESPONSIBILITY OF THE STATES.*—

13 “(i) *IN GENERAL.*—*Each State shall be*
14 *responsible for ensuring that subrecipients*
15 *of Federal funds within the State under this*
16 *section have—*

17 “(I) *sufficient accounting controls*
18 *to properly manage the Federal funds;*

19 *and*

20 “(II) *adequate project delivery*
21 *systems for projects approved under*
22 *this section.*

23 “(ii) *REVIEW BY SECRETARY.*—*The*
24 *Secretary shall periodically review moni-*
25 *toring by the States of those subrecipients.*

1 “(3) *PROJECT DELIVERY.*—*The Secretary shall—*

2 “(A) *perform annual reviews of the project*
3 *delivery system of each State, including analysis*
4 *of 1 or more activities that are involved in the*
5 *life cycle of a project; and*

6 “(B) *employ risk assessment procedures to*
7 *identify areas to be reviewed.*

8 “(4) *SPECIFIC OVERSIGHT RESPONSIBILITIES.*—
9 *Nothing in this section discharges or otherwise affects*
10 *any oversight responsibility of the Secretary—*

11 “(A) *specifically provided for under this*
12 *title or other Federal law; or*

13 “(B) *for the design and construction of all*
14 *Appalachian development highways under sec-*
15 *tion 14501 of title 40 or section 170 of this title.*

16 “(h) *MAJOR PROJECTS.*—

17 “(1) *IN GENERAL.*—*Notwithstanding any other*
18 *provision of this section, a recipient of Federal finan-*
19 *cial assistance for a project under this title with an*
20 *estimated total cost of \$1,000,000,000 or more, and*
21 *recipients for such other projects as may be identified*
22 *by the Secretary, shall submit to the Secretary for*
23 *each project—*

24 “(A) *a project management plan; and*

25 “(B) *an annual financial plan.*

1 “(2) *PROJECT MANAGEMENT PLAN.*—A project
2 *management plan shall document—*

3 “(A) *the procedures and processes that are*
4 *in effect to provide timely information to the*
5 *project decisionmakers to effectively manage the*
6 *scope, costs, schedules, and quality of, and the*
7 *Federal requirements applicable to, the project;*
8 *and*

9 “(B) *the role of the agency leadership and*
10 *management team in the delivery of the project.*

11 “(3) *FINANCIAL PLAN.*—A financial plan shall—

12 “(A) *be based on detailed estimates of the*
13 *cost to complete the project; and*

14 “(B) *provide for the annual submission of*
15 *updates to the Secretary that are based on rea-*
16 *sonable assumptions, as determined by the Sec-*
17 *retary, of future increases in the cost to complete*
18 *the project.*

19 “(i) *OTHER PROJECTS.*—A recipient of Federal finan-
20 *cial assistance for a project under this title that receives*
21 *\$100,000,000 or more in Federal assistance for the project,*
22 *and that is not covered by subsection (h), shall prepare, and*
23 *make available to the Secretary at the request of the Sec-*
24 *retary, an annual financial plan for the project.”.*

25 (b) *CONFORMING AMENDMENTS.*—

1 (1) *Section 114(a) of title 23, United States*
2 *Code, is amended—*

3 (A) *in the first sentence by striking “high-*
4 *ways or portions of highways located on a Fed-*
5 *eral-aid system” and inserting “Federal-aid*
6 *highway or a portion of a Federal-aid highway”;*
7 *and*

8 (B) *by striking the second sentence and in-*
9 *serting “The Secretary shall have the right to*
10 *conduct such inspections and take such corrective*
11 *action as the Secretary determines to be appro-*
12 *priate.”.*

13 (2) *Section 117 of title 23, United States Code,*
14 *is amended—*

15 (A) *by striking subsection (d); and*

16 (B) *by redesignating subsections (e) through*
17 *(h) as subsections (d) through (g), respectively.*

18 **SEC. 1803. REVISION OF REGULATIONS.**

19 *Section 112(b)(3) of title 23, United States Code, is*
20 *amended—*

21 (1) *by redesignating subparagraph (D) as sub-*
22 *paragraph (E); and*

23 (2) *by striking subparagraph (C) and inserting*
24 *the following:*

1 “(C) *QUALIFIED PROJECTS.*—A qualified
2 project referred to in subparagraph (A) is a
3 project under this chapter (including intermodal
4 projects) for which the Secretary has approved
5 the use of design-build contracting under criteria
6 specified in regulations promulgated by the Sec-
7 retary.

8 “(D) *REGULATORY PROCESS.*—Not later
9 than 90 days after the date of enactment of the
10 *Safe, Affordable, Flexible, and Efficient Trans-*
11 *portation Equity Act of 2005, the Secretary shall*
12 *promulgate revised regulations under section*
13 *1307(c) of the Transportation Equity Act for*
14 *21st Century (23 U.S.C. 112 note; 112 Stat.*
15 *230) that—*

16 “(i) do not preclude State transpor-
17 tation departments or local transportation
18 agencies from—

19 “(I) issuing requests for proposals;

20 “(II) proceeding with awards of
21 design-build contracts; or

22 “(III) issuing notices to proceed
23 with preliminary design work under
24 design-build contracts;

1 *prior to compliance with section 102 of the National Envi-*
 2 *ronmental Policy Act of 1969 (42 U.S.C. 4332);*

3 *“(ii) require that the State transpor-*
 4 *tation department or local transportation*
 5 *agency receive concurrence from the Sec-*
 6 *retary before carrying out an activity under*
 7 *clause (i); and*

8 *“(iii) preclude the design-build con-*
 9 *tractor from proceeding with final design or*
 10 *construction of any permanent improve-*
 11 *ment prior to completion of the process*
 12 *under section 102 of the National Environ-*
 13 *mental Policy Act of 1969 (42 U.S.C.*
 14 *4332).”.*

15 **SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.**

16 *(a) ADVANCE CONSTRUCTION.—Section 115 of title 23,*
 17 *United States Code, is amended—*

18 *(1) by redesignating subsection (c) as subsection*
 19 *(d);*

20 *(2) by redesignating subsections (a)(2),*
 21 *(a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1),*
 22 *and (c)(2), respectively, and indenting appropriately;*

23 *(3) by striking “(a) CONGESTION” and all that*
 24 *follows through subsection (a)(1)(B);*

25 *(4) by striking subsection (b); and*

1 (5) by inserting after the section heading the fol-
2 lowing:

3 “(a) *IN GENERAL.*—The Secretary may authorize a
4 State to proceed with a project authorized under this title—

5 “(1) without the use of Federal funds; and

6 “(2) in accordance with all procedures and re-
7 quirements applicable to the project other than those
8 procedures and requirements that limit the State to
9 implementation of a project—

10 “(A) with the aid of Federal funds pre-
11 viously apportioned or allocated to the State; or

12 “(B) with obligation authority previously
13 allocated to the State.

14 “(b) *OBLIGATION OF FEDERAL SHARE.*—The Sec-
15 retary, on the request of a State and execution of a project
16 agreement, may obligate all or a portion of the Federal
17 share of the project authorized under this section from any
18 category of funds for which the project is eligible.”.

19 (b) *OBLIGATION AND RELEASE OF FUNDS.*—Section
20 118 of title 23, United States Code, is amended by striking
21 subsection (d) and inserting the following:

22 “(d) *OBLIGATION AND RELEASE OF FUNDS.*—

23 “(1) *IN GENERAL.*—Funds apportioned or allo-
24 cated to a State for a particular purpose for any fis-
25 cal year shall be considered to be obligated if a sum

1 equal to the total of the funds apportioned or allo-
2 cated to the State for that purpose for that fiscal year
3 and previous fiscal years is obligated.

4 “(2) *RELEASED FUNDS*.—Any funds released by
5 the final payment for a project, or by modifying the
6 project agreement for a project, shall be—

7 “(A) credited to the same class of funds pre-
8 viously apportioned or allocated to the State;
9 and

10 “(B) immediately available for obligation.

11 “(3) *NET OBLIGATIONS*.—Notwithstanding any
12 other provision of law (including a regulation), obli-
13 gations recorded against funds made available under
14 this section shall be recorded and reported as net obli-
15 gations.”.

16 **SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY**
17 **PROJECTS.**

18 Section 118(c)(1) of title 23, United States Code, is
19 amended—

20 (1) by striking “\$50,000,000” and all that
21 follows through “2003” and inserting
22 “\$93,862,893 for each of fiscal years 2005
23 through 2009”; and

24 (2) by striking “Transportation Equity Act
25 for the 21st Century” and inserting “Safe, Ac-

1 *countable, Flexible, and Efficient Transportation*
2 *Equity Act of 2005”.*

3 **SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.**

4 *(a) FEDERAL SHARE PAYABLE.—*

5 *(1) IN GENERAL.—Section 120(k) of title 23,*
6 *United States Code, is amended—*

7 *(A) by striking “Federal-aid highway”; and*

8 *(B) by striking “section 104” and inserting*
9 *“this title or chapter 53 of title 49”.*

10 *(2) TECHNICAL REFERENCES.—Section 120(l) of*
11 *title 23, United States Code, is amended by striking*
12 *“section 104” and inserting “this title or chapter 53*
13 *of title 49”.*

14 *(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-*
15 *AID PROJECTS.—Section 132 of title 23, United States*
16 *Code, is amended—*

17 *(1) by striking the first 2 sentences and inserting*
18 *the following:*

19 *“(a) IN GENERAL.—In a case in which a proposed*
20 *Federal-aid project is to be undertaken by a Federal agency*
21 *in accordance with an agreement between a State and the*
22 *Federal agency, the State may—*

23 *“(1) direct the Secretary to transfer the funds for*
24 *the Federal share of the project directly to the Federal*
25 *agency; or*

1 “(2) make such deposit with, or payment to, the
2 Federal agency as is required to meet the obligation
3 of the State under the agreement for the work under-
4 taken or to be undertaken by the Federal agency.

5 “(b) REIMBURSEMENT.—On execution of a project
6 agreement with a State described in subsection (a), the Sec-
7 retary may reimburse the State, using any available funds,
8 for the estimated Federal share under this title of the obliga-
9 tion of the State deposited or paid under subsection
10 (a)(2).”; and

11 (2) in the last sentence, by striking “Any sums”
12 and inserting the following:

13 “(c) RECOVERY AND CREDITING OF FUNDS.—Any
14 sums”.

15 (c) ALLOCATIONS.—Section 202 of title 23, United
16 States Code, is amended—

17 (1) in subsection (a), by striking “(a) On Octo-
18 ber 1” and all that follows through “Such allocation”
19 and inserting the following:

20 “(a) ALLOCATION BASED ON NEED.—

21 “(1) IN GENERAL.—On October 1 of each fiscal
22 year, the Secretary shall allocate sums authorized to
23 be appropriated for the fiscal year for forest develop-
24 ment roads and trails according to the relative needs
25 of the various national forests and grasslands.

1 “(2) *PLANNING.*—*The allocation under para-*
2 *graph (1)*”;

3 (2) *by striking subsection (b) and inserting the*
4 *following:*

5 “(b) *ALLOCATION FOR PUBLIC LANDS HIGHWAYS.*—

6 “(1) *PUBLIC LANDS HIGHWAYS.*—

7 “(A) *IN GENERAL.*—*On October 1 of each*
8 *fiscal year, the Secretary shall allocate 33¹/₃ per-*
9 *cent of the sums authorized to be appropriated*
10 *for that fiscal year for public lands highways*
11 *among those States having unappropriated or*
12 *unreserved public lands, or nontaxable Indian*
13 *lands or other Federal reservations, on the basis*
14 *of need in the States, respectively, as determined*
15 *by the Secretary, on application of the State*
16 *transportation departments of the respective*
17 *States.*

18 “(B) *PREFERENCE.*—*In making the alloca-*
19 *tion under subparagraph (A), the Secretary shall*
20 *give preference to those projects that are signifi-*
21 *cantly impacted by Federal land and resource*
22 *management activities that are proposed by a*
23 *State that contains at least 3 percent of the total*
24 *public land in the United States.*

25 “(2) *FOREST HIGHWAYS.*—

1 “(A) *IN GENERAL.*—On October 1 of each
 2 *fiscal year, the Secretary shall allocate 66²/₃ per-*
 3 *cent of the funds authorized to be appropriated*
 4 *for public lands highways for forest highways in*
 5 *accordance with section 134 of the Federal-Aid*
 6 *Highway Act of 1987 (23 U.S.C. 202 note; 101*
 7 *Stat. 173).*

8 “(B) *PUBLIC ACCESS TO AND WITHIN NA-*
 9 *TIONAL FOREST SYSTEM.*—In making the alloca-
 10 *tion under subparagraph (A), the Secretary shall*
 11 *give equal consideration to projects that provide*
 12 *access to and within the National Forest System,*
 13 *as identified by the Secretary of Agriculture*
 14 *through—*

15 “(i) *renewable resource and land use*
 16 *planning; and*

17 “(ii) *assessments of the impact of that*
 18 *planning on transportation facilities.”;*

19 (3) *in subsection (c)—*

20 (A) *by striking “(c) On” and inserting the*
 21 *following:*

22 “(c) *PARK ROADS AND PARKWAYS.*—

23 “(1) *IN GENERAL.*—On”; and

24 (B) *by adding at the end the following:*

25 “(2) *PRIORITY.*—

1 “(A) *DEFINITION OF QUALIFYING NATIONAL*
2 *PARK.—In this paragraph, the term “qualifying*
3 *national park” means a National Park that is*
4 *used more than 1,000,000 recreational visitor*
5 *days per year, based on an average of the 3 most*
6 *recent years of available data from the National*
7 *Park Service.*

8 “(B) *PRIORITY.—Notwithstanding any*
9 *other provision of law, with respect to funds au-*
10 *thorized for park roads and parkways, the Sec-*
11 *retary shall give priority in the allocation of*
12 *funds to projects for highways that—*

13 “(i) *are located in, or provide access*
14 *to, a qualifying National Park; and*

15 “(ii) *were initially constructed before*
16 *1940.*

17 “(C) *PRIORITY CONFLICTS.—If there is a*
18 *conflict between projects described in subpara-*
19 *graph (B), the Secretary shall give highest pri-*
20 *ority to projects that—*

21 “(i) *are in, or that provide access to,*
22 *parks that are adjacent to a National Park*
23 *of a foreign country; or*

24 “(ii) *are located in more than 1*
25 *State;”;*

- 1 (4) *in subsection (d)—*
- 2 (A) *in paragraph (1)—*
- 3 (i) *in the paragraph heading, by strik-*
4 *ing “1999” and inserting “2005”; and*
- 5 (ii) *by striking “1999” and inserting*
6 *“2005”;*
- 7 (B) *in paragraph (2)—*
- 8 (i) *in the paragraph heading, by strik-*
9 *ing “2000” and inserting “2005”;*
- 10 (ii) *in subparagraphs (A), (B), and*
11 *(D), by striking “2000” each place it ap-*
12 *pears and inserting “2005”;*
- 13 (iii) *in subparagraph (B), by striking*
14 *“1999” each place it appears and inserting*
15 *“2005”; and*
- 16 (iv) *by adding at the end the following:*
17 *“(E) TRANSFERRED FUNDS.—*
18 *“(i) IN GENERAL.—Not later than 30*
19 *days after the date on which funds are*
20 *made available to the Secretary of the Inte-*
21 *rior under this paragraph, the funds shall*
22 *be distributed to, and available for imme-*
23 *di-ate use by, the eligible Indian tribes, in*
24 *accordance with the formula for distribution*

1 *of funds under the Indian reservation roads*
2 *program.*

3 “(ii) *USE OF FUNDS.—Notwith-*
4 *standing any other provision of this section,*
5 *funds available to Indian tribes for Indian*
6 *reservation roads shall be expended on*
7 *projects identified in a transportation im-*
8 *provement program approved by the Sec-*
9 *retary.”;*

10 *(C) in paragraph (3)—*

11 *(i) in subparagraph (A), by striking*
12 *“under this title” and inserting “under this*
13 *chapter and section 125(e)”;* and

14 *(ii) by adding at the end the following:*

15 “(C) *FEDERAL LANDS HIGHWAY PROGRAM*
16 *DEMONSTRATION PROJECT.—*

17 *“(i) IN GENERAL.—The Secretary shall*
18 *establish a demonstration project under*
19 *which all funds made available under this*
20 *chapter for Indian reservation roads and*
21 *for highway bridges located on Indian res-*
22 *ervation roads as provided for in subpara-*
23 *graph (A) shall be made available, on the*
24 *request of an affected Indian tribal govern-*
25 *ment, to the Indian tribal government for*

1 *use in carrying out, in accordance with the*
2 *Indian Self-Determination and Education*
3 *Assistance Act (25 U.S.C. 450b et seq.), con-*
4 *tracts and agreements for the planning, re-*
5 *search, engineering, and construction de-*
6 *scribed in that subparagraph.*

7 “(ii) *EXCLUSION OF AGENCY PARTICI-*
8 *PATION.—In accordance with subparagraph*
9 *(B), all funds for Indian reservation roads*
10 *and for highway bridges located on Indian*
11 *reservation roads to which clause (i) applies*
12 *shall be paid without regard to the organi-*
13 *zational level at which the Federal lands*
14 *highway program has previously carried*
15 *out the programs, functions, services, or ac-*
16 *tivities involved.*

17 “(iii) *SELECTION OF PARTICIPATING*
18 *TRIBES.—*

19 “(I) *PARTICIPANTS.—*

20 “(aa) *IN GENERAL.—In ad-*
21 *dition to Indian tribes or tribal*
22 *organizations that, as of the date*
23 *of enactment of this subpara-*
24 *graph, are contracting or com-*
25 *packing for any Indian reserva-*

1 *tion road function or program, for*
2 *each fiscal year, the Secretary*
3 *may select up to 15 Indian tribes*
4 *from the applicant pool described*
5 *in subclause (II) to participate in*
6 *the demonstration project carried*
7 *out under clause (i).*

8 *“(bb) CONSORTIA.—Two or*
9 *more Indian tribes that are other-*
10 *wise eligible to participate in a*
11 *program or activity to which this*
12 *title applies may form a consor-*
13 *tium to be considered as a single*
14 *Indian tribe for the purpose of be-*
15 *coming part of the applicant pool*
16 *under subclause (II).*

17 *“(cc) FUNDING.—An Indian*
18 *tribe participating in the pilot*
19 *program under this subparagraph*
20 *shall receive funding in an*
21 *amount equal to the sum of the*
22 *funding that the Indian tribe*
23 *would otherwise receive in accord-*
24 *ance with the funding formula es-*
25 *tablished under the other provi-*

1 *sions of this subsection, and an*
2 *additional percentage of that*
3 *amount equal to the percentage of*
4 *funds withheld during the appli-*
5 *cable fiscal year for the road pro-*
6 *gram management costs of the*
7 *Bureau of Indian Affairs under*
8 *subsection (f)(1).*

9 *“(II) APPLICANT POOL.—The ap-*
10 *plicant pool described in this subclause*
11 *shall consist of each Indian tribe (or*
12 *consortium) that—*

13 *“(aa) has successfully com-*
14 *pleted the planning phase de-*
15 *scribed in subclause (IV);*

16 *“(bb) has requested partici-*
17 *pation in the demonstration*
18 *project under this subparagraph*
19 *through the adoption of a resolu-*
20 *tion or other official action by the*
21 *tribal governing body; and*

22 *“(cc) has demonstrated fi-*
23 *nancial stability and financial*
24 *management capability in accord-*
25 *ance with subclause (III) during*

1 the 3-fiscal-year period imme-
2 diately preceding the fiscal year
3 for which participation under this
4 subparagraph is being requested.

5 “(III) CRITERIA FOR DETER-
6 MINING FINANCIAL STABILITY AND FI-
7 NANCIAL MANAGEMENT CAPACITY.—For
8 the purpose of subclause (II), evidence
9 that, during the 3-year period referred
10 to in subclause (II)(cc), an Indian
11 tribe had no uncorrected significant
12 and material audit exceptions in the
13 required annual audit of the Indian
14 tribe’s self-determination contracts or
15 self-governance funding agreements
16 with any Federal agency shall be con-
17 clusive evidence of the required sta-
18 bility and capability.

19 “(IV) PLANNING PHASE.—

20 “(aa) IN GENERAL.—An In-
21 dian tribe (or consortium) re-
22 questing participation in the dem-
23 onstration project under this sub-
24 paragraph shall complete a plan-
25 ning phase that shall include legal

1 and budgetary research and inter-
2 nal tribal government and organi-
3 zation preparation.

4 “(bb) *ELIGIBILITY.*—An In-
5 dian tribe (or consortium) de-
6 scribed in item (aa) shall be eligi-
7 ble to receive a grant under this
8 subclause to plan and negotiate
9 participation in a project de-
10 scribed in that item.

11 “(V) *REPORT TO CONGRESS.*—Not
12 later than September 30, 2006, the Sec-
13 retary shall submit to Congress a re-
14 port describing the implementation of
15 the demonstration project and any rec-
16 ommendations for improving the
17 project.”; and

18 (D) in paragraph (4)—

19 (i) in subparagraph (B)—

20 (I) by striking “(B) *RESERVA-*
21 *TION.*—Of the amounts” and all that
22 follows through “to replace,” and in-
23 serting the following:

24 “(B) *FUNDING.*—

1 “(i) *AUTHORIZATION OF APPROPRIA-*
2 *TIONS.—In addition to any other funds*
3 *made available for Indian reservation roads*
4 *for each fiscal year, there is authorized to be*
5 *appropriated from the Highway Trust*
6 *Fund (other than the Mass Transit Ac-*
7 *count) \$14,079,433 for each of fiscal years*
8 *2005 through 2009 to carry out planning,*
9 *design, engineering, preconstruction, con-*
10 *struction, and inspection of projects to re-*
11 *place,”; and*

12 (ii) *by adding at the end the fol-*
13 *lowing:*

14 “(ii) *AVAILABILITY.—Funds made*
15 *available to carry out this subparagraph*
16 *shall be available for obligation in the same*
17 *manner as if the funds were apportioned*
18 *under chapter 1.”; and*

19 (ii) *by striking subparagraph (D) and*
20 *inserting the following:*

21 “(D) *APPROVAL REQUIREMENT.—*

22 (i) *IN GENERAL.—Subject to clause*
23 *(ii), on request by an Indian tribe or the*
24 *Secretary of the Interior, the Secretary may*
25 *make funds available under this subsection*

1 *for preliminary engineering for Indian res-*
2 *ervation road bridge projects.*

3 “(ii) *CONSTRUCTION AND CONSTRU-*
4 *CTION ENGINEERING.—The Secretary may*
5 *make funds available under clause (i) for*
6 *construction and construction engineering*
7 *after approval of applicable plans, speci-*
8 *fications, and estimates in accordance with*
9 *this title.”; and*

10 (5) *by adding at the end the following:*

11 “(f) *ADMINISTRATION OF INDIAN RESERVATION*
12 *ROADS.—*

13 “(1) *CONTRACT AUTHORITY.—Notwithstanding*
14 *any other provision of law, for any fiscal year, not*
15 *more than 6 percent of the contract authority*
16 *amounts made available from the Highway Trust*
17 *Fund to the Bureau of Indian Affairs under this title*
18 *shall be used to pay the expenses incurred by the Bu-*
19 *reau in administering the Indian reservation roads*
20 *program (including the administrative expenses relat-*
21 *ing to individual projects associated with the Indian*
22 *reservation roads program).*

23 “(2) *HEALTH AND SAFETY ASSURANCES.—Not-*
24 *withstanding any other provision of law, an Indian*
25 *tribe or tribal organization may approve plans, speci-*

1 *fications, and estimates and commence road and*
2 *bridge construction under the Transportation Equity*
3 *Act for the 21st Century (Public Law 105-178) or the*
4 *Safe, Accountable, Flexible, and Efficient Transpor-*
5 *tation Equity Act of 2005 that is funded through a*
6 *contract or agreement under the Indian Self-Deter-*
7 *mination and Education Assistance Act (25 U.S.C.*
8 *450b et seq.) if the Indian tribe or tribal*
9 *organization—*

10 *“(A) provides assurances in the contract or*
11 *agreement that the construction will meet or ex-*
12 *ceed applicable health and safety standards;*

13 *“(B) obtains the advance review of the*
14 *plans and specifications from a licensed profes-*
15 *sional that has certified that the plans and speci-*
16 *fications meet or exceed the applicable health*
17 *and safety standards; and*

18 *“(C) provides a copy of the certification*
19 *under subparagraph (B) to the Assistant Sec-*
20 *retary for Indian Affairs.”.*

21 *(d) PLANNING AND AGENCY COORDINATION.—Section*
22 *204 of title 23, United States Code, is amended—*

23 *(1) in subsection (a)(1), by inserting “refuge*
24 *roads, recreation roads,” after “parkways,”;*

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

3 “(b) *USE OF FUNDS.—*

4 “(1) *IN GENERAL.—Funds available for public*
5 *lands highways, recreation roads, park roads and*
6 *parkways, forest highways, and Indian reservation*
7 *roads shall be used by the Secretary and the Secretary*
8 *of the appropriate Federal land management agency*
9 *to pay the cost of transportation planning, research,*
10 *engineering, operation and maintenance of transit fa-*
11 *cilities, and construction of the highways, roads,*
12 *parkways, forest highways, and transit facilities lo-*
13 *cated on public land, national parks, and Indian res-*
14 *ervations.*

15 “(2) *CONTRACT.—In connection with an activity*
16 *described in paragraph (1), the Secretary and the*
17 *Secretary of the appropriate Federal land manage-*
18 *ment agency may enter into a construction contract*
19 *or other appropriate agreement with—*

20 “(A) *a State (including a political subdivi-*
21 *sion of a State); or*

22 “(B) *an Indian tribe.*

23 “(3) *INDIAN RESERVATION ROADS.—In the case*
24 *of an Indian reservation road—*

1 “(A) Indian labor may be used, in accord-
2 ance with such rules and regulations as may be
3 promulgated by the Secretary of the Interior, to
4 carry out any construction or other activity de-
5 scribed in paragraph (1); and

6 “(B) funds made available to carry out this
7 section may be used to pay bridge
8 preconstruction costs (including planning, de-
9 sign, and engineering).

10 “(4) FEDERAL EMPLOYMENT.—No maximum on
11 Federal employment shall be applicable to construc-
12 tion or improvement of Indian reservation roads.

13 “(5) AVAILABILITY OF FUNDS.—Funds available
14 under this section for each class of Federal lands
15 highway shall be available for any kind of transpor-
16 tation project eligible for assistance under this title
17 that is within or adjacent to, or that provides access
18 to, the areas served by the particular class of Federal
19 lands highway.

20 “(6) RESERVATION OF FUNDS.—The Secretary of
21 the Interior may reserve funds from administrative
22 funds of the Bureau of Indian Affairs that are associ-
23 ated with the Indian reservation road program to fi-
24 nance the Indian technical centers authorized under
25 section 504(b).”; and

1 (3) *in subsection (k)(1)—*

2 (A) *in subparagraph (B)—*

3 (i) *by striking “(2), (5),” and inserting*

4 “*(2), (3), (5),”*; and

5 (ii) *by striking “and” after the semi-*
6 *colon;*

7 (B) *in subparagraph (C), by striking the*
8 *period at the end and inserting a semicolon; and*

9 (C) *by adding at the end the following:*

10 “*(D) maintenance of public roads in na-*
11 *tional fish hatcheries under the jurisdiction of*
12 *the United States Fish and Wildlife Service;*

13 “*(E) the non-Federal share of the cost of*
14 *any project funded under this title or chapter 53*
15 *of title 49 that provides access to or within a*
16 *wildlife refuge; and*

17 “*(F) maintenance and improvement of rec-*
18 *reational trails (except that expenditures on*
19 *trails under this subparagraph shall not exceed*
20 *5 percent of available funds for each fiscal*
21 *year).”.*

22 (e) *MAINTENANCE OF INDIAN RESERVATION ROADS.—*

23 *Section 204(c) of title 23, United States Code, is amended*
24 *by striking the second and third sentences and inserting the*
25 *following: “Notwithstanding any other provision of this*

1 *title, of the amount of funds allocated for Indian reservation*
2 *roads from the Highway Trust Fund, not more than 25 per-*
3 *cent may be expended for the purpose of maintenance, ex-*
4 *cluding road sealing, and shall not be subject to any limita-*
5 *tion. The Bureau of Indian Affairs shall continue to retain*
6 *primary responsibility, including annual funding request*
7 *responsibility, for road maintenance programs on Indian*
8 *reservations. The Secretary shall ensure that funding made*
9 *available under this subsection for maintenance of Indian*
10 *reservation roads for each fiscal year is supplementary to*
11 *and not in lieu of any obligation of funds by the Bureau*
12 *of Indian Affairs for road maintenance programs on Indian*
13 *reservations.”.*

14 (f) *SAFETY.—*

15 (1) *ALLOCATIONS.—Section 202 of title 23,*
16 *United States Code (as amended by subsection (c)(5)),*
17 *is amended by adding at the end the following:*

18 “(g) *SAFETY.—Subject to paragraph (2), on October*
19 *1 of each fiscal year, the Secretary shall allocate the sums*
20 *authorized to be appropriated for the fiscal year for safety*
21 *as follows:*

22 “(1) *12 percent to the Bureau of Reclamation.*

23 “(2) *18 percent to the Bureau of Indian Affairs.*

24 “(3) *17 percent to the Bureau of Land Manage-*
25 *ment.*

1 “(4) 17 percent to the Forest Service.

2 “(5) 7 percent to the United States Fish and
3 Wildlife Service.

4 “(6) 17 percent to the National Park Service.

5 “(7) 12 percent to the Corps of Engineers.”.

6 (2) *AVAILABILITY OF FUNDS.*—Section 203 of
7 title 23, United States Code, is amended by inserting
8 “safety projects or activities,” after “refuge roads,”
9 each place it appears.

10 (3) *USE OF FUNDING.*—Section 204 of title 23,
11 United States Code, is amended by adding at the end
12 the following:

13 “(1) *SAFETY ACTIVITIES.*—

14 “(1) *IN GENERAL.*—Notwithstanding any other
15 provision of this title, funds made available for safety
16 under this title shall be used by the Secretary and the
17 head of the appropriate Federal land management
18 agency only to pay the costs of carrying out—

19 “(A) transportation safety improvement ac-
20 tivities;

21 “(B) activities to eliminate high-accident
22 locations;

23 “(C) projects to implement protective meas-
24 ures at, or eliminate, at-grade railway-highway
25 crossings;

1 “(D) collection of safety information;

2 “(E) transportation planning projects or
3 activities;

4 “(F) bridge inspection;

5 “(G) development and operation of safety
6 management systems;

7 “(H) highway safety education programs;
8 and

9 “(I) other eligible safety projects and activi-
10 ties authorized under chapter 4.

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) *EXCEPTION.*—The cost sharing requirements
19 under the Federal Water Project Recreation Act (16
20 U.S.C. 460l–12 et seq.) shall not apply to funds made
21 available to the Bureau of Reclamation under this
22 subsection.”.

23 (g) *RECREATION ROADS.*—

24 (1) *AUTHORIZATIONS.*—Section 201 of title 23,
25 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 (f)(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; or

2 “(ii) the Department of the Interior;

3 “(C) transportation planning and adminis-
4 trative activities associated with those mainte-
5 nance and improvements; and

6 “(D) the non-Federal share of the cost of
7 any project funded under this title or chapter 53
8 of title 49 that provides access to or within Fed-
9 eral land described in subparagraph (B).

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) *NEW ROADS*.—No funds made available
18 under this section shall be used to pay the cost of the
19 design or construction of new recreation roads.

20 “(4) *COMPLIANCE WITH OTHER ENVIRONMENTAL*
21 *LAWS*.—A maintenance or improvement project that
22 is funded under this subsection, and that is consistent
23 with or has been identified in a land use plan for an
24 area under the jurisdiction of a Federal agency, shall
25 not require any additional environmental reviews or

1 *assessments under the National Environmental Policy*
2 *Act of 1969 (42 U.S.C. 4321 et seq.) if—*

3 “(A) *the Federal agency that promulgated*
4 *the land use plan analyzed the specific proposal*
5 *for the maintenance or improvement project*
6 *under that Act; and*

7 “(B) *as of the date on which the funds are*
8 *to be expended, there are—*

9 “(i) *no significant changes to the pro-*
10 *posal bearing on environmental concerns;*

11 *and*

12 “(ii) *no significant new information.*

13 “(5) *EXCEPTION.—The cost sharing requirements*
14 *under the Federal Water Project Recreation Act (16*
15 *U.S.C. 460l–12 et seq.) shall not apply to funds made*
16 *available to the Bureau of Reclamation under this*
17 *subsection.”.*

18 (h) *CONFORMING AMENDMENTS.—*

19 (1) *Sections 120(e) and 125(e) of title 23, United*
20 *States Code, are amended by striking “public lands*
21 *highways,” each place it appears and inserting “pub-*
22 *lic lands highways, recreation roads.”.*

23 (2) *Sections 120(e), 125(e), 201, 202(a), and 203*
24 *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. HIGHWAY BRIDGE PROGRAM.**

8 (a) *IN GENERAL.*—*Section 144 of title 23, United*
9 *States Code, is amended—*

10 (1) *by striking the section heading and all that*
11 *follows through subsection (a) and inserting the fol-*
12 *lowing:*

13 **“§ 144. Highway bridge program**

14 “(a) *CONGRESSIONAL STATEMENT.*—*Congress finds*
15 *and declares that it is in the vital interest of the United*
16 *States that a highway bridge program be established to en-*
17 *able States to improve the condition of their bridges through*
18 *replacement, rehabilitation, and systematic preventative*
19 *maintenance on highway bridges over waterways, other top-*
20 *ographical barriers, other highways, or railroads at any*
21 *time at which the States and the Secretary determine that*
22 *a bridge is unsafe because of structural deficiencies, phys-*
23 *ical deterioration, or functional obsolescence.”;*

24 (2) *by striking subsection (d) and inserting the*
25 *following:*

1 “(d) *PARTICIPATION IN PROGRAM.*—

2 “(1) *IN GENERAL.*—*On application by a State to*
3 *the Secretary for assistance in replacing or rehabili-*
4 *tating a highway bridge that has been determined to*
5 *be eligible for replacement or rehabilitation under*
6 *subsection (b) or (c), the Secretary may approve Fed-*
7 *eral participation in—*

8 “(A) *replacing the bridge with a com-*
9 *parable bridge; or*

10 “(B) *rehabilitating the bridge.*

11 “(2) *SPECIFIC KINDS OF REHABILITATION.*—*On*
12 *application by a State to the Secretary for assistance*
13 *in painting, seismic retrofit, or preventative mainte-*
14 *nance of, or installation of scour countermeasures or*
15 *applying calcium magnesium acetate, sodium acetate/*
16 *formate, or other environmentally acceptable, mini-*
17 *maximally corrosive anti-icing and de-icing compositions*
18 *to, the structure of a highway bridge, the Secretary*
19 *may approve Federal participation in the painting,*
20 *seismic retrofit, or preventative maintenance of, or*
21 *installation of scour countermeasures or application*
22 *of acetate or sodium acetate/formate or such anti-*
23 *icing or de-icing composition to, the structure.*

24 “(3) *ELIGIBILITY.*—

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), the Secretary shall determine*
3 *the eligibility of highway bridges for replacement*
4 *or rehabilitation for each State based on the*
5 *number of unsafe highway bridges in the State.*

6 “(B) *PREVENTATIVE MAINTENANCE.*—*A*
7 *State may carry out a project for preventative*
8 *maintenance on a bridge, seismic retrofit of a*
9 *bridge, or installation of scour countermeasures*
10 *to a bridge under this section without regard to*
11 *whether the bridge is eligible for replacement or*
12 *rehabilitation under this section.”;*

13 (3) *in subsection (e)*—

14 (A) *in the third sentence, by striking*
15 *“square footage” and inserting “area”;*

16 (B) *in the fourth sentence*—

17 (i) *by striking “by the total cost of any*
18 *highway bridges constructed under sub-*
19 *section (m) in such State, relating to re-*
20 *placement of destroyed bridges and ferry-*
21 *boat services, and,”; and*

22 (ii) *by striking “1997” and inserting*
23 *“2003”; and*

1 (C) in the seventh sentence, by striking “the
2 Federal-aid primary system” and inserting
3 “Federal-aid highways”;

4 (4) by striking subsections (f) and (g) and in-
5 serting the following:

6 “(f) SET ASIDES.—

7 “(1) DISCRETIONARY BRIDGE PROGRAM.—

8 “(A) IN GENERAL.—Of the amounts author-
9 ized to be appropriated to carry out the bridge
10 program under this section for each of fiscal
11 years 2005 through 2009, all but \$140,794,340
12 shall be apportioned as provided in subsection
13 (e).

14 “(B) AVAILABILITY.—The \$140,794,340 re-
15 ferred to in subparagraph (A) shall be available
16 at the discretion of the Secretary, except that not
17 to exceed \$23,465,723 of that amount shall be
18 available only for projects for the seismic retrofit
19 of bridges.

20 “(C) SET ASIDES.—For fiscal year 2005,
21 the Secretary shall provide—

22 “(i) \$46,931,446 to the State of Nevada
23 for construction of a replacement of the fed-
24 erally-owned bridge over the Hoover Dam

1 *in the Lake Mead National Recreation*
2 *Area;*

3 “(ii) \$46,931,446 to the State of Mis-
4 *souri for construction of a structure over the*
5 *Mississippi River to connect the city of St.*
6 *Louis, Missouri, to the State of Illinois; and*

7 “(iii) not less than 40 percent of the
8 *amount made available under subparagraph*
9 *(B) for the fiscal year for the seismic ret-*
10 *rofit of bridges for multilane, suspension*
11 *bridges that—*

12 “(I) were open to traffic prior to
13 1940; and

14 “(II) are located in high-seismic
15 zones.”.

16 “(2) *OFF-SYSTEM BRIDGES.—*

17 “(A) *IN GENERAL.—*Not less than 15 per-
18 *cent of the amount apportioned to each State in*
19 *each of fiscal years 2005 through 2009 shall be*
20 *expended for projects to replace, rehabilitate, per-*
21 *form systematic preventative maintenance or*
22 *seismic retrofit, or apply calcium magnesium ac-*
23 *etate, sodium acetate/formate, or other environ-*
24 *mentally acceptable, minimally corrosive anti-*
25 *icing and de-icing compositions or install scour*

1 *countermeasures to highway bridges located on*
 2 *public roads, other than those on a Federal-aid*
 3 *highway, or to complete the Warwick Intermodal*
 4 *Station (including the construction of a people*
 5 *mover between the Station and the T.F. Green*
 6 *Airport).*

7 “(B) *REDUCTION OF EXPENDITURES.*—*The*
 8 *Secretary, after consultation with State and*
 9 *local officials, may, with respect to the State, re-*
 10 *duce the requirement for expenditure for bridges*
 11 *not on a Federal-aid highway if the Secretary*
 12 *determines that the State has inadequate needs*
 13 *to justify the expenditure.*

14 “(C) *PILOT PROGRAM.*—*Not less than 20*
 15 *percent of the amount apportioned to the States*
 16 *of Colorado, _____, and*
 17 *_____, for each of fiscal years*
 18 *2005 through 2009 shall be expended for off-sys-*
 19 *tem bridge pilot projects.”;*

20 (5) *in subsection (i)*—

21 (A) *in paragraph (3), by striking “and”;*

22 (B) *in paragraph (4), by striking the period*
 23 *at the end and inserting “; and”;*

24 (C) *by striking “Such reports” and all that*
 25 *follows through “to Congress.”; and*

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

2 “(5) biennially submit such reports as are re-
3 quired under this subsection to the appropriate com-
4 mittees of Congress simultaneously with the report re-
5 quired by section 502(g).”;

6 (6) in the first sentence of subsection (n), by
7 striking “all standards” and inserting “all general
8 engineering standards”;

9 (7) in subsection (o)—

10 (A) in paragraph (3)—

11 (i) by striking “title (including this
12 section)” and inserting “section”; and

13 (ii) by inserting “200 percent of” after
14 “shall not exceed”; and

15 (B) in paragraph (4)(B)—

16 (i) in the second sentence, by inserting
17 “200 percent of” after “not to exceed”; and

18 (ii) in the last sentence, by striking
19 “title” and inserting “section”;

20 (8) by redesignating subsections (h) through (q)
21 as subsections (g) through (p), respectively; and

22 (9) by adding at the end the following:

23 “(q) CONTINUATION OF ANNUAL MATERIALS REPORT
24 ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILI-
25 TATION.—Not later than 1 year after the date of enactment

1 of this subsection, and annually thereafter, the Secretary
 2 shall publish in the Federal Register a report describing
 3 construction materials used in new Federal-aid bridge con-
 4 struction and bridge rehabilitation projects.

5 “(r) FEDERAL SHARE.—

6 “(1) IN GENERAL.—Except as provided under
 7 paragraph (2), the Federal share of the cost of a
 8 project payable from funds made available to carry
 9 out this section shall be the share applicable under
 10 section 120(b), as adjusted under section 120(d).

11 “(2) INTERSTATE SYSTEM.—The Federal share of
 12 the cost of a project on the Interstate System payable
 13 from funds made available to carry out this section
 14 shall be the share applicable under section 120(a).”.

15 (b) CONFORMING AMENDMENT.—The analysis for sub-
 16 chapter I of chapter 1 of title 23, United States Code, is
 17 amended by striking the item relating to section 144 and
 18 inserting the following:

“144. Highway bridge program.”.

19 **SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

20 (a) IN GENERAL.—Subchapter I of chapter 1 of title
 21 23, United States Code (as amended by section 1702(a)),
 22 is amended by adding at the end the following:

23 “§ 170. **Appalachian development highway system**

24 “(a) APPORTIONMENT.—

1 “(1) *IN GENERAL.*—*The Secretary shall appor-*
2 *tion funds made available under section 1101(7) of*
3 *the Safe, Accountable, Flexible, and Efficient Trans-*
4 *portation Equity Act of 2005 for fiscal years 2005*
5 *through 2009 among States based on the latest avail-*
6 *able estimate of the cost to construct highways and*
7 *access roads for the Appalachian development high-*
8 *way system program prepared by the Appalachian*
9 *Regional Commission under section 14501 of title 40.*

10 “(2) *AVAILABILITY.*—*Funds described in para-*
11 *graph (1) shall be available to construct highways*
12 *and access roads under chapter 145 of title 40.*

13 “(b) *APPLICABILITY OF TITLE.*—*Funds made avail-*
14 *able under section 1101(7) of the Safe, Accountable, Flexi-*
15 *ble, and Efficient Transportation Equity Act of 2005 for*
16 *the Appalachian development highway system shall be*
17 *available for obligation in the same manner as if the funds*
18 *were apportioned under this chapter, except that—*

19 “(1) *the Federal share of the cost of any project*
20 *under this section shall be determined in accordance*
21 *with subtitle IV of title 40; and*

22 “(2) *the funds shall remain available until ex-*
23 *pended.*”.

24 “(b) *CONFORMING AMENDMENTS.*—

1 (1) *USE OF TOLL CREDITS.*—Section 120(j)(1) of
 2 title 23, United States Code is amended by inserting
 3 “and the Appalachian development highway system
 4 program under subtitle IV of title 40” after “(other
 5 than the emergency relief program authorized by sec-
 6 tion 125”.

7 (2) *ANALYSIS.*—The analysis of chapter 1 of title
 8 23, United States Code (as amended by section
 9 1702(b)), is amended by adding at the end the fol-
 10 lowing:

“170. Appalachian development highway system.”.

11 **SEC. 1809. MULTISTATE CORRIDOR PROGRAM.**

12 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
 13 23, United States Code (as amended by 1808(a)), is amend-
 14 ed by adding at the end the following:

15 **“§ 171. Multistate corridor program**

16 “(a) *ESTABLISHMENT AND PURPOSE.*—The Secretary
 17 shall carry out a program to—

18 “(1) support and encourage multistate transpor-
 19 tation planning and development;

20 “(2) facilitate transportation decisionmaking
 21 and coordinate project delivery involving multistate
 22 corridors; and

23 “(3) support the planning, development, and
 24 construction of high priority corridors identified by
 25 section 1105(c) of the Intermodal Surface Transpor-

1 *tation Efficiency Act of 1991 (Public Law 102–240;*
2 *105 Stat. 2032).*

3 “(b) *ELIGIBLE RECIPIENTS.*—*A State transportation*
4 *department and a metropolitan planning organization may*
5 *receive and administer funds provided under this section.*

6 “(c) *ELIGIBLE ACTIVITIES.*—*The Secretary shall make*
7 *allocations under this program for—*

8 “(1) *multistate highway and multimodal plan-*
9 *ning studies and construction; and*

10 “(2) *coordinated planning, development, and*
11 *construction of high priority corridors identified by*
12 *section 1105(c) of the Intermodal Surface Transpor-*
13 *tation Efficiency Act of 1991 (Public Law 102–240;*
14 *105 Stat. 2032).*

15 “(d) *OTHER PROVISIONS REGARDING ELIGIBILITY.*—

16 “(1) *STUDIES.*—*All studies funded under this*
17 *program shall be consistent with the continuing, coop-*
18 *erative, and comprehensive planning processes re-*
19 *quired by sections 134 and 135.*

20 “(2) *CONSTRUCTION.*—*All construction funded*
21 *under this program shall be consistent with section*
22 *133(b)(1).*

23 “(e) *SELECTION CRITERIA.*—*The Secretary shall select*
24 *studies and projects to be carried out under the program*
25 *based on—*

1 “(1) *the existence and significance of signed and*
2 *binding multijurisdictional agreements;*

3 “(2) *endorsement of the study or project by ap-*
4 *plicable elected State and local representatives;*

5 “(3) *prospects for early completion of the study*
6 *or project; or*

7 “(4) *whether the projects to be studied or con-*
8 *structed are located on corridors identified by section*
9 *1105(c) of the Intermodal Surface Transportation Ef-*
10 *iciency Act of 1991 (Public Law 102–240; 105 Stat.*
11 *2032).*

12 “(f) *PROGRAM PRIORITIES.—In administering the*
13 *program, the Secretary shall—*

14 “(1) *encourage and enable States and other ju-*
15 *risdictions to work together to develop plans for*
16 *multimodal and multijurisdictional transportation*
17 *decisionmaking; and*

18 “(2) *give priority to studies or projects that em-*
19 *phasize multimodal planning, including planning for*
20 *operational improvements that—*

21 “(A) *increase—*

22 “(i) *mobility;*

23 “(ii) *freight productivity;*

24 “(iii) *access to marine or inland ports;*

1 “(iv) safety and security (including
2 improvements to emergency evacuation
3 routes); and

4 “(v) reliability; and

5 “(B) enhance the environment.

6 “(g) FEDERAL SHARE.—Except as provided in section
7 120, the Federal share of the cost of a study or project car-
8 ried out under the program, using funds from all Federal
9 sources, shall be 80 percent.

10 “(h) APPLICABILITY.—Funds authorized to be appro-
11 priated under section 1101(10) of the Safe, Accountable,
12 Flexible, and Efficient Transportation Equity Act of 2005
13 to carry out this section shall be available for obligation
14 in the same manner as if the funds were apportioned under
15 this chapter.”.

16 (b) CONFORMING AMENDMENT.—The analysis for sub-
17 chapter I of chapter 1 of title 23, United States Code (as
18 amended by section 1809(b)) is amended by adding at the
19 end the following:

 “171. Multistate corridor program.”.

20 **SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY,**
21 **AND CAPACITY PROGRAM.**

22 (a) IN GENERAL.—Subchapter I of chapter 1 of title
23 23, United States Code (as amended by section 1809(a)),
24 is amended by adding at the end the following:

1 **“§ 172. Border planning, operations, technology, and**
2 **capacity program**

3 “(a) *DEFINITIONS.*—*In this section:*

4 “(1) *BORDER STATE.*—*The term ‘border State’*
5 *means any of the States of Alaska, Arizona, Cali-*
6 *formia, Idaho, Maine, Michigan, Minnesota, Montana,*
7 *New Hampshire, New Mexico, New York, North Da-*
8 *kota, Texas, Vermont, and Washington.*

9 “(2) *PROGRAM.*—*The term ‘program’ means the*
10 *border planning, operations, technology, and capacity*
11 *program established under subsection (b).*

12 “(b) *ESTABLISHMENT AND PURPOSE.*—*The Secretary*
13 *shall establish and carry out a border planning, operations,*
14 *technology, and capacity improvement program to support*
15 *coordination and improvement in bi-national transpor-*
16 *tation planning, operations, efficiency, information ex-*
17 *change, safety, and security at the international borders of*
18 *the United States with Canada and Mexico.*

19 “(c) *ELIGIBLE ACTIVITIES.*—

20 “(1) *IN GENERAL.*—*The Secretary shall make al-*
21 *locations under the program for projects to carry out*
22 *eligible activities described in paragraph (2) at or*
23 *near international land borders in border States.*

24 “(2) *ELIGIBLE ACTIVITIES.*—*A border State may*
25 *obligate funds apportioned to the border State under*
26 *this section for—*

1 “(A) highway and multimodal planning or
2 environmental studies;

3 “(B) cross-border port of entry and safety
4 inspection improvements, including operational
5 enhancements and technology applications;

6 “(C) technology and information exchange
7 activities; and

8 “(D) right-of-way acquisition, design, and
9 construction, as needed—

10 “(i) to implement the enhancements or
11 applications described in subparagraphs
12 (B) and (C);

13 “(ii) to decrease air pollution emis-
14 sions from vehicles or inspection facilities at
15 border crossings; or

16 “(iii) to increase highway capacity at
17 or near international borders.

18 “(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

19 “(1) IN GENERAL.—Each project funded under
20 the program shall be carried out in accordance with
21 the continuing, cooperative, and comprehensive plan-
22 ning processes required by sections 134 and 135.

23 “(2) REGIONALLY SIGNIFICANT PROJECTS.—To
24 be funded under the program, a regionally significant
25 project shall be included on the applicable transpor-

1 *tation plan and program required by sections 134*
2 *and 135.*

3 “(e) *PROGRAM PRIORITIES.—Border States shall give*
4 *priority to projects that emphasize—*

5 “(1) *multimodal planning;*

6 “(2) *improvements in infrastructure; and*

7 “(3) *operational improvements that—*

8 “(A) *increase safety, security, freight capac-*
9 *ity, or highway access to rail, marine, and air*
10 *services; and*

11 “(B) *enhance the environment.*

12 “(f) *MANDATORY PROGRAM.—*

13 “(1) *IN GENERAL.—For each fiscal year, the Sec-*
14 *retary shall allocate among border States, in accord-*
15 *ance with the formula described in paragraph (2),*
16 *funds to be used in accordance with subsection (d).*

17 “(2) *FORMULA.—Subject to paragraph (3), the*
18 *amount allocated to a border State under this para-*
19 *graph shall be determined by the Secretary, as fol-*
20 *lows:*

21 “(A) *25 percent in the ratio that—*

22 “(i) *the average annual weight of all*
23 *cargo entering the border State by commer-*
24 *cial vehicle across the international border*

1 *with Canada or Mexico, as the case may be;*
2 *bears to*

3 “(i) *the average annual weight of all*
4 *cargo entering all border States by commer-*
5 *cial vehicle across the international borders*
6 *with Canada and Mexico.*

7 “(B) *25 percent in the ratio that—*

8 “(i) *the average trade value of all*
9 *cargo imported into the border State and*
10 *all cargo exported from the border State by*
11 *commercial vehicle across the international*
12 *border with Canada or Mexico, as the case*
13 *may be; bears to*

14 “(ii) *the average trade value of all*
15 *cargo imported into all border States and*
16 *all cargo exported from all border States by*
17 *commercial vehicle across the international*
18 *borders with Canada and Mexico.*

19 “(C) *25 percent in the ratio that—*

20 “(i) *the number of commercial vehicles*
21 *annually entering the border State across*
22 *the international border with Canada or*
23 *Mexico, as the case may be; bears to*

24 “(ii) *the number of all commercial ve-*
25 *hicles annually entering all border States*

1 *across the international borders with Can-*
2 *ada and Mexico.*

3 “(D) 25 percent in the ratio that—

4 “(i) the number of passenger vehicles
5 *annually entering the border State across*
6 *the international border with Canada or*
7 *Mexico, as the case may be; bears to*

8 “(ii) the number of all passenger vehi-
9 *cles annually entering all border States*
10 *across the international borders with Can-*
11 *ada and Mexico.*

12 “(3) DATA SOURCE.—

13 “(A) IN GENERAL.—*The data used by the*
14 *Secretary in making allocations under this sub-*
15 *section shall be based on the Bureau of Trans-*
16 *portation Statistics Transborder Surface Freight*
17 *Dataset (or other similar database).*

18 “(B) BASIS OF CALCULATION.—*All formula*
19 *calculations shall be made using the average val-*
20 *ues for the most recent 5-year period for which*
21 *data are available.*

22 “(4) MINIMUM ALLOCATION.—*Notwithstanding*
23 *paragraph (2), for each fiscal year, each border State*
24 *shall receive at least 1/2 of 1 percent of the funds made*

1 *available for allocation under this paragraph for the*
2 *fiscal year.*

3 “(g) *FEDERAL SHARE.*—*Except as provided in section*
4 *120, the Federal share of the cost of a project carried out*
5 *under the program shall be 80 percent.*

6 “(h) *OBLIGATION.*—*Funds made available under sec-*
7 *tion 1101(11) of the Safe, Accountable, Flexible, and Effi-*
8 *cient Transportation Equity Act of 2005 to carry out the*
9 *program shall be available for obligation in the same man-*
10 *ner as if the funds were apportioned under this chapter.*

11 “(i) *INFORMATION EXCHANGE.*—*No individual project*
12 *the scope of work of which is limited to information ex-*
13 *change shall receive an allocation under the program in an*
14 *amount that exceeds \$500,000 for any fiscal year.*

15 “(j) *PROJECTS IN CANADA OR MEXICO.*—*A project in*
16 *Canada or Mexico, proposed by a border State to directly*
17 *and predominantly facilitate cross-border vehicle and com-*
18 *mercial cargo movements at an international gateway or*
19 *port of entry into the border region of the State, may be*
20 *constructed using funds made available under the program*
21 *if, before obligation of those funds, Canada or Mexico, or*
22 *the political subdivision of Canada or Mexico that is re-*
23 *sponsible for the operation of the facility to be constructed,*
24 *provides assurances satisfactory to the Secretary that any*
25 *facility constructed under this subsection will be—*

1 “(1) *constructed in accordance with standards*
 2 *equivalent to applicable standards in the United*
 3 *States; and*

4 “(2) *properly maintained and used over the use-*
 5 *ful life of the facility for the purpose for which the*
 6 *Secretary allocated funds to the project.*

7 “(k) *TRANSFER OF FUNDS TO THE GENERAL SERV-*
 8 *ICES ADMINISTRATION.—*

9 “(1) *STATE FUNDS.—At the request of a border*
 10 *State, funds made available under the program may*
 11 *be transferred to the General Services Administration*
 12 *for the purpose of funding 1 or more specific projects*
 13 *if—*

14 “(A) *the Secretary determines, after con-*
 15 *sultation with the State transportation depart-*
 16 *ment of the border State, that the General Serv-*
 17 *ices Administration should carry out the project;*
 18 *and*

19 “(B) *the General Services Administration*
 20 *agrees to accept the transfer of, and to admin-*
 21 *ister, those funds.*

22 “(2) *NON-FEDERAL SHARE.—*

23 “(A) *IN GENERAL.—A border State that*
 24 *makes a request under paragraph (1) shall pro-*
 25 *vide directly to the General Services Administra-*

1 *tion, for each project covered by the request, the*
2 *non-Federal share of the cost of each project de-*
3 *scribed in subsection (f).*

4 “(B) *NO AUGMENTATION OF APPROPRIA-*
5 *TIONS.—Funds provided by a border State under*
6 *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 provided for projects*
22 *under subparagraph (A).*

23 “(3) *DIRECT TRANSFER OF AUTHORIZED*
24 *FUNDS.—*

1 “(A) *IN GENERAL.*—*In addition to alloca-*
2 *tions to States and metropolitan planning orga-*
3 *nizations under subsection (c), the Secretary*
4 *may transfer funds made available to carry out*
5 *this section to the General Services Administra-*
6 *tion for construction of transportation infra-*
7 *structure projects at or near the border in border*
8 *States, if—*

9 “(i) *the Secretary determines that the*
10 *transfer is necessary to effectively carry out*
11 *the purposes of this program; and*

12 “(ii) *the General Services Administra-*
13 *tion agrees to accept the transfer of, and to*
14 *administer, those funds.*

15 “(B) *NO AUGMENTATION OF APPROPRIA-*
16 *TIONS.*—*Funds transferred by the Secretary*
17 *under subparagraph (A)—*

18 “(i) *shall not be considered to be an*
19 *augmentation of the appropriations made*
20 *available to the General Services Adminis-*
21 *tration; and*

22 “(ii) *shall be—*

23 “(I) *administered in accordance*
24 *with the procedures of the General*
25 *Services Administration; but*

1 “(II) available for obligation in
2 the same manner as if the funds were
3 apportioned under this chapter.

4 “(C) OBLIGATION AUTHORITY.—Obligation
5 authority shall be transferred to the General
6 Services Administration in the same manner
7 and amount as the funds transferred under sub-
8 paragraph (A).”.

9 (b) CONFORMING AMENDMENT.—The analysis for sub-
10 chapter I of chapter 1 of title 23, United States Code (as
11 amended by section 1809(b)), is amended by adding at the
12 end the following:

 “172. Border planning, operations, technology, and capacity program.”.

13 **SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.**

14 (a) IN GENERAL.—Subchapter I of chapter 1 of title
15 23, United States Code (as amended by section 1810(a)),
16 is amended by adding at the end the following:

17 **“§ 173. Puerto Rico highway program**

18 “(a) IN GENERAL.—The Secretary shall allocate funds
19 authorized by section 1101(15) of the Safe, Accountable,
20 Flexible, and Efficient Transportation Equity Act of 2005
21 for each of fiscal years 2005 through 2009 to the Common-
22 wealth of Puerto Rico to carry out a highway program in
23 the Commonwealth.

24 “(b) APPLICABILITY OF TITLE.—

1 “(1) *IN GENERAL.*—Amounts made available by
 2 *section 1101(15) of the Safe, Accountable, Flexible,*
 3 *and Efficient Transportation Equity Act of 2005*
 4 *shall be available for obligation in the same manner*
 5 *as if such funds were apportioned under this chapter.*

6 “(2) *LIMITATION ON OBLIGATIONS.*—The
 7 *amounts shall be subject to any limitation on obliga-*
 8 *tions for Federal-aid highway and highway safety*
 9 *construction programs.*

10 “(c) *TREATMENT OF FUNDS.*—Amounts made avail-
 11 *able to carry out this section for a fiscal year shall be ad-*
 12 *ministered as follows:*

13 “(1) *APPORTIONMENT.*—For the purpose of im-
 14 *posing any penalty under this title or title 49, the*
 15 *amounts shall be treated as being apportioned to*
 16 *Puerto Rico under sections 104(b) and 144, for each*
 17 *program funded under those sections in an amount*
 18 *determined by multiplying—*

19 “(A) *the aggregate of the amounts for the*
 20 *fiscal year; by*

21 “(B) *the ratio that—*

22 “(i) *the amount of funds apportioned*
 23 *to Puerto Rico for each such program for*
 24 *fiscal year 1997; bears to*

1 “(ii) the total amount of funds appor-
2 tioned to Puerto Rico for all such programs
3 for fiscal year 1997.

4 “(2) *PENALTY.*—The amounts treated as being
5 apportioned to Puerto Rico under each section re-
6 ferred to in paragraph (1) shall be deemed to be re-
7 quired to be apportioned to Puerto Rico under that
8 section for purposes of the imposition of any penalty
9 under this title and title 49.

10 “(3) *EFFECT ON ALLOCATIONS AND APPORTION-*
11 *MENTS.*—Subject to paragraph (2), nothing in this
12 section affects any allocation under section 105 and
13 any apportionment under sections 104 and 144.”.

14 “(b) *CONFORMING AMENDMENT.*—The analysis for sub-
15 chapter I of chapter 1 of title 23, United States Code (as
16 amended by section 1810(b)), is amended by adding at the
17 end the following:

 “173. Puerto Rico highway program.”.

18 **SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESER-**
19 **VATION.**

20 “(a) *IN GENERAL.*—Subchapter I of chapter 1 of title
21 23, United States Code (as amended by section 1811(a)),
22 is amended by adding at the end the following:

23 **“§ 174. National historic covered bridge preservation**

24 “(a) *DEFINITION OF HISTORIC COVERED BRIDGE.*—
25 In this section, the term ‘historic covered bridge’ means a

1 covered bridge that is listed or eligible for listing on the
2 National Register of Historic Places.

3 “(b) *HISTORIC COVERED BRIDGE PRESERVATION.*—
4 Subject to the availability of appropriations, the Secretary
5 shall—

6 “(1) collect and disseminate information on his-
7 toric covered bridges;

8 “(2) conduct educational programs relating to
9 the history and construction techniques of historic
10 covered bridges;

11 “(3) conduct research on the history of historic
12 covered bridges; and

13 “(4) conduct research on, and study techniques
14 for, protecting historic covered bridges from rot, fire,
15 natural disasters, or weight-related damage.

16 “(c) *GRANTS.*—

17 “(1) *IN GENERAL.*—Subject to the availability of
18 appropriations, the Secretary shall make a grant to
19 a State that submits an application to the Secretary
20 that demonstrates a need for assistance in carrying
21 out 1 or more historic covered bridge projects de-
22 scribed in paragraph (2).

23 “(2) *ELIGIBLE PROJECTS.*—A grant under para-
24 graph (1) may be made for a project—

1 “(A) to rehabilitate or repair a historic cov-
2 ered bridge; or

3 “(B) to preserve a historic covered bridge,
4 including through—

5 “(i) installation of a fire protection
6 system, including a fireproofing or fire de-
7 tection system and sprinklers;

8 “(ii) installation of a system to pre-
9 vent vandalism and arson; or

10 “(iii) relocation of a bridge to a pres-
11 ervation site.

12 “(3) AUTHENTICITY REQUIREMENTS.—A grant
13 under paragraph (1) may be made for a project only
14 if—

15 “(A) to the maximum extent practicable, the
16 project—

17 “(i) is carried out in the most histori-
18 cally appropriate manner; and

19 “(ii) preserves the existing structure of
20 the historic covered bridge; and

21 “(B) the project provides for the replace-
22 ment of wooden components with wooden compo-
23 nents, unless the use of wood is impracticable for
24 safety reasons.

1 “(4) *FEDERAL SHARE.*—*Except as provided in*
 2 *section 120, the Federal share of the cost of a project*
 3 *carried out with a grant under this subsection shall*
 4 *be 80 percent.*

5 “(d) *FUNDING.*—*There is authorized to be appro-*
 6 *priated to carry out this section \$13,140,805 for each of*
 7 *fiscal years 2005 through 2009, to remain available until*
 8 *expended.”.*

9 (b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
 10 *chapter I of chapter 1 of title 23, United States Code (as*
 11 *amended by section 1811(b)), is amended by adding at the*
 12 *end the following:*

 “174. *National historic covered bridge preservation.”.*

13 **SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYS-**
 14 **TEM PRESERVATION PROGRAM.**

15 (a) *IN GENERAL.*—*Subchapter I of chapter 1 of title*
 16 *23, United States Code (as amended by section 1812(a)),*
 17 *is amended by adding at the end the following:*

18 **“§175. Transportation and community and system**
 19 **preservation program**

20 “(a) *ESTABLISHMENT.*—*The Secretary shall establish*
 21 *a comprehensive program to facilitate the planning, devel-*
 22 *opment, and implementation of strategies by States, metro-*
 23 *politan planning organizations, federally-recognized Indian*
 24 *tribes, and local governments to integrate transportation,*

1 *community, and system preservation plans and practices*
2 *that address the goals described in subsection (b).*

3 “(b) *GOALS.—The goals of the program are to—*

4 “(1) *improve the efficiency of the transportation*
5 *system in the United States;*

6 “(2) *reduce the impacts of transportation on the*
7 *environment;*

8 “(3) *reduce the need for costly future investments*
9 *in public infrastructure;*

10 “(4) *provide efficient access to jobs, services, and*
11 *centers of trade; and*

12 “(5) *examine development patterns, and to iden-*
13 *tify strategies, to encourage private sector develop-*
14 *ment patterns that achieve the goals identified in*
15 *paragraphs (1) through (4).*

16 “(c) *ALLOCATION OF FUNDS FOR IMPLEMENTATION.—*

17 “(1) *IN GENERAL.—The Secretary shall allocate*
18 *funds made available to carry out this subsection to*
19 *States, metropolitan planning organizations, and*
20 *local governments to carry out projects to address*
21 *transportation efficiency and community and system*
22 *preservation.*

23 “(2) *CRITERIA.—In allocating funds made avail-*
24 *able to carry out this subsection, the Secretary shall*
25 *give priority to applicants that—*

1 “(A) have instituted preservation or devel-
2 opment plans and programs that—

3 “(i) meet the requirements of this title
4 and chapter 53 of title 49, United States
5 Code; and

6 “(ii)(I) are coordinated with State and
7 local adopted preservation or development
8 plans;

9 “(II) are intended to promote cost-ef-
10 fective and strategic investments in trans-
11 portation infrastructure that minimize ad-
12 verse impacts on the environment; or

13 “(III) are intended to promote innova-
14 tive private sector strategies.

15 “(B) have instituted other policies to inte-
16 grate transportation and community and system
17 preservation practices, such as—

18 “(i) spending policies that direct funds
19 to high-growth areas;

20 “(ii) urban growth boundaries to guide
21 metropolitan expansion;

22 “(iii) ‘green corridors’ programs that
23 provide access to major highway corridors
24 for areas targeted for efficient and compact
25 development; or

1 “(iv) other similar programs or poli-
2 cies as determined by the Secretary;

3 “(C) have preservation or development poli-
4 cies that include a mechanism for reducing po-
5 tential impacts of transportation activities on
6 the environment;

7 “(D) examine ways to encourage private
8 sector investments that address the purposes of
9 this section; and

10 “(E) propose projects for funding that ad-
11 dress the purposes described in subsection (b)(2).

12 “(3) *EQUITABLE DISTRIBUTION.*—In allocating
13 funds to carry out this subsection, the Secretary shall
14 ensure the equitable distribution of funds to a diver-
15 sity of populations and geographic regions.

16 “(4) *USE OF ALLOCATED FUNDS.*—

17 “(A) *IN GENERAL.*—An allocation of funds
18 made available to carry out this subsection shall
19 be used by the recipient to implement the
20 projects proposed in the application to the Sec-
21 retary.

22 “(B) *TYPES OF PROJECTS.*—The allocation
23 of funds shall be available for obligation for—

1 “(i) any project eligible for funding
2 under this title or chapter 53 of title 49,
3 United States Code; or

4 “(ii) any other activity relating to
5 transportation and community and system
6 preservation that the Secretary determines
7 to be appropriate, including corridor pres-
8 ervation activities that are necessary to
9 implement—

10 “(I) transit-oriented development
11 plans;

12 “(II) traffic calming measures; or

13 “(III) other coordinated transpor-
14 tation and community and system
15 preservation practices.

16 “(d) FUNDING.—

17 “(1) IN GENERAL.—There is authorized to be ap-
18 propriated from the Highway Trust Fund (other than
19 the Mass Transit Account) to carry out this section
20 \$46,931,447 for each of fiscal years 2005 through
21 2009.

22 “(2) CONTRACT AUTHORITY.—Funds authorized
23 under this subsection shall be available for obligation
24 in the same manner as if the funds were apportioned
25 under this chapter.”.

1 (b) *ELIGIBLE PROJECTS*.—Section 133(b) of title 23,
2 *United States Code* (as amended by section 1701(a)), is
3 amended by adding at the end the following:

4 “(18) *Transportation and community system*
5 *preservation to facilitate the planning, development,*
6 *and implementation of strategies of metropolitan*
7 *planning organizations and local governments to in-*
8 *tegrate transportation, community, and system pres-*
9 *ervation plans and practices that address the fol-*
10 *lowing:*

11 “(A) *Improvement of the efficiency of the*
12 *transportation system in the United States.*

13 “(B) *Reduction of the impacts of transpor-*
14 *tation on the environment.*

15 “(C) *Reduction of the need for costly future*
16 *investments in public infrastructure.*

17 “(D) *Provision of efficient access to jobs,*
18 *services, and centers of trade.*

19 “(E) *Examination of development patterns,*
20 *and identification of strategies to encourage pri-*
21 *vate sector development patterns, that achieve the*
22 *goals identified in subparagraphs (A) through*
23 *(D).*

24 “(19) *Projects relating to intersections, including*
25 *intersections—*

1 “(A) that—

2 “(i) have disproportionately high acci-
3 dent rates;

4 “(ii) have high levels of congestion, as
5 evidenced by—

6 “(I) interrupted traffic flow at the
7 intersection; and

8 “(II) a level of service rating,
9 issued by the Transportation Research
10 Board of the National Academy of
11 Sciences in accordance with the High-
12 way Capacity Manual, that is not bet-
13 ter than ‘F’ during peak travel hours;
14 and

15 “(iii) are directly connected to or lo-
16 cated on a Federal-aid highway; and

17 “(B) improvements that are approved in the
18 regional plan of the appropriate local metropoli-
19 tan planning organization.”.

20 (c) *CONFORMING AMENDMENT.*—*The analysis for sub-*
21 *chapter I of chapter 1 of title 23, United States Code (as*
22 *amended by section 1812(b)), is amended by adding at the*
23 *end the following:*

 “175. Transportation and community and system preservation pilot program.”.

1 **SEC. 1814. PARKING PILOT PROGRAMS.**

2 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
3 23, United States Code (as amended by section 1813(a)),
4 is amended by adding at the end the following:

5 **“§ 176. Parking pilot programs**

6 “(a) *COMMERCIAL TRUCK PARKING PILOT PRO-*
7 *GRAM.*—

8 “(1) *ESTABLISHMENT.*—In cooperation with ap-
9 propriate State, regional, and local governments, the
10 Secretary shall establish a pilot program to address
11 the shortage of long-term parking for drivers of com-
12 mercial motor vehicles on the National Highway Sys-
13 tem.

14 “(2) *ALLOCATION OF FUNDS.*—

15 “(A) *IN GENERAL.*—The Secretary shall al-
16 locate funds made available under this subsection
17 to States, metropolitan planning organizations,
18 and local governments.

19 “(B) *CRITERIA.*—In allocating funds under
20 this subsection, the Secretary shall give priority
21 to an applicant that—

22 “(i) demonstrates a severe shortage of
23 commercial vehicle parking capacity on the
24 corridor to be addressed;

25 “(ii) consults with affected State and
26 local governments, community groups, pri-

1 vate providers of commercial vehicle park-
2 ing, and motorist and trucking organiza-
3 tions; and

4 “(iii) demonstrates that the project
5 proposed by the applicant is likely to have
6 a positive effect on highway safety, traffic
7 congestion, or air quality.

8 “(3) *USE OF ALLOCATED FUNDS.*—

9 “(A) *IN GENERAL.*—A recipient of funds al-
10 located under this subsection shall use the funds
11 to carry out the project proposed in the applica-
12 tion submitted by the recipient to the Secretary.

13 “(B) *TYPES OF PROJECTS.*—Funds under
14 this subsection shall be available for obligation
15 for projects that serve the National Highway
16 System, including—

17 “(i) construction of safety rest areas
18 that include parking for commercial motor
19 vehicles;

20 “(ii) construction of commercial motor
21 vehicle parking facilities that are adjacent
22 to commercial truck stops and travel plazas;

23 “(iii) costs associated with the opening
24 of facilities (including inspection and weigh

1 *stations and park-and-ride facilities) to*
2 *provide commercial motor vehicle parking;*

3 “(iv) projects that promote awareness
4 of the availability of public or private com-
5 mercial motor vehicle parking on the Na-
6 tional Highway System, including parking
7 in connection with intelligent transpor-
8 tation systems and other systems;

9 “(v) construction of turnouts along the
10 National Highway System for commercial
11 motor vehicles;

12 “(vi) capital improvements to public
13 commercial motor vehicle truck parking fa-
14 cilities closed on a seasonal basis in order
15 to allow the facilities to remain open year-
16 around; and

17 “(vii) improvements to the geometric
18 design at interchanges on the National
19 Highway System to improve access to com-
20 mercial motor vehicle parking facilities.

21 “(4) *REPORT.*—Not later than 5 years after the
22 date of enactment of this section, the Secretary shall
23 submit to Congress a report on the results of the pilot
24 program carried out under this subsection.

1 “(5) *FEDERAL SHARE.*—*The Federal share of the*
2 *cost of a project carried out under this subsection*
3 *shall be consistent with section 120.*

4 “(6) *FUNDING.*—

5 “(A) *IN GENERAL.*—*There is authorized to*
6 *be appropriated from the Highway Trust Fund*
7 *(other than the Mass Transit Account) to carry*
8 *out this subsection \$9,386,289 for each of fiscal*
9 *years 2005 through 2009.*

10 “(B) *CONTRACT AUTHORITY.*—*Funds au-*
11 *thorized under this paragraph shall be available*
12 *for obligation in the same manner as if the funds*
13 *were apportioned under this chapter.*

14 “(b) *CORRIDOR AND FRINGE PARKING PILOT PRO-*
15 *GRAM.*—

16 “(1) *ESTABLISHMENT.*—

17 “(A) *IN GENERAL.*—*In cooperation with*
18 *appropriate State, regional, and local govern-*
19 *ments, the Secretary shall carry out a pilot pro-*
20 *gram to provide corridor and fringe parking fa-*
21 *cilities.*

22 “(B) *PRIMARY FUNCTION.*—*The primary*
23 *function of a corridor and fringe parking facility*
24 *funded under this subsection shall be to provide*
25 *parking capacity to support car pooling, van*

1 *pooling, ride sharing, commuting, and high oc-*
2 *cupancy vehicle travel.*

3 “(C) *OVERNIGHT PARKING.*—*A State may*
4 *permit a facility described in subparagraph (B)*
5 *to be used for the overnight parking of commer-*
6 *cial vehicles if the use does not foreclose or un-*
7 *duly limit the primary function of the facility*
8 *described in subparagraph (B).*

9 “(2) *ALLOCATION OF FUNDS.*—

10 “(A) *IN GENERAL.*—*The Secretary shall al-*
11 *locate funds made available to carry out this*
12 *subsection to States.*

13 “(B) *CRITERIA.*—*In allocating funds under*
14 *this subsection, the Secretary shall give priority*
15 *to a State that—*

16 “(i) *demonstrates demand for corridor*
17 *and fringe parking on the corridor to be ad-*
18 *dressed;*

19 “(ii) *consults with affected metropoli-*
20 *tan planning organizations, local govern-*
21 *ments, community groups, and providers of*
22 *corridor and fringe parking; and*

23 “(iii) *demonstrates that the project*
24 *proposed by the State is likely to have a*

1 *positive effect on ride sharing, traffic con-*
2 *gestion, or air quality.*

3 “(3) *USE OF ALLOCATED FUNDS.—*

4 “(A) *IN GENERAL.—A recipient of funds al-*
5 *located under this subsection shall use the funds*
6 *to carry out the project proposed in the applica-*
7 *tion submitted by the recipient to the Secretary.*

8 “(B) *TYPES OF PROJECTS.—Funds under*
9 *this subsection shall be available for obligation*
10 *for projects that serve the Federal-aid system,*
11 *including—*

12 “(i) *construction of corridor and fringe*
13 *parking facilities;*

14 “(ii) *costs associated with the opening*
15 *of facilities;*

16 “(iii) *projects that promote awareness*
17 *of the availability of corridor and fringe*
18 *parking through the use of signage and*
19 *other means;*

20 “(iv) *capital improvements to corridor*
21 *and fringe parking facilities closed on a*
22 *seasonal basis in order to allow the facilities*
23 *to remain open year-around; and*

24 “(v) *improvements to the geometric de-*
25 *sign on adjoining roadways to facilitate ac-*

1 *cess to, and egress from, corridor and fringe*
2 *parking facilities.*

3 “(4) *REPORT.*—*Not later than 5 years after the*
4 *date of enactment of this section, the Secretary shall*
5 *submit to Congress a report on the results of the pilot*
6 *program carried out under this subsection.*

7 “(5) *FEDERAL SHARE.*—*The Federal share of the*
8 *cost of a project carried out under this subsection*
9 *shall be consistent with section 120.*

10 “(6) *FUNDING.*—

11 “(A) *IN GENERAL.*—*There is authorized to*
12 *be appropriated from the Highway Trust Fund*
13 *(other than the Mass Transit Account) to carry*
14 *out this subsection \$9,386,289 for each of fiscal*
15 *years 2005 through 2009.*

16 “(B) *CONTRACT AUTHORITY.*—*Funds au-*
17 *thorized under this paragraph shall be available*
18 *for obligation in the same manner as if the funds*
19 *were apportioned under this chapter.”.*

20 “(b) *CONFORMING AMENDMENT.*—*The analysis for sub-*
21 *chapter I of chapter I of title 23, United States Code (as*
22 *amended by section 1813(c)), is amended by adding at the*
23 *end the following:*

 “176. *Parking pilot programs.*”.

1 **SEC. 1815. INTERSTATE OASIS PROGRAM.**

2 (a) *IN GENERAL.*—Subchapter I of chapter 1 of title
3 23, United States Code (as amended by section 1814(a)),
4 is amended by adding at the end the following:

5 **“§ 177. Interstate oasis program**

6 “(a) *IN GENERAL.*—Not later than 180 days after the
7 date of enactment of this section, in consultation with the
8 States and other interested parties, the Secretary shall—

9 “(1) establish an Interstate oasis program; and

10 “(2) develop standards for designating, as an
11 Interstate oasis, a facility that—

12 “(A) offers—

13 “(i) products and services to the pub-
14 lic;

15 “(ii) 24-hour access to restrooms; and

16 “(iii) parking for automobiles and
17 heavy trucks; and

18 “(B) meets other standards established by
19 the Secretary.

20 “(b) *STANDARDS FOR DESIGNATION.*—The standards
21 for designation under subsection (a) shall include standards
22 relating to—

23 “(1) the appearance of a facility; and

24 “(2) the proximity of the facility to the Inter-
25 state System.

1 “(c) *ELIGIBILITY FOR DESIGNATION.*—If a State elects
2 to participate in the interstate oasis program, any facility
3 meeting the standards established by the Secretary shall be
4 eligible for designation under this section.

5 “(d) *LOGO.*—The Secretary shall design a logo to be
6 displayed by a facility designated under this section.”.

7 “(b) *CONFORMING AMENDMENT.*—The analysis for sub-
8 chapter I of chapter I of title 23, United States Code (as
9 amended by section 1814(b)), is amended by adding at the
10 end the following:

“177. Interstate oasis program.”.

11 **SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREE-**
12 **MENTS.**

13 Section 204 of title 23, United States Code (as amend-
14 ed by section 1806(f)(4)), is amended by adding at the end
15 the following:

16 “(n) *TRIBAL-STATE ROAD MAINTENANCE AGREE-*
17 *MENTS.*—

18 “(1) *IN GENERAL.*—Notwithstanding any other
19 provision of law, regulation, policy, or guideline, an
20 Indian tribe and a State may enter into a road
21 maintenance agreement under which an Indian tribe
22 assumes the responsibilities of the State for—

23 “(A) Indian reservation roads; and

24 “(B) roads providing access to Indian res-
25 ervation roads.

1 “(2) *TRIBAL-STATE AGREEMENTS.*—*Agreements*
2 *entered into under paragraph (1)—*

3 “(A) *shall be negotiated between the State*
4 *and the Indian tribe; and*

5 “(B) *shall not require the approval of the*
6 *Secretary.*

7 “(3) *ANNUAL REPORT.*—*Effective beginning with*
8 *fiscal year 2005, the Secretary shall prepare and sub-*
9 *mit to Congress an annual report that identifies—*

10 “(A) *the Indian tribes and States that have*
11 *entered into agreements under paragraph (1);*

12 “(B) *the number of miles of roads for which*
13 *Indian tribes have assumed maintenance respon-*
14 *sibilities; and*

15 “(C) *the amount of funding transferred to*
16 *Indian tribes for the fiscal year under agree-*
17 *ments entered into under paragraph (1).”.*

18 **SEC. 1817. NATIONAL FOREST SYSTEM ROADS.**

19 *Section 205 of title 23, United States Code, is amended*
20 *by adding at the end the following:*

21 “(e) *PASSAGES FOR AQUATIC SPECIES.*—*Of the*
22 *amounts made available for National Forest System roads,*
23 *\$14,079,433 for each fiscal year shall be used by the Sec-*
24 *retary of Agriculture to pay the costs of facilitating the pas-*
25 *sage of aquatic species beneath roads in the National Forest*

1 *System, including the costs of constructing, maintaining,*
 2 *replacing, or removing culverts and bridges, as appro-*
 3 *priate.”.*

4 **SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.**

5 *(a) IN GENERAL.—Chapter 2 of title 23, United States*
 6 *Code, is amended by striking section 215 and inserting the*
 7 *following:*

8 **“§ 215. Territorial highway program**

9 *“(a) DEFINITIONS.—In this section:*

10 *“(1) PROGRAM.—The term ‘program’ means the*
 11 *territorial highway program established under sub-*
 12 *section (b).*

13 *“(2) TERRITORY.—The term ‘territory’ means*
 14 *the any of the following territories of the United*
 15 *States:*

16 *“(A) American Samoa.*

17 *“(B) The Commonwealth of the Northern*
 18 *Mariana Islands.*

19 *“(C) Guam.*

20 *“(D) The United States Virgin Islands.*

21 *“(b) PROGRAM.—*

22 *“(1) IN GENERAL.—Recognizing the mutual ben-*
 23 *efits that will accrue to the territories and the United*
 24 *States from the improvement of highways in the terri-*
 25 *tories, the Secretary may carry out a program to as-*

1 *sist each territorial government in the construction*
2 *and improvement of a system of arterial and collector*
3 *highways, and necessary inter-island connectors, that*
4 *is—*

5 *“(A) designated by the Governor or chief ex-*
6 *ecutive officer of each territory; and*

7 *“(B) approved by the Secretary.*

8 *“(2) FEDERAL SHARE.—The Secretary shall pro-*
9 *vide Federal financial assistance to territories under*
10 *this section in accordance with section 120(h).*

11 *“(c) TECHNICAL ASSISTANCE.—*

12 *“(1) IN GENERAL.—To continue a long-range*
13 *highway development program, the Secretary may*
14 *provide technical assistance to the governments of the*
15 *territories to enable the territories to, on a continuing*
16 *basis—*

17 *“(A) engage in highway planning;*

18 *“(B) conduct environmental evaluations;*

19 *“(C) administer right-of-way acquisition*
20 *and relocation assistance programs; and*

21 *“(D) design, construct, operate, and main-*
22 *tain a system of arterial and collector highways,*
23 *including necessary inter-island connectors.*

24 *“(2) FORM AND TERMS OF ASSISTANCE.—Tech-*
25 *nical assistance provided under paragraph (1), and*

1 *the terms for the sharing of information among terri-*
2 *ories receiving the technical assistance, shall be in-*
3 *cluded in the agreement required by subsection (e).*

4 “(d) *NONAPPLICABILITY OF CERTAIN PROVISIONS.—*

5 *“(1) IN GENERAL.—Except to the extent that*
6 *provisions of chapter 1 are determined by the Sec-*
7 *retary to be inconsistent with the needs of the terri-*
8 *ories and the intent of the program, chapter 1 (other*
9 *than provisions of chapter 1 relating to the appor-*
10 *tionment and allocation of funds) shall apply to*
11 *funds authorized to be appropriated for the program.*

12 *“(2) APPLICABLE PROVISIONS.—The specific sec-*
13 *tions of chapter 1 that are applicable to each terri-*
14 *tory, and the extent of the applicability of those sec-*
15 *tion, shall be identified in the agreement required by*
16 *subsection (e).*

17 “(e) *AGREEMENT.—*

18 *“(1) IN GENERAL.—Except as provided in para-*
19 *graph (3), none of the funds made available for the*
20 *program shall be available for obligation or expendi-*
21 *ture with respect to any territory until the Governor*
22 *or chief executive officer of the territory enters into a*
23 *new agreement with the Secretary (which new agree-*
24 *ment shall be entered into not later than 1 year after*
25 *the date of enactment of the Safe, Accountable, Flexi-*

1 *ble, and Efficient Transportation Equity Act of*
2 *2005), providing that the government of the territory*
3 *shall—*

4 *“(A) implement the program in accordance*
5 *with applicable provisions of chapter 1 and sub-*
6 *section (d);*

7 *“(B) design and construct a system of arte-*
8 *rial and collector highways, including necessary*
9 *inter-island connectors, in accordance with*
10 *standards that are—*

11 *“(i) appropriate for each territory; and*

12 *“(ii) approved by the Secretary;*

13 *“(C) provide for the maintenance of facili-*
14 *ties constructed or operated under this section in*
15 *a condition to adequately serve the needs of*
16 *present and future traffic; and*

17 *“(D) implement standards for traffic oper-*
18 *ations and uniform traffic control devices that*
19 *are approved by the Secretary.*

20 *“(2) TECHNICAL ASSISTANCE.—The new agree-*
21 *ment required by paragraph (1) shall—*

22 *“(A) specify the kind of technical assistance*
23 *to be provided under the program;*

1 “(B) include appropriate provisions regard-
2 ing information sharing among the territories;
3 and

4 “(C) delineate the oversight role and respon-
5 sibilities of the territories and the Secretary.

6 “(3) *REVIEW AND REVISION OF AGREEMENT.*—
7 The new agreement entered into under paragraph (1)
8 shall be reevaluated and, as necessary, revised, at
9 least every 2 years.

10 “(4) *EXISTING AGREEMENTS.*—With respect to
11 an agreement between the Secretary and the Governor
12 or chief executive officer of a territory that is in effect
13 as of the date of enactment of the Safe, Accountable,
14 Flexible, and Efficient Transportation Equity Act of
15 2005—

16 “(A) the agreement shall continue in force
17 until replaced by a new agreement in accordance
18 with paragraph (1); and

19 “(B) amounts made available for the pro-
20 gram under the agreement shall be available for
21 obligation or expenditure so long as the agree-
22 ment, or a new agreement under paragraph (1),
23 is in effect.

24 “(f) *PERMISSIBLE USES OF FUNDS.*—

1 “(1) *IN GENERAL.—Funds made available for*
2 *the program may be used only for the following*
3 *projects and activities carried out in a territory:*

4 “(A) *Eligible surface transportation pro-*
5 *gram projects described in section 133(b).*

6 “(B) *Cost-effective, preventive maintenance*
7 *consistent with section 116.*

8 “(C) *Ferry boats, terminal facilities, and*
9 *approaches, in accordance with subsections (b)*
10 *and (c) of section 129.*

11 “(D) *Engineering and economic surveys*
12 *and investigations for the planning, and the fi-*
13 *nancing, of future highway programs.*

14 “(E) *Studies of the economy, safety, and*
15 *convenience of highway use.*

16 “(F) *The regulation and equitable taxation*
17 *of highway use.*

18 “(G) *Such research and development as are*
19 *necessary in connection with the planning, de-*
20 *sign, and maintenance of the highway system.*

21 “(2) *PROHIBITION ON USE OF FUNDS FOR ROU-*
22 *TINE MAINTENANCE.—None of the funds made avail-*
23 *able for the program shall be obligated or expended*
24 *for routine maintenance.*

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

5 (b) *CONFORMING AMENDMENTS.*—

6 (1) *ELIGIBLE PROJECTS.*—Section 103(b)(6) of
 7 title 23, United States Code, is amended by striking
 8 subparagraph (P) and inserting the following:

9 “(P) Projects eligible for assistance under the ter-
 10 ritorial highway program under section 215.”.

11 (2) *FUNDING.*—Section 104(b)(1)(A) of title 23,
 12 United States Code, is amended by striking “to the
 13 Virgin Islands, Guam, American Samoa, and the
 14 Commonwealth of Northern Mariana Islands” and
 15 inserting “for the territorial highway program au-
 16 thorized under section 215”.

17 (3) *ANALYSIS.*—The analysis for chapter 2 of
 18 title 23, United States Code, is amended by striking
 19 the item relating to section 215 and inserting the fol-
 20 lowing:

“215. Territorial highway program.”.

21 **SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DE-**
 22 **PLOYMENT PROGRAM.**

23 (a) *IN GENERAL.*—Section 322 of title 23, United
 24 States Code, is amended to read as follows:

1 **“§ 322. High-speed magnetic levitation system deploy-**
2 **ment program**

3 “(a) *DEFINITIONS.—In this section:*

4 “(1) *ELIGIBLE PROJECT COSTS.—*

5 “(A) *IN GENERAL.—The term ‘eligible*
6 *project costs’ means the capital cost of the fixed*
7 *guideway infrastructure of a MAGLEV project,*
8 *including land, piers, guideways, propulsion*
9 *equipment and other components attached to*
10 *guideways, power distribution facilities (includ-*
11 *ing substations), control and communications fa-*
12 *cilities, access roads, and storage, repair, and*
13 *maintenance facilities.*

14 “(B) *INCLUSION.—The term ‘eligible project*
15 *costs’ includes the costs of preconstruction plan-*
16 *ning activities.*

17 “(2) *FULL PROJECT COSTS.—The term ‘full*
18 *project costs’ means the total capital costs of a*
19 *MAGLEV project, including eligible project costs and*
20 *the costs of stations, vehicles, and equipment.*

21 “(3) *MAGLEV.—*

22 “(A) *IN GENERAL.—The term ‘MAGLEV’*
23 *means transportation systems in revenue service*
24 *employing magnetic levitation that would be ca-*
25 *pable of safe use by the public at a speed in ex-*
26 *cess of 240 miles per hour.*

1 “(B) *INCLUSION.*—The term ‘MAGLEV’ in-
2 cludes power, control, and communication facili-
3 ties required for the safe operation of the vehicles
4 within a system described in subparagraph (A).

5 “(4) *SECRETARY.*—The term ‘Secretary’ means
6 the Secretary of Transportation.

7 “(5) *SPECIAL PURPOSE ENTITY.*—The term ‘spe-
8 cial purpose entity’ means a nonprofit entity that—

9 “(A) is not a State-designated authority;
10 but

11 “(B) is eligible, as determined by the Gov-
12 ernor of the State in which the entity is located,
13 to participate in the program under this section.

14 “(6) *TEA-21 CRITERIA.*—The term ‘TEA-21 cri-
15 teria’ means—

16 “(A) the criteria set forth in subsection (d)
17 of this section (as in effect on the day before the
18 date of enactment of the Safe, Affordable, Flexi-
19 ble, and Efficient Transportation Equity Act of
20 2005), including applicable regulations; and

21 “(B) with respect to subsection (e)(2), the
22 criteria set forth in subsection (d)(8) of this sec-
23 tion (as so in effect).

24 “(b) *PHASE I—PRECONSTRUCTION PLANNING.*—

1 “(1) *IN GENERAL.*—A State, State-designated
2 *authority, multistate-designated authority, or special*
3 *purpose entity may apply to the Secretary for grants*
4 *to conduct preconstruction planning for proposed new*
5 *MAGLEV projects, or extensions to MAGLEV systems*
6 *planned, studied, or deployed under this or any other*
7 *program.*

8 “(2) *APPLICATIONS.*—An application for a grant
9 *under this subsection shall include a description of*
10 *the proposed MAGLEV project, including, at a*
11 *minimum—*

12 “(A) *a description of the purpose and need*
13 *for the proposed MAGLEV project;*

14 “(B) *a description of the travel market to be*
15 *served;*

16 “(C) *a description of the technology selected*
17 *for the MAGLEV project;*

18 “(D) *forecasts of ridership and revenues;*

19 “(E) *a description of preliminary engineer-*
20 *ing that is sufficient to provide a reasonable esti-*
21 *mate of the capital cost of constructing, oper-*
22 *ating, and maintaining the project;*

23 “(F) *a realistic schedule for construction*
24 *and equipment for the project;*

25 “(G) *an environmental assessment;*

1 “(H) a preliminary identification of the
2 or more organizations that will construct and
3 operate the project; and

4 “(I) a cost-benefit analysis and tentative fi-
5 nancial plan for construction and operation of
6 the project.

7 “(3) *DEADLINE FOR APPLICATIONS.*—The Sec-
8 retary shall establish an annual deadline for receipt
9 of applications under this subsection.

10 “(4) *EVALUATION.*—The Secretary shall evaluate
11 all applications received by the annual deadline to
12 determine whether the applications meet criteria es-
13 tablished by the Secretary.

14 “(5) *SELECTION.*—The Secretary, except as oth-
15 erwise provided in this section, shall select for Federal
16 support for preconstruction planning any project that
17 the Secretary determines meets the criteria.

18 “(c) *PHASE II—ENVIRONMENTAL IMPACT STUDIES.*—

19 “(1) *IN GENERAL.*—A State, State-designated
20 authority, or multistate-designated authority that has
21 conducted (under this section or any other provision
22 of law) 1 or more studies that address each of the re-
23 quirements of subsection (b)(2) may apply for Federal
24 funding to assist in—

1 “(A) *preparing an environmental impact*
2 *statement or similar analysis required under the*
3 *National Environmental Policy Act of 1969 (42*
4 *U.S.C. 4321 et seq.); and*

5 “(B) *planning for construction, operation,*
6 *and maintenance of a MAGLEV project.*

7 “(2) *DEADLINE FOR APPLICATIONS.—*

8 “(A) *IN GENERAL.—The Secretary shall—*

9 “(i) *establish an annual deadline for*
10 *receipt of Phase II applications; and*

11 “(ii) *evaluate all applications received*
12 *by that deadline in accordance with criteria*
13 *established under subparagraph (B).*

14 “(B) *CRITERIA.—The Secretary shall estab-*
15 *lish criteria to evaluate applications that include*
16 *whether—*

17 “(i) *the technology selected is available*
18 *for deployment at the time of the applica-*
19 *tion;*

20 “(ii) *operating revenues combined with*
21 *known and dedicated sources of other reve-*
22 *nuues in any year will exceed annual oper-*
23 *ation and maintenance costs;*

1 “(iii) over the life of the MAGLEV
2 project, total project benefits will exceed
3 total project costs; and

4 “(iv) the proposed capital financing
5 plan is realistic and does not assume Fed-
6 eral assistance that is greater than the
7 maximums specified in clause (ii).

8 “(C) *PROJECTS SELECTED.*—If the Sec-
9 retary determines that a MAGLEV project meets
10 the criteria established under subparagraph (B),
11 the Secretary shall—

12 “(i) select that project for Federal
13 Phase II support; and

14 “(ii) publish in the Federal Register a
15 notice of intent to prepare an environ-
16 mental impact statement or similar anal-
17 ysis required under the National Environ-
18 mental Policy Act of 1969 (42 U.S.C. 4321
19 et seq.).

20 “(d) *PHASE III—DEPLOYMENT.*—The State, State-
21 designated agency, multistate-designated agency, or special
22 purpose entity that is part of a public-private partnership
23 (meeting the TEA–21 criteria) sponsoring a MAGLEV
24 project that has completed a final environmental impact
25 statement or similar analysis required under the National

1 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*
2 *for both the MAGLEV project and the entire corridor of*
3 *which the MAGLEV project is the initial operating seg-*
4 *ment, and has completed planning studies for the construc-*
5 *tion, operation, and maintenance of the MAGLEV project,*
6 *under this or any other program, may submit an applica-*
7 *tion to the Secretary for Federal funding of a portion of*
8 *the capital costs of planning, financing, constructing, and*
9 *equipping the preferred alternative identified in the final*
10 *environmental impact statement or analysis.*

11 “(e) *FINANCIAL ASSISTANCE.*—

12 “(1) *IN GENERAL.*—*The Secretary shall make*
13 *available financial assistance to pay the Federal*
14 *share of the full project costs of projects selected under*
15 *this section.*

16 “(2) *PREVAILING WAGE AND CERTAIN TEA-21*
17 *CRITERIA.*—*Sections 5333(a) and the TEA-21 cri-*
18 *teria, shall apply to financial assistance made avail-*
19 *able under this section and projects funded with that*
20 *assistance.*

21 “(3) *FEDERAL SHARE.*—

22 “(A) *PHASE I AND PHASE II.*—*For Phase*
23 *I—preconstruction planning and Phase II—en-*
24 *vironmental impact studies carried out under*
25 *subsections (b) and (c), respectively, the Federal*

1 share of the costs of the planning and studies
 2 shall be not more than $\frac{2}{3}$ of the full cost of the
 3 planning and studies.

4 “(B) PHASE III.—For Phase III—deploy-
 5 ment projects carried out under subsection (d),
 6 not more than $\frac{2}{3}$ of the full capital cost of such
 7 a project shall be made available from funds ap-
 8 propriated for this program.

9 “(4) FUNDING.—

10 “(A) CONTRACT AUTHORITY; AUTHORIZA-
 11 TION OF APPROPRIATIONS.—

12 “(i) IN GENERAL.—There is authorized
 13 to be appropriated from the Highway Trust
 14 Fund (other than the Mass Transit Ac-
 15 count) for fiscal years 2005 through 2009 to
 16 carry out this section—

17 “(I) \$10,000,000 for Phase I—
 18 preconstruction planning studies;

19 “(II) \$20,000,000 for Phase II—
 20 environmental impact studies; and

21 “(III) \$60,000,000 for Phase
 22 III—deployment projects.

23 “(ii) OBLIGATION AUTHORITY.—Funds
 24 authorized by this subparagraph shall be
 25 available for obligation in the same manner

1 as if the funds were apportioned under
2 chapter I, except that—

3 “(I) the Federal share of the cost
4 of the project shall be in accordance
5 with paragraph (2); and

6 “(II) the availability of the funds
7 shall be in accordance with subsection
8 (f).

9 “(B) NONCONTRACT AUTHORITY AUTHOR-
10 IZATION OF APPROPRIATIONS.—

11 “(i) PHASE I.—There are authorized to
12 be appropriated from the Highway Trust
13 Fund (other than the Mass Transit Ac-
14 count) to carry out Phase I—
15 preconstruction planning studies under sub-
16 section (b)—

17 “(I) \$6,000,000 for fiscal year
18 2005; and

19 “(II) \$2,000,000 for each of fiscal
20 years 2006 through 2009.

21 “(ii) PHASE II.—There are authorized
22 to be appropriated from the Highway Trust
23 Fund (other than the Mass Transit Ac-
24 count) to carry out Phase II—environ-

1 *mental impact studies under subsection*
2 *(c)—*

3 “(I) \$25,000,000 for fiscal year
4 2005;

5 “(II) \$37,000,000 for fiscal year
6 2006;

7 “(III) \$21,000,000 for fiscal year
8 2007; and

9 “(IV) \$9,000,000 for each of fiscal
10 years 2008 and 2009.

11 “(iii) *PHASE III.—There are author-*
12 *ized to be appropriated from the Highway*
13 *Trust Fund (other than the Mass Transit*
14 *Account) to carry out Phase III—deploy-*
15 *ment projects under subsection (d)—*

16 “(I) \$500,000,000 for fiscal year
17 2005;

18 “(II) \$650,000,000 for fiscal year
19 2006;

20 “(III) \$850,000,000 for fiscal year
21 2007;

22 “(IV) \$850,000,000 for fiscal year
23 2008; and

24 “(V) \$600,000,000 for fiscal year
25 2009.

1 “(iv) *PROGRAM ADMINISTRATION.*—
2 *There are authorized to be appropriated*
3 *from the Highway Trust Fund (other than*
4 *the Mass Transit Account) to carry out ad-*
5 *ministration of this program—*

6 “(I) \$13,000,000 for fiscal year
7 2005;

8 “(II) \$16,000,000 for fiscal year
9 2006;

10 “(III) \$8,000,000 for fiscal year
11 2007; and

12 “(IV) \$5,000,000 for each of fiscal
13 years 2008 and 2009.

14 “(v) *RESEARCH AND DEVELOPMENT.*—
15 *There is authorized to be appropriated from*
16 *the Highway Trust Fund (other than the*
17 *Mass Transit Account) to carry out research*
18 *and development activities to reduce*
19 *MAGLEV deployment costs \$4,000,000 for*
20 *each of fiscal years 2005 through 2009.*

21 “(f) *AVAILABILITY OF FUNDS.*—*Funds made available*
22 *under subsection (e) shall remain available until expended.*

23 “(g) *OTHER FEDERAL FUNDS.*—*Funds made available*
24 *to a State to carry out the surface transportation program*
25 *under section 133 and the congestion mitigation and air*

1 *quality improvement programs under section 149 may be*
2 *used by any State to pay a portion of the full project costs*
3 *of an eligible project selected under this section, without re-*
4 *quirement for non-Federal funds.*

5 “(h) *OTHER FEDERAL FUNDS.*—*A project selected for*
6 *funding under this section shall be eligible for other forms*
7 *of financial assistance provided by this title and title V of*
8 *the Railroad Revitalization and Regulatory Reform Act of*
9 *1976 (45 U.S.C. 821 et seq.), including loans, loan guaran-*
10 *tees, and lines of credit.*

11 “(i) *MANDATORY ADDITIONAL SELECTION.*—

12 “(1) *IN GENERAL.*—*Subject to paragraph 2, in*
13 *selecting projects for preconstruction planning, de-*
14 *ployment, and financial assistance, the Secretary*
15 *may only provide funds to MAGLEV projects that*
16 *meet the criteria established under subsection (b)(4).*

17 “(2) *PRIORITY FUNDING.*—*The Secretary shall*
18 *give priority funding to a MAGLEV project that—*

19 “(A) *has already met the TEA–21 criteria*
20 *and has received funding prior to the date of en-*
21 *actment of the Safe, Affordable, Flexible, and Ef-*
22 *ficient Transportation Equity Act of 2005 as a*
23 *result of evaluation and contracting procedures*
24 *for MAGLEV transportation, to the extent that*

1 *the project continues to fulfill the requirements of*
2 *this section;*

3 “(B) *to the maximum extent practicable,*
4 *has met safety guidelines established by the Sec-*
5 *retary to protect the health and safety of the*
6 *public;*

7 “(C) *is based on designs that ensure the*
8 *greatest life cycle advantages for the project;*

9 “(D) *contains domestic content of at least*
10 *70 percent; and*

11 “(E) *is designed and developed through*
12 *public/private partnership entities and continues*
13 *to meet the TEA–21 criteria relating to public/*
14 *private partnerships.”.*

15 (b) **CONFORMING AMENDMENT.**—*The analysis for*
16 *chapter 3 of title 23, United States Code, is amended by*
17 *striking the item relating to section 322 and inserting the*
18 *following:*

 “322. *High-speed magnetic levitation system deployment program.*”.

19 **SEC. 1820. DONATIONS AND CREDITS.**

20 *Section 323 of title 23, United States Code, is*
21 *amended—*

22 (1) *in the first sentence of subsection (c), by in-*
23 *serting “, or a local government from offering to do-*
24 *mate funds, materials, or services performed by local*
25 *government employees,” after “services”; and*

1 (2) *striking subsection (e).*

2 **SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.**

3 (a) *GENERAL RULE.—Except to the extent that the*
 4 *Secretary determines otherwise, not less than 10 percent of*
 5 *the amounts made available for any program under titles*
 6 *I, II, and VI of this Act shall be expended with small busi-*
 7 *ness concerns owned and controlled by socially and eco-*
 8 *nomically disadvantaged individuals.*

9 (b) *DEFINITIONS.—In this section:*

10 (1) *SMALL BUSINESS CONCERN.—*

11 (A) *IN GENERAL.—The term “small busi-*
 12 *ness concern” has the meaning given the term*
 13 *under section 3 of the Small Business Act (15*
 14 *U.S.C. 632).*

15 (B) *EXCLUSION.—The term “small business*
 16 *concern” does not include any concern or group*
 17 *of concerns controlled by the same socially and*
 18 *economically disadvantaged individual or indi-*
 19 *viduals that has average annual gross receipts*
 20 *over the preceding 3 fiscal years in excess of*
 21 *\$18,308,420, as adjusted by the Secretary for in-*
 22 *flation.*

23 (2) *SOCIALLY AND ECONOMICALLY DISADVAN-*
 24 *TAGED INDIVIDUALS.—The term “socially and eco-*
 25 *nomically disadvantaged individuals” has the mean-*

1 *ing given the term under section 8(d) of the Small*
2 *Business Act (15 U.S.C. 637(d)) and relevant subcon-*
3 *tracting regulations promulgated under that section,*
4 *except that women shall be presumed to be socially*
5 *and economically disadvantaged individuals for the*
6 *purposes of this section.*

7 *(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS*
8 *ENTERPRISES.—Each State shall annually survey and*
9 *compile a list of the small business concerns referred to in*
10 *subsection (a) and the location of such concerns in the State*
11 *and notify the Secretary, in writing, of the percentage of*
12 *such concerns which are controlled by women, by socially*
13 *and economically disadvantaged individuals (other than*
14 *women), and by individuals who are women and are other-*
15 *wise socially and economically disadvantaged individuals.*

16 *(d) UNIFORM CERTIFICATION.—The Secretary shall es-*
17 *tablish minimum uniform criteria for State governments*
18 *to use in certifying whether a concern qualifies for purposes*
19 *of this section. Such minimum uniform criteria shall in-*
20 *clude on-site visits, personal interviews, licenses, analysis*
21 *of stock ownership, listing of equipment, analysis of bond-*
22 *ing capacity, listing of work completed, resume of principal*
23 *owners, financial capacity, 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 Fed-
 4 eral court issues a final order in which the court finds that
 5 the requirement of subsection (a), or the program estab-
 6 lished under subsection (a), is unconstitutional.

7 **SEC. 1822. [RESERVED.]**

8 **SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACIL-**
 9 **ITY ENHANCEMENT PROJECTS.**

10 Section 133(e)(5) of title 23, United States Code, is
 11 amended by adding at the end the following:

12 “(D) **PRIORITY FOR PEDESTRIAN AND BICY-**
 13 **CLE FACILITY ENHANCEMENT PROJECTS.**—The
 14 Secretary shall encourage States to give priority
 15 to pedestrian and bicycle facility enhancement
 16 projects that include a coordinated physical ac-
 17 tivity or healthy lifestyles program.”.

18 **SEC. 1824. THE DELTA REGIONAL AUTHORITY.**

19 (a) **IN GENERAL.**—Subchapter I of chapter 1 of title
 20 23, United States Code (as amended by section 1814(a)),
 21 is amended by adding at the end the following:

22 **“§ 178. Delta Region transportation development pro-**
 23 **gram**

24 “(a) **IN GENERAL.**—The Secretary shall carry out a
 25 program to—

1 “(1) support and encourage multistate transpor-
2 tation planning and corridor development;

3 “(2) provide for transportation project develop-
4 ment;

5 “(3) facilitate transportation decisionmaking;
6 and

7 “(4) support transportation construction.

8 “(b) *ELIGIBLE RECIPIENTS.*—A State transportation
9 department or metropolitan planning organization may re-
10 ceive and administer funds provided under the program.

11 “(c) *ELIGIBLE ACTIVITIES.*—The Secretary shall make
12 allocations under the program for multistate highway plan-
13 ning, development, and construction projects.

14 “(d) *OTHER PROVISIONS REGARDING ELIGIBILITY.*—
15 All activities funded under this program shall be consistent
16 with the continuing, cooperative, and comprehensive plan-
17 ning processes required by section 134 and 135.

18 “(e) *SELECTION CRITERIA.*—The Secretary shall select
19 projects to be carried out under the program based on—

20 “(1) whether the project is located—

21 “(A) in an area that is part of the Delta
22 Regional Authority; and

23 “(B) on the Federal-aid system;

24 “(2) endorsement of the project by the State de-
25 partment of transportation; and

1 “(3) *evidence of the ability to complete the*
2 *project.*

3 “(f) *PROGRAM PRIORITIES.—In administering the*
4 *program, the Secretary shall—*

5 “(1) *encourage State and local officials to work*
6 *together to develop plans for multimodal and multi-*
7 *jurisdictional transportation decisionmaking; and*

8 “(2) *give priority to projects that emphasize*
9 *multimodal planning, including planning for oper-*
10 *ational improvements that—*

11 “(A) *increase the mobility of people and*
12 *goods;*

13 “(B) *improve the safety of the transpor-*
14 *tation system with respect to catastrophic—*

15 “(i) *natural disasters; or*

16 “(ii) *disasters caused by human activ-*
17 *ity; and*

18 “(C) *contribute to the economic vitality of*
19 *the area in which the project is being carried*
20 *out.*

21 “(g) *FEDERAL SHARE.—Amounts provided by the*
22 *Delta Regional Authority to carry out a project under this*
23 *section shall be applied to the non-Federal share required*
24 *by section 120.*

1 *with the continuing, cooperative, and comprehensive plan-*
2 *ning processes required by sections 134 and 135 of title 23,*
3 *United States Code.*

4 (e) *SELECTION CRITERIA.—The Secretary shall only*
5 *select projects for corridors—*

6 (1) *that have significant levels or increases in*
7 *truck and traffic volume relating to international*
8 *freight movement;*

9 (2) *connect to at least 1 international terminus*
10 *or inland port;*

11 (3) *traverse at least 3 States; and*

12 (4) *are identified by section 1105(c) of the Inter-*
13 *modal Transportation Efficiency Act of 1991 (Public*
14 *Law 102–240; 105 Stat. 2032).*

15 (f) *PROGRAM PRIORITIES.—In administering the pro-*
16 *gram, the Secretary shall—*

17 (1) *encourage and enable States and other juris-*
18 *dictions to work together to develop plans for*
19 *multimodal and multijurisdictional transportation*
20 *decisionmaking; and*

21 (2) *give priority to studies that emphasize*
22 *multimodal planning, including planning for oper-*
23 *ational improvements that increase mobility, freight*
24 *productivity, access to marine ports, safety, and secu-*
25 *rity while enhancing the environment.*

1 (g) *FEDERAL SHARE.*—*The Federal share required for*
2 *any study carried out under this section shall be available*
3 *for obligation in the same manner as if the funds were ap-*
4 *portioned under chapter I of title 23, United States Code.*

5 **SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR**
6 **STATES WITH INDIAN RESERVATIONS.**

7 Section 1214(d)(5)(A) of the *Transportation Equity*
8 *Act for the 21st Century* (23 U.S.C. 202 note; 112 Stat.
9 206) is amended by striking “\$1,500,000 for each of fiscal
10 years 1998 through 2003” and inserting “\$1,800,000 for
11 each of fiscal years 2005 through 2009”.

12 **SEC. 1827. VALUE PRICING PILOT PROGRAM.**

13 Section 1012(b)(1) of the *Intermodal Surface Trans-*
14 *portation Efficiency Act of 1991* (23 U.S.C. 149 note; 105
15 Stat. 1938) is amended in the first sentence by striking
16 “The Secretary” and inserting “For fiscal year 2005 and
17 each fiscal year thereafter, the Secretary”.

18 **SEC. 1828. CREDIT TO STATE OF LOUISIANA FOR STATE**
19 **MATCHING FUNDS.**

20 (a) *IN GENERAL.*—*The Secretary may provide a credit*
21 *to the State of Louisiana in an amount equal to the cost*
22 *of any planning, engineering, design, or construction work*
23 *carried out by the State on any project that the Secretary*
24 *determines is in accordance with the project numbered 202*

1 *under section 1602 of the Transportation Equity Act for*
2 *the 21st Century (Public Law 105–178; 112 Stat. 256).*

3 (b) *ELIGIBILITY OF CREDIT.*—*The credit shall be eligi-*
4 *ble for use for any future payment relating to the comple-*
5 *tion of a project described in subsection (a) that is required*
6 *by the State under title 23, United States Code.*

7 **SEC. 1829. APPROVAL AND FUNDING FOR CERTAIN CON-**
8 **STRUCTION PROJECTS.**

9 (a) *IN GENERAL.*—*Not later than 30 days after the*
10 *date of receipt by the Secretary of a construction authoriza-*
11 *tion request from the State transportation department for*
12 *the State of Georgia for project number STP–189–1(15)CT*
13 *3 in Gwinnett County, Georgia, the Secretary shall—*

14 (1) *approve the project; and*

15 (2) *reserve such Federal funds available to the*
16 *Secretary as are necessary to carry out the project.*

17 (b) *CONFORMITY DETERMINATION.*—

18 (1) *IN GENERAL.*—*Approval, funding, and im-*
19 *plementation of the project referred to in subsection*
20 *(a) shall not be subject to the requirements of part 93*
21 *of title 40, Code of Federal Regulations (or successor*
22 *regulations).*

23 (2) *REGIONAL EMISSIONS.*—*Notwithstanding*
24 *paragraph (1), all subsequent regional emission anal-*
25 *yses required by section 93.118 or 93.119 of title 40,*

1 *Code of Federal Regulations (or successor regula-*
2 *tions), shall include the project.*

3 **SEC. 1830. NOTICE REGARDING PARTICIPATION OF SMALL**
4 **BUSINESS CONCERNS.**

5 *The Secretary of Transportation shall notify each*
6 *State or political subdivision of a State to which the Sec-*
7 *retary of Transportation awards a grant or other Federal*
8 *funds of the criteria for participation by a small business*
9 *concern in any program or project that is funded, in whole*
10 *or in part, by the Federal Government under section 155*
11 *of the Small Business Reauthorization and Manufacturing*
12 *Assistance Act of 2004 (15 U.S.C. 567g).*

13 **SEC. 1831. ALASKA WAY VIADUCT STUDY.**

14 *(a) FINDINGS.—Congress finds that—*

15 *(1) in 2001, the Alaska Way Viaduct, a critical*
16 *segment of the National Highway System in Seattle,*
17 *Washington, was seriously damaged by the Nisqually*
18 *earthquake;*

19 *(2) an effort to address the possible repair, ret-*
20 *rofit, or replacement of the Alaska Way Viaduct that*
21 *conforms with the National Environmental Policy Act*
22 *of 1969 (42 U.S.C. 4321 et seq.) is underway; and*

23 *(3) as a result of the efforts referred to in para-*
24 *graph (1), a locally preferred alternative for the Alas-*
25 *ka Way Viaduct is being developed.*

1 **(b) DEFINITIONS.**—*In this section:*

2 (1) **ADMINISTRATOR.**—*The term “Adminis-*
3 *trator” means the Administrator of the Federal High-*
4 *way Administration.*

5 (2) **CITY.**—*The term “City” means the city of*
6 *Seattle, Washington.*

7 (3) **EARTHQUAKE.**—*The term “earthquake”*
8 *means the Nisqually earthquake of 2001.*

9 (4) **FUND.**—*The term “Fund” means the emer-*
10 *gency fund authorized under section 125 of title 23,*
11 *United States Code.*

12 (5) **STATE.**—*The term “State” means the Wash-*
13 *ington State Department of Transportation.*

14 (6) **VIADUCT.**—*The term “Viaduct” means the*
15 *Alaska Way Viaduct.*

16 **(c) STUDY.**—

17 (1) **IN GENERAL.**—*As soon as practicable after*
18 *the date of enactment of this Act, the Administrator,*
19 *in cooperation with the State and the City, shall con-*
20 *duct a comprehensive study to determine the specific*
21 *damage to the Viaduct from the earthquake that con-*
22 *tribute to the ongoing degradation of the Viaduct.*

23 (2) **REQUIREMENTS.**—*The study under para-*
24 *graph (1) shall—*

1 (A) identify any repair, retrofit, and re-
 2 placement costs for the Viaduct that are eligible
 3 for additional assistance from the Fund, con-
 4 sistent with the emergency relief manual gov-
 5 erning eligible expenses from the Fund; and

6 (B) determine the amount of assistance
 7 from the Fund for which the Viaduct is eligible.

8 (3) *REPORT.*—Not later than 180 days after the
 9 date of enactment of this Act, the Administrator shall
 10 submit to Congress a report that describes the find-
 11 ings of the study.

12 **SEC. 1832. BRIDGE CONSTRUCTION, NORTH DAKOTA.**

13 Notwithstanding any other provision of law, and re-
 14 gardless of the source of Federal funds, the Federal share
 15 of the eligible costs of construction of a bridge between Bis-
 16 marck, North Dakota, and Mandan, North Dakota, shall
 17 be 90 percent.

18 **SEC. 1833. COMMUNITY ENHANCEMENT STUDY.**

19 (a) *IN GENERAL.*—The Secretary shall conduct a
 20 study on—

21 (1) the role of well-designed transportation
 22 projects in—

23 (A) promoting economic development;

24 (B) protecting public health, safety, and the
 25 environment; and

1 (C) enhancing the architectural design and
2 planning of communities; and

3 (2) the positive economic, cultural, aesthetic, sce-
4 nic, architectural, and environmental benefits of those
5 projects for communities.

6 (b) CONTENTS.—The study shall address—

7 (1) the degree to which well-designed transpor-
8 tation projects—

9 (A) have positive economic, cultural, aes-
10 thetic, scenic, architectural, and environmental
11 benefits for communities;

12 (B) protect and contribute to improvements
13 in public health and safety; and

14 (C) use inclusive public participation proc-
15 esses to achieve quicker, more certain, and better
16 results;

17 (2) the degree to which positive results are
18 achieved by linking transportation, design, and the
19 implementation of community visions for the future;
20 and

21 (3) methods of facilitating the use of successful
22 models or best practices in transportation investment
23 or development to accomplish—

24 (A) enhancement of community identity;

25 (B) protection of public health and safety;

1 (C) provision of a variety of choices in
2 housing, shopping, transportation, employment,
3 and recreation;

4 (D) preservation and enhancement of exist-
5 ing infrastructure; and

6 (E) creation of a greater sense of commu-
7 nity through public involvement.

8 (c) ADMINISTRATION.—

9 (1) IN GENERAL.—To carry out this section, the
10 Secretary shall make a grant to, or enter into a coop-
11 erative agreement or contract with, a national orga-
12 nization with expertise in the design of a wide range
13 of transportation and infrastructure projects, includ-
14 ing the design of buildings, public facilities, and sur-
15 rounding communities.

16 (2) FEDERAL SHARE.—Notwithstanding section
17 1221(e)(2) of the Transportation Equity Act for the
18 21st Century (23 U.S.C. 101 note), the Federal share
19 of the cost of the study under this section shall be 100
20 percent.

21 (d) REPORT.—Not later than September 20, 2006, the
22 Secretary shall submit to the Committee on Transportation
23 and Infrastructure of the House of Representatives and the
24 Committee on Environment and Public Works of the Senate
25 a report on the results of the study under this section.

1 (e) *AUTHORIZATION.*—Of the amounts made available
2 to carry out section 1221 of the *Transportation Equity Act*
3 for the 21st Century (23 U.S.C. 101 note), \$1,000,000 shall
4 be available for each of fiscal years 2005 and 2006 to carry
5 out this section.

6 **SEC. 1834. COMPREHENSIVE COASTAL EVACUATION PLAN.**

7 (a) *IN GENERAL.*—The Secretary of Transportation
8 and the Secretary of Homeland Security (referred to in this
9 section as the “Secretaries”) shall jointly develop a written
10 comprehensive plan for evacuation of the coastal areas of
11 the United States during any natural or man-made dis-
12 aster that affects coastal populations.

13 (b) *CONSULTATION.*—In developing the comprehensive
14 plan, the Secretaries shall consult with Federal, State, and
15 local transportation and emergency management officials
16 that have been involved with disaster related evacuations.

17 (c) *CONTENTS.*—The comprehensive plan shall—

18 (1) consider, on a region-by-region basis, the ex-
19 tent to which coastal areas may be affected by a dis-
20 aster; and

21 (2) address, at a minimum—

22 (A) all practical modes of transportation
23 available for evacuations;

1 (B) *methods of communicating evacuation*
2 *plans and preparing citizens in advance of evac-*
3 *uations;*

4 (C) *methods of coordinating communication*
5 *with evacuees during plan execution;*

6 (D) *precise methods for mass evacuations*
7 *caused by disasters such as hurricanes, flash*
8 *flooding, and tsunamis; and*

9 (E) *recommended policies, strategies, pro-*
10 *grams, and activities that could improve dis-*
11 *aster-related evacuations.*

12 (d) *REPORT AND UPDATES.—The Secretaries shall—*

13 (1) *not later than October 1, 2006, submit to*
14 *Congress the written comprehensive plan; and*

15 (2) *periodically thereafter, but not less often than*
16 *every 5 years, update, and submit to Congress any re-*
17 *vision to, the plan.*

18 **SEC. 1835. PRIORITY PROJECTS.**

19 *Section 1602 of the Transportation Equity Act for the*
20 *21st Century (112 Stat. 306) is amended in item 1349 of*
21 *the table contained in that section by inserting “, and im-*
22 *provements to streets and roads providing access to,” after*
23 *“along”.*

1 **SEC. 1836. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.**
 2 **GAN.**

3 *Item number 820 in the table contained in section*
 4 *1602 of the Transportation Equity Act for the 21st Century*
 5 *(112 Stat. 287) is amended by striking “Conduct” and all*
 6 *that follows through “interchange” and inserting “Conduct*
 7 *a transportation needs study and make improvements to*
 8 *I–75 interchanges in the Grayling area”.*

9 **SEC. 1837. US–95 PROJECT, LAS VEGAS, NEVADA.**

10 *Unless an agreement is reached between the Federal*
 11 *Highway Administration, the State of Nevada, and the Si-*
 12 *erra Club, the State of Nevada may continue to completion*
 13 *construction of the project entitled “US–95 Project in Las*
 14 *Vegas, Nevada”, as approved by the Federal Highway Ad-*
 15 *ministration on November 18, 1999, and selected in the*
 16 *record of decision dated January 28, 2000, on June 30,*
 17 *2005.*

18 ***Subtitle I—Technical Corrections***

19 **SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

20 (a) *LETTING OF CONTRACTS.*—Section 112 of title 23,
 21 *United States Code, is amended—*

22 (1) *by striking subsection (f); and*

23 (2) *by redesignating subsection (g) as subsection*
 24 *(f).*

25 (b) *FRINGE AND CORRIDOR PARKING FACILITIES.*—

26 *Section 137(a) of title 23, United States Code, is amended*

1 *in the first sentence by striking “on the Federal-aid urban*
 2 *system” and inserting “on a Federal-aid highway”.*

3 **SEC. 1902. CLARIFICATION OF DATE.**

4 *Section 109(g) of title 23, United States Code, is*
 5 *amended in the first sentence by striking “The Secretary”*
 6 *and all that follows through “of 1970” and inserting “Not*
 7 *later than January 30, 1971, the Secretary shall issue”.*

8 **SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.**

10 (a) *IN GENERAL.*—*Section 154 of the Federal-Aid*
 11 *Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209)*
 12 *is—*

- 13 (1) *transferred to title 23, United States Code;*
 14 (2) *redesignated as section 321;*
 15 (3) *moved to appear after section 320 of that*
 16 *title; and*
 17 (4) *amended by striking the section heading and*
 18 *inserting the following:*

19 **“§ 321. Signs identifying funding sources”.**

20 (b) *CONFORMING AMENDMENT.*—*The analysis for*
 21 *chapter 3 of title 23, United States Code, is amended by*
 22 *inserting after the item relating to section 320 the following:*
 “321. *Signs identifying funding sources.*”.

1 **SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN**
 2 **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. 2136)
 5 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 and
 11 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 312 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 “by this
 20 Act” the first place it appears and all that fol-
 21 lows through “of 1978” and inserting “to carry
 22 out the Surface Transportation Assistance Act of
 23 1982 (96 Stat. 2097) or this title”;

24 (B) in subsection (b), by redesignating
 25 paragraph (4) as paragraph (3);

1 (C) in subsection (d), by striking “this
2 Act,” and all that follows through “Code, which”
3 and inserting “the Surface Transportation As-
4 sistance Act of 1982 (96 Stat. 2097) or this title
5 that”;

6 (D) by striking subsection (e); and

7 (E) by redesignating subsections (f) and (g)
8 as subsections (e) and (f), respectively.

9 **SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINA-**
10 **TION SECTION.**

11 Section 140 of title 23, United States Code, is
12 amended—

13 (1) in subsection (a)—

14 (A) in the first sentence, by striking “sub-
15 section (a) of section 105 of this title” and in-
16 serting “section 135”;

17 (B) in the second sentence, by striking “He”
18 and inserting “The Secretary”;

19 (C) in the third sentence, by striking “where
20 he considers it necessary to assure” and insert-
21 ing “if necessary to ensure”; and

22 (D) in the last sentence—

23 (i) by striking “him” and inserting
24 “the Secretary” and

1 (ii) by striking “he” and inserting “the
2 Secretary”;

3 (2) in subsection (b)—

4 (A) in the first sentence, by striking “high-
5 way construction” and inserting “surface trans-
6 portation”; and

7 (B) in the second sentence—

8 (i) by striking “as he may deem nec-
9 essary” and inserting “as necessary”; and

10 (ii) by striking “not to exceed
11 \$2,500,000 for the transition quarter ending
12 September 30, 1976, and”;

13 (3) in the second sentence of subsection (c)—

14 (A) by striking “subsection 104(b)(3) of this
15 title” and inserting “section 104(b)(3)”; and

16 (B) by striking “he may deem”; and

17 (4) in the heading of subsection (d), by striking
18 “AND CONTRACTING”.

19 **TITLE II—TRANSPORTATION**

20 **RESEARCH**

21 **Subtitle A—Funding**

22 **SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) *IN GENERAL.*—The following sums are authorized
24 to be appropriated out of the Highway Trust Fund (other
25 than the Mass Transit Account):

1 (1) *SURFACE TRANSPORTATION RESEARCH.*—

2 (A) *IN GENERAL.*—*For carrying out sec-*
3 *tions 502, 503, 506, 507, 508, and 511 of title*
4 *23, United States Code—*

5 (i) *\$198,050,704 for fiscal year 2005;*

6 (ii) *\$201,805,220 for fiscal year 2006;*

7 (iii) *\$204,621,107 for fiscal year 2007;*

8 (iv) *\$206,498,365 for fiscal year 2008;*

9 *and*

10 (v) *\$209,314,252 for fiscal year 2009.*

11 (B) *SURFACE TRANSPORTATION-ENVIRON-*

12 *MENTAL COOPERATIVE RESEARCH PROGRAM.*—

13 *For each of fiscal years 2005 through 2009, the*

14 *Secretary shall set aside \$18,772,579 of the funds*

15 *authorized under subparagraph (A) to carry out*

16 *the surface transportation-environmental cooper-*

17 *ative research program under section 507 of title*

18 *23, United States Code.*

19 (2) *TRAINING AND EDUCATION.*—*For carrying*
20 *out section 504 of title 23, United States Code—*

21 (A) *\$26,281,610 for fiscal year 2005;*

22 (B) *\$27,220,239 for fiscal year 2006;*

23 (C) *\$28,158,868 for fiscal year 2007;*

24 (D) *\$29,097,497 for fiscal year 2008; and*

25 (E) *\$30,036,126 for fiscal year 2009.*

1 (3) *BUREAU OF TRANSPORTATION STATISTICS.*—
2 *For the Bureau of Transportation Statistics to carry*
3 *out section 111 of title 49, United States Code,*
4 *\$26,281,610 for each of fiscal years 2005 through*
5 *2009.*

6 (4) *ITS STANDARDS, RESEARCH, OPERATIONAL*
7 *TESTS, AND DEVELOPMENT.*—*For carrying out sec-*
8 *tions 524, 525, 526, 527, 528, and 529 of title 23,*
9 *United States Code—*

10 (A) *\$115,451,358 for fiscal year 2005;*

11 (B) *\$118,267,245 for fiscal year 2006;*

12 (C) *\$121,083,132 for fiscal year 2007;*

13 (D) *\$123,899,019 for fiscal year 2008; and*

14 (E) *\$126,714,906 for fiscal year 2009.*

15 (5) *UNIVERSITY TRANSPORTATION CENTERS.*—
16 *For carrying out section 510 of title 23, United States*
17 *Code \$42,238,302 for each of fiscal years 2005*
18 *through 2009.*

19 (b) *APPLICABILITY OF TITLE 23, UNITED STATES*
20 *CODE.*—*Funds authorized to be appropriated by subsection*
21 (i) —

22 (1) *shall be available for obligation in the same*
23 *manner as if the funds were apportioned under chap-*
24 *ter 1 of title 23, United States Code, except that the*
25 *Federal share of the cost of a project or activity car-*

1 ried out using the funds shall be the share applicable
2 under section 120(b) of title 23, United States Code,
3 as adjusted under subsection (d) of that section (un-
4 less otherwise specified or otherwise determined by the
5 Secretary); and

6 (2) shall remain available until expended.

7 (c) ALLOCATIONS.—

8 (1) SURFACE TRANSPORTATION RESEARCH.—Of
9 the amounts made available under subsection (a)(1)—

10 (A) \$25,342,981 for each of fiscal years
11 2005 through 2009 shall be available to carry
12 out advanced, high-risk, long-term research
13 under section 502(d) of title 23, United States
14 Code;

15 (B) \$10,000,000 for each of fiscal years
16 2005 through 2009 shall be available to carry
17 out the long-term pavement performance pro-
18 gram under section 502(e) of that title;

19 (C) \$5,000,000 for each of fiscal years 2005
20 through 2009 shall be available to carry out the
21 high-performance concrete bridge research and
22 technology transfer program under section 502(i)
23 of that title, of which \$750,000 for each fiscal
24 year shall be used by the Secretary to carry out

1 *demonstration projects involving the use of ultra-*
2 *high-performance concrete with ductility;*

3 *(D) \$5,000,000 for each of fiscal years 2005*
4 *through 2009 shall be made available to carry*
5 *out the high-performing steel bridge research and*
6 *technology transfer program under section 502(k)*
7 *of title 23, United States Code;*

8 *(E) \$5,000,000 for each of fiscal years 2005*
9 *through 2009 shall be made available to carry*
10 *out research on asphalt used in highway pave-*
11 *ments;*

12 *(F) \$5,000,000 for each of fiscal years 2005*
13 *through 2009 shall be made available to carry*
14 *out research on concrete pavements;*

15 *(G) \$5,000,000 for each of fiscal years 2005*
16 *through 2009 shall be made available to carry*
17 *out research on alternative materials;*

18 *(H) \$3,000,000 for each of fiscal years 2005*
19 *through 2009 shall be made available to carry*
20 *out research on aggregates used in highway*
21 *pavements, including alternative materials used*
22 *in highway drainage applications;*

23 *(I) \$3,000,000 for each of fiscal years 2005*
24 *through 2009 shall be made available for further*

1 *development and deployment of techniques to*
2 *prevent and mitigate alkali silica reactivity;*

3 *(J) \$1,500,000 for fiscal year 2005 shall be*
4 *remain available until expended for asphalt and*
5 *asphalt-related reclamation research at the South*
6 *Dakota School of Mines; and*

7 *(K) \$2,500,000 for each of fiscal years 2005*
8 *through 2009 shall be made available to carry*
9 *out section 502(f)(3) of title 23, United States*
10 *Code.*

11 *(2) TECHNOLOGY APPLICATION PROGRAM.—Of*
12 *the amounts made available under subsection (a)(1),*
13 *\$56,317,736 for each of fiscal years 2005 through*
14 *2009 shall be available to carry out section 503 of*
15 *title 23, United States Code.*

16 *(3) TRAINING AND EDUCATION.—Of the amounts*
17 *made available under subsection (a)(2)—*

18 *(A) \$11,732,862 for fiscal year 2005,*
19 *\$12,202,176 for fiscal year 2006, \$12,671,491 for*
20 *fiscal year 2007, \$13,140,805 for fiscal year*
21 *2008, and \$13,610,119 for fiscal year 2009 shall*
22 *be available to carry out section 504(a) of title*
23 *23, United States Code (relating to the National*
24 *Highway Institute);*

1 (B) \$14,079,434 for each of fiscal years
2 2005 through 2009 shall be available to carry
3 out section 504(b) of that title (relating to local
4 technical assistance); and

5 (C) \$2,815,887 for each of fiscal years 2005
6 through 2009 shall be available to carry out sec-
7 tion 504(c)(2) of that title (relating to the Eisen-
8 hower Transportation Fellowship Program).

9 (4) *INTERNATIONAL HIGHWAY TRANSPORTATION*
10 *OUTREACH PROGRAM.*—Of the amounts made avail-
11 able under subsection (a)(1), \$469,314 for each of fis-
12 cal years 2005 through 2009 shall be available to
13 carry out section 506 of title 23, United States Code.

14 (5) *NEW STRATEGIC HIGHWAY RESEARCH PRO-*
15 *GRAM.*—For each of fiscal years 2005 through 2009,
16 to carry out section 509 of title 23, United States
17 Code, the Secretary shall set aside—

18 (A) \$14,079,434 of the amounts made avail-
19 able to carry out the interstate maintenance pro-
20 gram under section 119 of title 23, United States
21 Code, for the fiscal year;

22 (B) \$17,833,949 of the amounts made avail-
23 able for the National Highway System under
24 section 101 of title 23, United States Code, for
25 the fiscal year;

1 (C) \$12,202,176 of the amounts made avail-
2 able to carry out the bridge program under sec-
3 tion 144 of title 23, United States Code, for the
4 fiscal year;

5 (D) \$18,772,579 of the amounts made avail-
6 able to carry out the surface transportation pro-
7 gram under section 133 of title 23, United States
8 Code, for the fiscal year;

9 (E) \$4,693,145 of the amounts made avail-
10 able to carry out the congestion mitigation and
11 air quality improvement program under section
12 149 of title 23, United States Code, for the fiscal
13 year; and

14 (F) \$2,815,887 of the amounts made avail-
15 able to carry out the highway safety improve-
16 ment program under section 148 of title 23,
17 United States Code, for the fiscal year.

18 (6) *COMMERCIAL VEHICLE INTELLIGENT TRANS-*
19 *PORTATION SYSTEM INFRASTRUCTURE PROGRAM.*—Of
20 the amounts made available under subsection (a)(4),
21 not less than \$28,158,868 for each of fiscal years 2005
22 through 2009 shall be available to carry out section
23 527 of title 23, United States Code.

24 (d) *TRANSFERS OF FUNDS.*—The Secretary may
25 transfer—

1 (1) to an amount made available under para-
 2 graphs (1), (2), or (4) of subsection (c), not to exceed
 3 10 percent of the amount allocated for a fiscal year
 4 under any other of those paragraphs; and

5 (2) to an amount made available under subpara-
 6 graphs (A), (B), or (C) of subsection (c)(3), not to ex-
 7 ceed 10 percent of the amount allocated for a fiscal
 8 year under any other of those subparagraphs.

9 **SEC. 2002. OBLIGATION CEILING.**

10 Notwithstanding any other provision of law, the total
 11 of all obligations from amounts made available from the
 12 Highway Trust Fund (other than the Mass Transit Ac-
 13 count) by section 2001(a) shall not exceed—

14 (1) \$408,491,420 for fiscal year 2005;

15 (2) \$416,000,453 for fiscal year 2006;

16 (3) \$422,570,857 for fiscal year 2007;

17 (4) \$428,202,637 for fiscal year 2008; and

18 (5) \$434,773,037 for fiscal year 2009.

19 **SEC. 2003. NOTICE.**

20 (a) **NOTICE OF REPROGRAMMING.**—If any funds au-
 21 thorized for carrying out this title or the amendments made
 22 by this title are subject to a reprogramming action that re-
 23 quires notice to be provided to the Committee on Appropria-
 24 tions of the House of Representatives and the Committee
 25 on Appropriations of the Senate, notice of that action shall

1 *be concurrently provided to the Committee on Transpor-*
 2 *tation and Infrastructure and the Committee on Science of*
 3 *the House of Representatives and the Committee on Envi-*
 4 *ronment and Public Works of the Senate.*

5 (b) *NOTICE OF REORGANIZATION.*—*On or before the*
 6 *15th day preceding the date of any major reorganization*
 7 *of a program, project, or activity of the Department of*
 8 *Transportation for which funds are authorized by this title*
 9 *or the amendments made by this title, the Secretary shall*
 10 *provide notice of the reorganization to the Committee on*
 11 *Transportation and Infrastructure and the Committee on*
 12 *Science of the House of Representatives and the Committee*
 13 *on Environment and Public Works of the Senate.*

14 ***Subtitle B—Research and***
 15 ***Technology***

16 ***SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.***

17 (a) *IN GENERAL.*—*Chapter 5 of title 23, United States*
 18 *Code, is amended to read as follows:*

19 ***“CHAPTER 5—RESEARCH AND***
 20 ***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-environmental cooperative research program.

“508. *Surface transportation research technology deployment and strategic planning.*

“509. *New strategic highway research program.*

“510. *University transportation centers.*

“511. *Multistate corridor operations and management.*

“512. *Transportation analysis simulation system.*

“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 program.*

“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;*

1 “(C) *integrated, interoperable emergency*
2 *communications;*

3 “(D) *emergency medical care; and*

4 “(E) *transportation of the injured.*

5 **“§ 502. Surface transportation research**

6 “(a) *IN GENERAL.—*

7 “(1) *RESEARCH, DEVELOPMENT, AND TECH-*
8 *NOLOGY TRANSFER ACTIVITIES.—The Secretary may*
9 *carry out research, development, and technology*
10 *transfer activities with respect to—*

11 “(A) *all phases of transportation planning*
12 *and development (including new technologies,*
13 *construction, transportation systems manage-*
14 *ment and operations development, design, main-*
15 *tenance, safety, security, financing, data collec-*
16 *tion and analysis, demand forecasting,*
17 *multimodal assessment, and traffic conditions);*
18 *and*

19 “(B) *the effect of State laws on the activities*
20 *described in subparagraph (A).*

21 “(2) *TESTS AND DEVELOPMENT.—The Secretary*
22 *may test, develop, or assist in testing and developing,*
23 *any material, invention, patented article, or process.*

24 “(3) *COOPERATION, GRANTS, AND CONTRACTS.—*

- 1 “(A) *IN GENERAL.*—*The Secretary may*
2 *carry out this section—*
- 3 “(i) *independently;*
4 “(ii) *in cooperation with—*
- 5 “(I) *any other Federal agency or*
6 *instrumentality; and*
- 7 “(II) *any Federal laboratory; or*
8 “(iii) *by making grants to, or entering*
9 *into contracts, cooperative agreements, and*
10 *other transactions with—*
- 11 “(I) *the National Academy of*
12 *Sciences;*
- 13 “(II) *the American Association of*
14 *State Highway and Transportation*
15 *Officials;*
- 16 “(III) *planning organizations;*
17 “(IV) *a Federal laboratory;*
18 “(V) *a State agency;*
19 “(VI) *an authority, association,*
20 *institution, or organization;*
- 21 “(VII) *a for-profit or nonprofit*
22 *corporation;*
- 23 “(VIII) *a foreign country; or*
24 “(IX) *any other person.*

1 “(B) *COMPETITION; REVIEW.*—*All parties*
2 *entering into contracts, cooperative agreements*
3 *or other transactions with the Secretary, or re-*
4 *ceiving grants, to perform research or provide*
5 *technical assistance under this section shall be*
6 *selected, to the maximum extent practicable and*
7 *appropriate—*

8 “(i) *on a competitive basis; and*

9 “(ii) *on the basis of the results of peer*
10 *review of proposals submitted to the Sec-*
11 *retary.*

12 “(4) *TECHNOLOGICAL INNOVATION.*—*The pro-*
13 *grams and activities carried out under this section*
14 *shall be consistent with the surface transportation re-*
15 *search and technology development strategic plan de-*
16 *veloped under section 508(c).*

17 “(5) *FUNDS.*—

18 “(A) *SPECIAL ACCOUNT.*—*In addition to*
19 *other funds made available to carry out this sec-*
20 *tion, the Secretary shall use such funds as may*
21 *be deposited by any cooperating organization or*
22 *person in a special account of the Treasury es-*
23 *tablished for this purpose.*

24 “(B) *USE OF FUNDS.*—*The Secretary shall*
25 *use funds made available to carry out this sec-*

1 *tion to develop, administer, communicate, and*
2 *promote the use of products of research, develop-*
3 *ment, and technology transfer programs under*
4 *this section.*

5 “(b) *COLLABORATIVE RESEARCH AND DEVELOP-*
6 *MENT.—*

7 “(1) *IN GENERAL.—To encourage innovative so-*
8 *lutions to surface transportation problems and stimu-*
9 *late the deployment of new technology, the Secretary*
10 *may carry out, on a cost-shared basis, collaborative*
11 *research and development with—*

12 “(A) *non-Federal entities (including State*
13 *and local governments, foreign governments, col-*
14 *leges and universities, corporations, institutions,*
15 *partnerships, sole proprietorships, and trade as-*
16 *sociations that are incorporated or established*
17 *under the laws of any State); and*

18 “(B) *Federal laboratories.*

19 “(2) *AGREEMENTS.—In carrying out this sub-*
20 *section, the Secretary may enter into cooperative re-*
21 *search and development agreements (as defined in sec-*
22 *tion 12 of the Stevenson-Wydler Technology Innova-*
23 *tion Act of 1980 (15 U.S.C. 3710a)).*

24 “(3) *FEDERAL SHARE.—*

1 “(A) *IN GENERAL.*—*The Federal share of*
2 *the cost of activities carried out under a coopera-*
3 *tive research and development agreement entered*
4 *into under this subsection shall not exceed 50*
5 *percent, except that if there is substantial public*
6 *interest or benefit, the Secretary may approve a*
7 *greater Federal share.*

8 “(B) *NON-FEDERAL SHARE.*—*All costs di-*
9 *rectly incurred by the non-Federal partners, in-*
10 *cluding personnel, travel, and hardware develop-*
11 *ment costs, shall be credited toward the non-Fed-*
12 *eral share of the cost of the activities described*
13 *in subparagraph (A).*

14 “(4) *USE OF TECHNOLOGY.*—*The research, devel-*
15 *opment, or use of a technology under a cooperative re-*
16 *search and development agreement entered into under*
17 *this subsection, including the terms under which the*
18 *technology may be licensed and the resulting royalties*
19 *may be distributed, shall be subject to the Stevenson-*
20 *Wydler Technology Innovation Act of 1980 (15 U.S.C.*
21 *3701 et seq.).*

22 “(5) *WAIVER OF ADVERTISING REQUIRE-*
23 *MENTS.*—*Section 3709 of the Revised Statutes (41*
24 *U.S.C. 5) shall not apply to a contract or agreement*
25 *entered into under this chapter.*

1 “(c) *CONTENTS OF RESEARCH PROGRAM.*—The Sec-
2 retary shall include as priority areas of effort within the
3 surface transportation research program—

4 “(1) *the development of new technologies and*
5 *methods in materials, pavements, structures, design,*
6 *and construction, with the objectives of—*

7 “(A)(i) *increasing to 50 years the expected*
8 *life of pavements;*

9 “(ii) *increasing to 100 years the expected*
10 *life of bridges; and*

11 “(iii) *significantly increasing the durability*
12 *of other infrastructure;*

13 “(B) *lowering the life-cycle costs,*
14 *including—*

15 “(i) *construction costs;*

16 “(ii) *maintenance costs;*

17 “(iii) *operations costs; and*

18 “(vi) *user costs.*

19 “(2) *the development, and testing for effective-*
20 *ness, of nondestructive evaluation technologies for*
21 *civil infrastructure using existing and new tech-*
22 *nologies;*

23 “(3) *the investigation of—*

1 “(A) the application of current natural haz-
2 ard mitigation techniques to manmade hazards;
3 and

4 “(B) the continuation of hazard mitigation
5 research combining manmade and natural haz-
6 ards;

7 “(4) the improvement of safety—

8 “(A) at intersections;

9 “(B) with respect to accidents involving ve-
10 hicles run off the road; and

11 “(C) on rural roads;

12 “(5) the reduction of work zone incursions and
13 improvement of work zone safety;

14 “(6) the improvement of geometric design of
15 roads for the purpose of safety;

16 “(7) the examination of data collected through
17 the national bridge inventory conducted under section
18 144 using the national bridge inspection standards
19 established under section 151, with the objectives of
20 determining whether—

21 “(A) the most useful types of data are being
22 collected; and

23 “(B) any improvement could be made in the
24 types of data collected and the manner in which

1 *the data is collected, with respect to bridges in*
2 *the United States;*

3 “(8) *the improvement of the infrastructure in-*
4 *vestment needs report described in subsection (g)*
5 *through—*

6 “(A) *the study and implementation of new*
7 *methods of collecting better quality data, par-*
8 *ticularly with respect to performance, congestion,*
9 *and infrastructure conditions;*

10 “(B) *monitoring of the surface transpor-*
11 *tation system in a system-wide manner, through*
12 *the use of—*

13 “(i) *intelligent transportation system*
14 *technologies of traffic operations centers;*
15 *and*

16 “(ii) *other new data collection tech-*
17 *nologies as sources of better quality per-*
18 *formance data;*

19 “(C) *the determination of the critical*
20 *metrics that should be used to determine the con-*
21 *dition and performance of the surface transpor-*
22 *tation system; and*

23 “(D) *the study and implementation of new*
24 *methods of statistical analysis and computer*

1 *models to improve the prediction of future infra-*
2 *structure investment requirements;*

3 “(9) *the development of methods to improve the*
4 *determination of benefits from infrastructure im-*
5 *provements, including—*

6 “(A) *more accurate calculations of benefit-*
7 *to-cost ratios, considering benefits and impacts*
8 *throughout local and regional transportation sys-*
9 *tems;*

10 “(B) *improvements in calculating life-cycle*
11 *costs; and*

12 “(C) *valuation of assets;*

13 “(10) *the improvement of planning processes to*
14 *better predict outcomes of transportation projects, in-*
15 *cluding the application of computer simulations in*
16 *the planning process to predict outcomes of planning*
17 *decisions;*

18 “(11) *the multimodal applications of Geographic*
19 *Information Systems and remote sensing, including*
20 *such areas of application as—*

21 “(A) *planning;*

22 “(B) *environmental decisionmaking and*
23 *project delivery; and*

24 “(C) *freight movement;*

1 “(12) the development and application of meth-
2 ods of providing revenues to the Highway Trust Fund
3 with the objective of offsetting potential reductions in
4 fuel tax receipts;

5 “(13) the development of tests and methods to de-
6 termine the benefits and costs to communities of
7 major transportation investments and projects;

8 “(14) the conduct of extreme weather research,
9 including research to—

10 “(A) reduce contraction and expansion
11 damage;

12 “(B) reduce or repair road damage caused
13 by freezing and thawing;

14 “(C) improve deicing or snow removal tech-
15 niques;

16 “(D) develop better methods to reduce the
17 risk of thermal collapse, including collapse from
18 changes in underlying permafrost;

19 “(E) improve concrete and asphalt installa-
20 tion in extreme weather conditions; and

21 “(F) make other improvements to protect
22 highway infrastructure or enhance highway safe-
23 ty or performance;

24 “(15) the improvement of surface transportation
25 planning;

1 “(16) *environmental research;*

2 “(17) *transportation system management and*
3 *operations; and*

4 “(18) *any other surface transportation research*
5 *topics that the Secretary determines, in accordance*
6 *with the strategic planning process under section 508,*
7 *to be critical.*

8 “(d) *ADVANCED, HIGH-RISK RESEARCH.—*

9 “(1) *IN GENERAL.—The Secretary shall establish*
10 *and carry out, in accordance with the surface trans-*
11 *portation research and technology development stra-*
12 *tegic plan developed under section 508(c) and re-*
13 *search priority areas described in subsection (c), an*
14 *advanced research program that addresses longer-*
15 *term, higher-risk research with potentially dramatic*
16 *breakthroughs for improving the durability, efficiency,*
17 *environmental impact, productivity, and safety (in-*
18 *cluding bicycle and pedestrian safety) aspects of high-*
19 *way and intermodal transportation systems.*

20 “(2) *PARTNERSHIPS.—In carrying out the pro-*
21 *gram, the Secretary shall seek to develop partnerships*
22 *with the public and private sectors.*

23 “(3) *REPORT.—The Secretary shall include in*
24 *the strategic plan required under section 508(c) a de-*
25 *scription of each of the projects, and the amount of*

1 *funds expended for each project, carried out under*
2 *this subsection during the fiscal year.*

3 “(e) *LONG-TERM PAVEMENT PERFORMANCE PRO-*
4 *GRAM.—*

5 “(1) *AUTHORITY.—The Secretary shall continue,*
6 *through September 30, 2009, the long-term pavement*
7 *performance program tests, monitoring, and data*
8 *analysis.*

9 “(2) *GRANTS, COOPERATIVE AGREEMENTS, AND*
10 *CONTRACTS.—Under the program, the Secretary shall*
11 *make grants and enter into cooperative agreements*
12 *and contracts to—*

13 “(A) *monitor, material-test, and evaluate*
14 *highway test sections in existence as of the date*
15 *of the grant, agreement, or contract;*

16 “(B) *analyze the data obtained in carrying*
17 *out subparagraph (A); and*

18 “(C) *prepare products to fulfill program ob-*
19 *jectives and meet future pavement technology*
20 *needs.*

21 “(3) *CONCLUSION OF PROGRAM.—*

22 “(A) *SUMMARY REPORT.—The Secretary*
23 *shall include in the strategic plan required under*
24 *section 508(c) a report on the initial conclusions*

1 *of the long-term pavement performance program*
2 *that includes—*

3 “(i) *an analysis of any research objec-*
4 *tives that remain to be achieved under the*
5 *program;*

6 “(ii) *an analysis of other associated*
7 *longer-term expenditures under the program*
8 *that are in the public interest;*

9 “(iii) *a detailed plan regarding the*
10 *storage, maintenance, and user support of*
11 *the database, information management sys-*
12 *tem, and materials reference library of the*
13 *program;*

14 “(iv) *a schedule for continued imple-*
15 *mentation of the necessary data collection*
16 *and analysis and project plan under the*
17 *program; and*

18 “(v) *an estimate of the costs of car-*
19 *rying out each of the activities described in*
20 *clauses (i) through (iv) for each fiscal year*
21 *during which the program is carried out.*

22 “(B) *DEADLINE; USEFULNESS OF AD-*
23 *VANCES.—The Secretary shall, to the maximum*
24 *extent practicable—*

1 “(i) ensure that the long-term pave-
2 ment performance program is concluded not
3 later than September 30, 2009; and

4 “(ii) make such allowances as are nec-
5 essary to ensure the usefulness of the techno-
6 logical advances resulting from the pro-
7 gram.

8 “(f) *SEISMIC RESEARCH*.—*The Secretary shall—*

9 “(1) in consultation and cooperation with Fed-
10 eral agencies participating in the National Earth-
11 quake Hazards Reduction Program established by sec-
12 tion 5 of the Earthquake Hazards Reduction Act of
13 1977 (42 U.S.C. 7704), coordinate the conduct of seis-
14 mic research;

15 “(2) take such actions as are necessary to ensure
16 that the coordination of the research is consistent
17 with—

18 “(A) planning and coordination activities
19 of the Director of the Federal Emergency Man-
20 agement Agency under section 5(b)(1) of that Act
21 (42 U.S.C. 7704(b)(1)); and

22 “(B) the plan developed by the Director of
23 the Federal Emergency Management Agency
24 under section 8(b) of that Act (42 U.S.C.
25 7705b(b)); and

1 “(3) *in cooperation with the Center for Civil En-*
 2 *gineering Research at the University of Nevada, Reno,*
 3 *and the National Center for Earthquake Engineering*
 4 *Research at the University of Buffalo, carry out a*
 5 *seismic research program—*

6 “(A) *to study the vulnerability of the Fed-*
 7 *eral-aid highway system and other surface trans-*
 8 *portation systems to seismic activity;*

9 “(B) *to develop and implement cost-effective*
 10 *methods to reduce the vulnerability; and*

11 “(C) *to conduct seismic research and up-*
 12 *grade earthquake simulation facilities as nec-*
 13 *essary to carry out the program.*

14 “(g) *INFRASTRUCTURE INVESTMENT NEEDS RE-*
 15 *PORT.—*

16 “(1) *IN GENERAL.—Not later than July 31,*
 17 *2005, and July 31 of every second year thereafter, the*
 18 *Secretary shall submit to the Committee on Environ-*
 19 *ment and Public Works of the Senate and the Com-*
 20 *mittee on Transportation and Infrastructure of the*
 21 *House of Representatives a report that describes—*

22 “(A) *estimates of the future highway and*
 23 *bridge needs of the United States; and*

24 “(B) *the backlog of current highway and*
 25 *bridge needs.*

1 “(2) *COMPARISON WITH PRIOR REPORTS.*—Each
2 report under paragraph (1) shall provide the means,
3 including all necessary information, to relate and
4 compare the conditions and service measures used in
5 the previous biennial reports.

6 “(h) *SECURITY RELATED RESEARCH AND TECH-*
7 *NOLOGY TRANSFER ACTIVITIES.*—

8 “(1) *IN GENERAL.*—Not later than 180 days
9 after the date of enactment of the Safe, Accountable,
10 Flexible, and Efficient Transportation Equity Act of
11 2005, the Secretary, in consultation with the Sec-
12 retary of Homeland Security, with key stakeholder
13 input (including State transportation departments)
14 shall develop a 5-year strategic plan for research and
15 technology transfer and deployment activities per-
16 taining to the security aspects of highway infrastruc-
17 ture and operations.

18 “(2) *COMPONENTS OF PLAN.*—The plan shall
19 include—

20 “(A) an identification of which agencies are
21 responsible for the conduct of various research
22 and technology transfer activities;

23 “(B) a description of the manner in which
24 those activities will be coordinated; and

1 “(C) a description of the process to be used
2 to ensure that the advances derived from relevant
3 activities supported by the Federal Highway Ad-
4 ministration are consistent with the operational
5 guidelines, policies, recommendations, and regu-
6 lations of the Department of Homeland Security;
7 and

8 “(D) a systematic evaluation of the research
9 that should be conducted to address, at a
10 minimum—

11 “(i) vulnerabilities of, and measures
12 that may be taken to improve, emergency
13 response capabilities and evacuations;

14 “(ii) recommended upgrades of traffic
15 management during crises;

16 “(iii) integrated, interoperable emer-
17 gency communications among the public,
18 the military, law enforcement, fire and
19 emergency medical services, and transpor-
20 tation agencies;

21 “(iv) protection of critical, security-re-
22 lated infrastructure; and

23 “(v) structural reinforcement of key fa-
24 cilities.

1 “(3) *SUBMISSION.*—On completion of the plan
2 under this subsection, the Secretary shall submit to
3 the Committee on Environment and Public Works of
4 the Senate and the Committee on Transportation and
5 Infrastructure of the House of Representatives—

6 “(A) a copy of the plan developed under
7 paragraph (1); and

8 “(B) a copy of a memorandum of under-
9 standing specifying coordination strategies and
10 assignment of responsibilities covered by the plan
11 that is signed by the Secretary and the Secretary
12 of Homeland Security.

13 “(i) *HIGH-PERFORMANCE CONCRETE BRIDGE RE-*
14 *SEARCH AND TECHNOLOGY TRANSFER PROGRAM.*—In ac-
15 *cordance with the objectives described in subsection (c)(1)*
16 *and the requirements under sections 503(b)(4) and 504(b),*
17 *the Secretary shall carry out a program to demonstrate the*
18 *application of high-performance concrete in the construc-*
19 *tion and rehabilitation of bridges.*

20 “(j) *BIOBASED TRANSPORTATION RESEARCH.*—There
21 *shall be available from the Highway Trust Fund (other*
22 *than the Mass Transit Account) \$12,000,000 for each of fis-*
23 *cal years 2005 through 2009 equally divided and available*
24 *to carry out biobased research of national importance at*

1 *the National Biodiesel Board and at research centers identi-*
 2 *fied in section 9011 of Public Law 107–171.*

3 “(k) *HIGH-PERFORMING STEEL BRIDGE RESEARCH*
 4 *AND TECHNOLOGY TRANSFER PROGRAM.—In accordance*
 5 *with the objectives described in subsection (c)(1) and the*
 6 *requirements under sections 503(b)(4) and 504(b), the Sec-*
 7 *retary shall carry out a program to demonstrate the appli-*
 8 *cation of high-performing steel in the construction and re-*
 9 *habilitation of bridges.*

10 **“§ 503. *Technology application program***

11 “(a) *TECHNOLOGY APPLICATION INITIATIVES AND*
 12 *PARTNERSHIPS PROGRAM.—*

13 “(1) *ESTABLISHMENT.—The Secretary, in con-*
 14 *sultation with interested stakeholders, shall develop*
 15 *and administer a national technology and innovation*
 16 *application initiatives and partnerships program.*

17 “(2) *PURPOSE.—The purpose of the program*
 18 *shall be to significantly accelerate the adoption of*
 19 *technology and innovation by the surface transpor-*
 20 *tation community.*

21 “(3) *APPLICATION GOALS.—*

22 “(A) *ESTABLISHMENT.—Not later than 180*
 23 *days after the date of enactment of the Safe, Ac-*
 24 *countable, Flexible, and Efficient Transportation*
 25 *Equity Act of 2005, the Secretary, in consulta-*

1 *tion with the Surface Transportation Research*
2 *Technology Advisory Committee, State transpor-*
3 *tation departments, and other interested stake-*
4 *holders, shall establish, as part of the surface*
5 *transportation research and technology develop-*
6 *ment strategic plan under section 508(c), goals*
7 *to carry out paragraph (1).*

8 *“(B) DESIGN.—Each of the goals and the*
9 *program developed to achieve the goals shall be*
10 *designed to provide tangible benefits, with respect*
11 *to transportation systems, in the areas of effi-*
12 *ciency, safety, reliability, service life, environ-*
13 *mental protection, and sustainability.*

14 *“(C) STRATEGIES FOR ACHIEVEMENT.—For*
15 *each goal, the Secretary, in cooperation with rep-*
16 *resentatives of the transportation community,*
17 *such as States, local governments, the private*
18 *sector, and academia, shall use domestic and*
19 *international technology to develop strategies*
20 *and initiatives to achieve the goal, including*
21 *technical assistance in deploying technology and*
22 *mechanisms for sharing information among pro-*
23 *gram participants.*

24 *“(4) INTEGRATION WITH OTHER PROGRAMS.—*
25 *The Secretary shall integrate activities carried out*

1 *under this subsection with the efforts of the Secretary*
2 *to—*

3 *“(A) disseminate the results of research*
4 *sponsored by the Secretary; and*

5 *“(B) facilitate technology transfer.*

6 *“(5) LEVERAGING OF FEDERAL RESOURCES.—In*
7 *selecting projects to be carried out under this sub-*
8 *section, the Secretary shall give preference to projects*
9 *that leverage Federal funds with other significant*
10 *public or private resources.*

11 *“(6) GRANTS, COOPERATIVE AGREEMENTS, AND*
12 *CONTRACTS.—Under the program, the Secretary may*
13 *make grants and enter into cooperative agreements*
14 *and contracts to foster alliances and support efforts to*
15 *stimulate advances in transportation technology.*

16 *“(7) REPORTS.—The results and progress of ac-*
17 *tivities carried out under this section shall be pub-*
18 *lished as part of the annual transportation research*
19 *report prepared by the Secretary under section*
20 *508(c)(5).*

21 *“(8) ALLOCATION.—To the extent appropriate to*
22 *achieve the goals established under paragraph (3), the*
23 *Secretary may further allocate funds made available*
24 *to carry out this section to States for use by those*
25 *States.*

1 “(b) *INNOVATIVE SURFACE TRANSPORTATION INFRA-*
2 *STRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—*

3 “(1) *IN GENERAL.—The Secretary shall establish*
4 *and carry out a program for the application of inno-*
5 *vative material, design, and construction technologies*
6 *in the construction, preservation, and rehabilitation*
7 *of elements of surface transportation infrastructure.*

8 “(2) *GOALS.—The goals of the program shall*
9 *include—*

10 “(A) *the development of new, cost-effective,*
11 *and innovative materials;*

12 “(B) *the reduction of maintenance costs and*
13 *life-cycle costs of elements of infrastructure, in-*
14 *cluding the costs of new construction, replace-*
15 *ment, and rehabilitation;*

16 “(C) *the development of construction tech-*
17 *niques to increase safety and reduce construction*
18 *time and traffic congestion;*

19 “(D) *the development of engineering design*
20 *criteria for innovative products and materials*
21 *for use in surface transportation infrastructure;*

22 “(E) *the development of highway bridges*
23 *and structures that will withstand natural disas-*
24 *ters and disasters caused by human activity; and*

1 “(F) the development of new, nondestructive
2 technologies and techniques for the evaluation of
3 elements of transportation infrastructure.

4 “(3) GRANTS, COOPERATIVE AGREEMENTS, AND
5 CONTRACTS.—

6 “(A) IN GENERAL.—Under the program, the
7 Secretary shall make grants to, and enter into
8 cooperative agreements and contracts with—

9 “(i) States, other Federal agencies,
10 universities and colleges, private sector enti-
11 ties, and nonprofit organizations, to pay the
12 Federal share of the cost of research, devel-
13 opment, and technology transfer concerning
14 innovative materials and methods; and

15 “(ii) States, to pay the Federal share
16 of the cost of repair, rehabilitation, replace-
17 ment, and new construction of elements of
18 surface transportation infrastructure that
19 demonstrate the application of innovative
20 materials and methods.

21 “(B) APPLICATIONS.—

22 “(i) IN GENERAL.—To receive a grant
23 under this subsection, an entity described in
24 subparagraph (A) shall submit to the Sec-
25 retary an application in such form and

1 *containing such information as the Sec-*
 2 *retary may require.*

3 “(ii) *APPROVAL.*—*The Secretary shall*
 4 *select and approve an application based on*
 5 *whether the proposed project that is the sub-*
 6 *ject of the application would meet the goals*
 7 *described in paragraph (2).*

8 “(4) *TECHNOLOGY AND INFORMATION TRANS-*
 9 *FER.*—*The Secretary shall take such action as is nec-*
 10 *essary to—*

11 “(A) *ensure that the information and tech-*
 12 *nology resulting from research conducted under*
 13 *paragraph (3) is made available to State and*
 14 *local transportation departments and other in-*
 15 *terested parties, as specified by the Secretary;*
 16 *and*

17 “(B) *encourage the use of the information*
 18 *and technology.*

19 “(5) *FEDERAL SHARE.*—*The Federal share of the*
 20 *cost of a project under this section shall be determined*
 21 *by the Secretary.*

22 **“§ 504. Training and education**

23 “(a) *NATIONAL HIGHWAY INSTITUTE.*—

24 “(1) *IN GENERAL.*—*The Secretary shall—*

1 “(A) operate, in the Federal Highway Ad-
2 ministration, a National Highway Institute (re-
3 ferred to in this subsection as the ‘Institute’);
4 and

5 “(B) administer, through the Institute, the
6 authority vested in the Secretary by this title or
7 by any other law for the development and con-
8 duct of education and training programs relat-
9 ing to highways.

10 “(2) DUTIES OF THE INSTITUTE.—In coopera-
11 tion with State transportation departments, indus-
12 tries in the United States, and national or inter-
13 national entities, the Institute shall develop and ad-
14 minister education and training programs of instruc-
15 tion for—

16 “(A) Federal Highway Administration,
17 State, and local transportation agency employ-
18 ees;

19 “(B) regional, State, and metropolitan
20 planning organizations;

21 “(C) State and local police, public safety,
22 and motor vehicle employees; and

23 “(D) United States citizens and foreign na-
24 tionals engaged or to be engaged in surface

1 *transportation work of interest to the United*
2 *States.*

3 “(3) *COURSES.*—

4 “(A) *IN GENERAL.*—*The Institute shall—*

5 “(i) *develop or update existing courses*
6 *in asset management, including courses that*
7 *include such components as—*

8 “(I) *the determination of life-cycle*
9 *costs;*

10 “(II) *the valuation of assets;*

11 “(III) *benefit-to-cost ratio calcula-*
12 *tions; and*

13 “(IV) *objective decisionmaking*
14 *processes for project selection; and*

15 “(ii) *continually develop courses relat-*
16 *ing to the application of emerging tech-*
17 *nologies for—*

18 “(I) *transportation infrastructure*
19 *applications and asset management;*

20 “(II) *intelligent transportation*
21 *systems;*

22 “(III) *operations (including secu-*
23 *rity operations);*

24 “(IV) *the collection and archiving*
25 *of data;*

1 “(V) expediting the planning and
2 development of transportation projects;
3 and

4 “(VI) the intermodal movement of
5 individuals and freight.

6 “(B) *ADDITIONAL COURSES.*—*In addition*
7 *to the courses developed under subparagraph (A),*
8 *the Institute, in consultation with State trans-*
9 *portation departments, metropolitan planning*
10 *organizations, and the American Association of*
11 *State Highway and Transportation Officials,*
12 *may develop courses relating to technology, meth-*
13 *ods, techniques, engineering, construction, safety,*
14 *maintenance, environmental mitigation and*
15 *compliance, regulations, management, inspec-*
16 *tion, and finance.*

17 “(C) *REVISION OF COURSES OFFERED.*—
18 *The Institute shall periodically—*

19 “(i) *review the course inventory of the*
20 *Institute; and*

21 “(ii) *revise or cease to offer courses*
22 *based on course content, applicability, and*
23 *need.*

24 “(4) *ELIGIBILITY; FEDERAL SHARE.*—*The funds*
25 *apportioned to a State under section 104(b)(3) for the*

1 *surface transportation program shall be available for*
2 *expenditure by the State transportation department*
3 *for the payment of not to exceed 80 percent of the cost*
4 *of tuition and direct educational expenses (excluding*
5 *salaries) in connection with the education and train-*
6 *ing of employees of State and local transportation*
7 *agencies in accordance with this subsection.*

8 “(5) *FEDERAL RESPONSIBILITY.*—

9 “(A) *IN GENERAL.*—*Except as provided in*
10 *subparagraph (B), education and training of*
11 *employees of Federal, State, and local transpor-*
12 *tation (including highway) agencies authorized*
13 *under this subsection may be provided—*

14 “(i) *by the Secretary, at no cost to the*
15 *States and local governments, if the Sec-*
16 *retary determines that provision at no cost*
17 *is in the public interest; or*

18 “(ii) *by the State, through grants, co-*
19 *operative agreements, and contracts with*
20 *public and private agencies, institutions,*
21 *individuals, and the Institute.*

22 “(B) *PAYMENT OF FULL COST BY PRIVATE*
23 *PERSONS.*—*Private agencies, international or*
24 *foreign entities, and individuals shall pay the*
25 *full cost of any education and training (includ-*

1 *ing the cost of course development) received by*
2 *the agencies, entities, and individuals, unless the*
3 *Secretary determines that payment of a lesser*
4 *amount of the cost is of critical importance to*
5 *the public interest.*

6 “(6) *TRAINING FELLOWSHIPS; COOPERATION.—*

7 *The Institute may—*

8 “(A) *engage in training activities author-*
9 *ized under this subsection, including the grant-*
10 *ing of training fellowships; and*

11 “(B) *exercise the authority of the Institute*
12 *independently or in cooperation with any—*

13 “(i) *other Federal or State agency;*

14 “(ii) *association, authority, institu-*
15 *tion, or organization;*

16 “(iii) *for-profit or nonprofit corpora-*
17 *tion;*

18 “(iv) *national or international entity;*

19 “(v) *foreign country; or*

20 “(vi) *person.*

21 “(7) *COLLECTION OF FEES.—*

22 “(A) *IN GENERAL.—In accordance with this*
23 *subsection, the Institute may assess and collect*
24 *fees to defray the costs of the Institute in devel-*

1 *oping or administering education and training*
2 *programs under this subsection.*

3 “(B) *PERSONS SUBJECT TO FEES.—Fees*
4 *may be assessed and collected under this sub-*
5 *section only with respect to—*

6 *“(i) persons and entities for whom edu-*
7 *cation or training programs are developed*
8 *or administered under this subsection; and*

9 *“(ii) persons and entities to whom edu-*
10 *cation or training is provided under this*
11 *subsection.*

12 “(C) *AMOUNT OF FEES.—The fees assessed*
13 *and collected under this subsection shall be estab-*
14 *lished in a manner that ensures that the liability*
15 *of any person or entity for a fee is reasonably*
16 *based on the proportion of the costs referred to*
17 *in subparagraph (A) that relate to the person or*
18 *entity.*

19 “(D) *USE.—All fees collected under this*
20 *subsection shall be used, without further appro-*
21 *priation, to defray costs associated with the de-*
22 *velopment or administration of education and*
23 *training programs authorized under this sub-*
24 *section.*

1 “(8) *RELATION TO FEES.*—*The funds made*
2 *available to carry out this subsection may be com-*
3 *bined with or held separate from the fees collected*
4 *under—*

5 “(A) *paragraph (7);*

6 “(B) *memoranda of understanding;*

7 “(C) *regional compacts; and*

8 “(D) *other similar agreements.*

9 “(b) *LOCAL TECHNICAL ASSISTANCE PROGRAM.*—

10 “(1) *AUTHORITY.*—*The Secretary shall carry out*
11 *a local technical assistance program that will provide*
12 *access to surface transportation technology to—*

13 “(A) *highway and transportation agencies*
14 *in urbanized areas;*

15 “(B) *highway and transportation agencies*
16 *in rural areas;*

17 “(C) *contractors that perform work for the*
18 *agencies; and*

19 “(D) *infrastructure security.*

20 “(2) *GRANTS, COOPERATIVE AGREEMENTS, AND*
21 *CONTRACTS.*—*The Secretary may make grants and*
22 *enter into cooperative agreements and contracts to*
23 *provide education and training, technical assistance,*
24 *and related support services to—*

1 “(A) assist rural, local transportation agen-
2 cies and tribal governments, and the consultants
3 and construction personnel working for the agen-
4 cies and governments, to—

5 “(i) develop and expand expertise in
6 road and transportation areas (including
7 pavement, bridge, concrete structures, inter-
8 modal connections, safety management sys-
9 tems, intelligent transportation systems, in-
10 cident response, operations, and traffic safe-
11 ty countermeasures);

12 “(ii) improve roads and bridges;

13 “(iii) enhance—

14 “(I) programs for the movement of
15 passengers and freight; and

16 “(II) intergovernmental transpor-
17 tation planning and project selection;
18 and

19 “(iv) deal effectively with special
20 transportation-related problems by pre-
21 paring and providing training packages,
22 manuals, guidelines, and technical resource
23 materials;

24 “(B) develop technical assistance for tour-
25 ism and recreational travel;

1 “(C) identify, package, and deliver trans-
2 portation technology and traffic safety informa-
3 tion to local jurisdictions to assist urban trans-
4 portation agencies in developing and expanding
5 their ability to deal effectively with transpor-
6 tation-related problems (particularly the pro-
7 motion of regional cooperation);

8 “(D) operate, in cooperation with State
9 transportation departments and universities—

10 “(i) local technical assistance program
11 centers designated to provide transportation
12 technology transfer services to rural areas
13 and to urbanized areas; and

14 “(ii) local technical assistance program
15 centers designated to provide transportation
16 technical assistance to tribal governments;
17 and

18 “(E) allow local transportation agencies
19 and tribal governments, in cooperation with the
20 private sector, to enhance new technology imple-
21 mentation.

22 “(c) RESEARCH FELLOWSHIPS.—

23 “(1) GENERAL AUTHORITY.—The Secretary, act-
24 ing independently or in cooperation with other Fed-
25 eral agencies and instrumentalities, may make grants

1 *for research fellowships for any purpose for which re-*
2 *search is authorized by this chapter.*

3 “(2) *DWIGHT DAVID EISENHOWER TRANSPOR-*
4 *TATION FELLOWSHIP PROGRAM.—The Secretary shall*
5 *establish and implement a transportation research fel-*
6 *lowship program, to be known as the ‘Dwight David*
7 *Eisenhower Transportation Fellowship Program’, for*
8 *the purpose of attracting qualified students to the*
9 *field of transportation.*

10 **“§ 505. State planning and research**

11 “(a) *IN GENERAL.—Two percent of the sums appor-*
12 *tioned to a State for fiscal year 2005 and each fiscal year*
13 *thereafter under sections 104 (other than subsections (f) and*
14 *(h)) and 144 shall be available for expenditure by the State,*
15 *in consultation with the Secretary, only for—*

16 “(1) *the conduct of engineering and economic*
17 *surveys and investigations;*

18 “(2) *the planning of—*

19 “(A) *future highway programs and local*
20 *public transportation systems; and*

21 “(B) *the financing of those programs and*
22 *systems, including metropolitan and statewide*
23 *planning under sections 134 and 135;*

24 “(3) *the development and implementation of*
25 *management systems under section 303;*

1 “(4) *the conduct of studies on—*

2 “(A) *the economy, safety, and convenience*
3 *of surface transportation systems; and*

4 “(B) *the desirable regulation and equitable*
5 *taxation of those systems;*

6 “(5) *research, development, and technology trans-*
7 *fer activities necessary in connection with the plan-*
8 *ning, design, construction, management, and mainte-*
9 *nance of highway, public transportation, and inter-*
10 *modal transportation systems;*

11 “(6) *the conduct of studies, research, and train-*
12 *ing relating to the engineering standards and con-*
13 *struction materials for surface transportation systems*
14 *described in paragraph (5) (including the evaluation*
15 *and accreditation of inspection and testing and the*
16 *regulation of and charging for the use of the stand-*
17 *ards and materials); and*

18 “(7) *the conduct of activities relating to the*
19 *planning of real-time monitoring elements.*

20 “(b) *MINIMUM EXPENDITURES ON RESEARCH, DEVEL-*
21 *OPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—*

22 “(1) *IN GENERAL.—Subject to paragraph (2),*
23 *not less than 25 percent of the funds subject to sub-*
24 *section (a) that are apportioned to a State for a fiscal*

1 *year shall be expended by the State for research, de-*
2 *velopment, and technology transfer activities that—*

3 *“(A) are described in subsection (a); and*

4 *“(B) relate to highway, public transpor-*
5 *tation, and intermodal transportation systems.*

6 *“(2) WAIVERS.—The Secretary may waive the*
7 *application of paragraph (1) with respect to a State*
8 *for a fiscal year if—*

9 *“(A) the State certifies to the Secretary for*
10 *the fiscal year that total expenditures by the*
11 *State for transportation planning under sections*
12 *134 and 135 will exceed 75 percent of the funds*
13 *described in paragraph (1); and*

14 *“(B) the Secretary accepts the certification*
15 *of the State.*

16 *“(3) NONAPPLICABILITY OF ASSESSMENT.—*
17 *Funds expended under paragraph (1) shall not be*
18 *considered to be part of the extramural budget of the*
19 *agency for the purpose of section 9 of the Small Busi-*
20 *ness Act (15 U.S.C. 638).*

21 *“(c) FEDERAL SHARE.—The Federal share of the cost*
22 *of a project carried out using funds subject to subsection*
23 *(a) shall be the share applicable under section 120(b), as*
24 *adjusted under subsection (d) of that section.*

1 “(d) *ADMINISTRATION OF SUMS.—Funds subject to*
2 *subsection (a) shall be—*

3 “(1) *combined and administered by the Sec-*
4 *retary as a single fund; and*

5 “(2) *available for obligation for the period de-*
6 *scribed in section 118(b)(2).*

7 “(e) *ELIGIBLE USE OF STATE PLANNING AND RE-*
8 *SEARCH FUNDS.—A State, in coordination with the Sec-*
9 *retary, may obligate funds made available to carry out this*
10 *section for any purpose authorized under section 506(a).*

11 **“§ 506. *International highway transportation out-***
12 ***reach program***

13 “(a) *ESTABLISHMENT.—The Secretary may establish*
14 *an international highway transportation outreach*
15 *program—*

16 “(1) *to inform the United States highway com-*
17 *munity of technological innovations in foreign coun-*
18 *tries that could significantly improve highway trans-*
19 *portation in the United States;*

20 “(2) *to promote United States highway transpor-*
21 *tation expertise, goods, and services in foreign coun-*
22 *tries; and*

23 “(3) *to increase transfers of United States high-*
24 *way transportation technology to foreign countries.*

1 “(b) *ACTIVITIES.*—Activities carried out under the
2 program may include—

3 “(1) the development, monitoring, assessment,
4 and dissemination in the United States of informa-
5 tion about highway transportation innovations in
6 foreign countries that could significantly improve
7 highway transportation in the United States;

8 “(2) research, development, demonstration, train-
9 ing, and other forms of technology transfer and ex-
10 change;

11 “(3) the provision to foreign countries, through
12 participation in trade shows, seminars, expositions,
13 and other similar activities, of information relating
14 to the technical quality of United States highway
15 transportation goods and services;

16 “(4) the offering of technical services of the Fed-
17 eral Highway Administration that cannot be readily
18 obtained from private sector firms in the United
19 States for incorporation into the proposals of those
20 firms undertaking highway transportation projects
21 outside the United States, if the costs of the technical
22 services will be recovered under the terms of the
23 project;

1 “(5) *the conduct of studies to assess the need for,*
2 *or feasibility of, highway transportation improve-*
3 *ments in foreign countries; and*

4 “(6) *the gathering and dissemination of informa-*
5 *tion on foreign transportation markets and indus-*
6 *tries.*

7 “(c) *COOPERATION.—The Secretary may carry out*
8 *this section in cooperation with any appropriate—*

9 “(1) *Federal, State, or local agency;*

10 “(2) *authority, association, institution, or orga-*
11 *nization;*

12 “(3) *for-profit or nonprofit corporation;*

13 “(4) *national or international entity;*

14 “(5) *foreign country; or*

15 “(6) *person.*

16 “(d) *FUNDS.—*

17 “(1) *CONTRIBUTIONS.—Funds available to carry*
18 *out this section shall include funds deposited by any*
19 *cooperating organization or person into a special ac-*
20 *count of the Treasury established for this purpose.*

21 “(2) *ELIGIBLE USES OF FUNDS.—The funds de-*
22 *posited into the account, and other funds available to*
23 *carry out this section, shall be available to cover the*
24 *cost of any activity eligible under this section, includ-*
25 *ing the cost of—*

1 “(1) to develop more accurate models for evalu-
2 ating transportation control measures and transpor-
3 tation system designs that are appropriate for use by
4 State and local governments (including metropolitan
5 planning organizations) in designing implementation
6 plans to meet Federal, State, and local environmental
7 requirements;

8 “(2) to improve understanding of the factors that
9 contribute to the demand for transportation;

10 “(3) to develop indicators of economic, social,
11 and environmental performance of transportation sys-
12 tems to facilitate analysis of potential alternatives;

13 “(4) to meet additional priorities as determined
14 by the Secretary in the strategic planning process
15 under section 508; and

16 “(5) to refine, through the conduct of workshops,
17 symposia, and panels, and in consultation with stake-
18 holders (including the Department of Energy, the En-
19 vironmental Protection Agency, and other appro-
20 priate Federal and State agencies and associations)
21 the scope and research emphases of the program.

22 “(c) PROGRAM ADMINISTRATION.—The Secretary
23 shall—

24 “(1) administer the program established under
25 this section; and

1 “(2) ensure, to the maximum extent practicable,
2 *that—*

3 “(A) the best projects and researchers are se-
4 lected to conduct research in the priority areas
5 described in subsection (b)—

6 “(i) on the basis of merit of each sub-
7 mitted proposal; and

8 “(ii) through the use of open sollicita-
9 tions and selection by a panel of appro-
10 priate experts;

11 “(B) a qualified, permanent core staff with
12 the ability and expertise to manage a large
13 multiyear budget is used;

14 “(C) the stakeholders are involved in the
15 governance of the program, at the executive, over-
16 all program, and technical levels, through the use
17 of expert panels and committees; and

18 “(D) there is no duplication of research ef-
19 fort between the program established under this
20 section and the new strategic highway research
21 program established under section 509.

22 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
23 retary may make grants to, and enter into cooperative
24 agreements with, the National Academy of Sciences to carry
25 out such activities relating to the research, technology, and

1 *technology transfer activities described in subsections (b)*
2 *and (c) as the Secretary determines to be appropriate.*

3 **“§ 508. Surface transportation research technology de-**
4 ***ployment and strategic planning***

5 “(a) *PLANNING.*—

6 “(1) *ESTABLISHMENT.*—*The Secretary shall—*

7 “(A) *establish, in accordance with section*
8 *306 of title 5, a strategic planning process*
9 *that—*

10 “(i) *enhances effective implementation*
11 *of this section through the establishment in*
12 *accordance with paragraph (2) of the Sur-*
13 *face Transportation Research Technology*
14 *Advisory Committee; and*

15 “(ii) *focuses on surface transportation*
16 *research funded through paragraphs (1),*
17 *(2), (4), and (5) of section 2001(a) of the*
18 *Safe, Accountable, Flexible, and Efficient*
19 *Transportation Equity Act of 2005, taking*
20 *into consideration national surface trans-*
21 *portation system needs and intermodality*
22 *requirements;*

23 “(B) *coordinate Federal surface transpor-*
24 *tation research, technology development, and de-*
25 *ployment activities;*

1 “(C) at such intervals as are appropriate
2 and practicable, measure the results of those ac-
3 tivities and the ways in which the activities af-
4 fect the performance of the surface transportation
5 systems of the United States; and

6 “(D) ensure, to the maximum extent prac-
7 ticable, that planning and reporting activities
8 carried out under this section are coordinated
9 with all other surface transportation planning
10 and reporting requirements.

11 “(2) *SURFACE TRANSPORTATION RESEARCH*
12 *TECHNOLOGY ADVISORY COMMITTEE.*—

13 “(A) *ESTABLISHMENT.*—Not later than 90
14 days after the date of enactment of the *Safe, Ac-*
15 *countable, Flexible, and Efficient Transportation*
16 *Equity Act of 2005*, the Secretary shall establish
17 a committee to be known as the ‘Surface Trans-
18 portation Research Technology Advisory Com-
19 mittee’ (referred to in this section as the ‘Com-
20 mittee’).

21 “(B) *MEMBERSHIP.*—The Committee shall
22 be composed of 12 members appointed by the
23 Secretary—

24 “(i) each of which shall have expertise
25 in a particular area relating to Federal

1 *surface transportation programs,*
2 *including—*
3 “(I) *safety;*
4 “(II) *operations;*
5 “(III) *infrastructure (including*
6 *pavements and structures);*
7 “(IV) *planning and environment;*
8 “(V) *policy; and*
9 “(VI) *asset management; and*
10 “(ii) *of which—*
11 “(I) *3 members shall be individ-*
12 *uals representing the Federal Govern-*
13 *ment;*
14 “(II) *3 members—*
15 “(aa) *shall be exceptionally*
16 *qualified to serve on the Com-*
17 *mittee, as determined by the Sec-*
18 *retary, based on education, train-*
19 *ing, and experience; and*
20 “(bb) *shall not be officers or*
21 *employees of the United States;*
22 “(III) *3 members—*
23 “(aa) *shall represent the*
24 *transportation industry (includ-*
25 *ing the pavement industry); and*

1 “(bb) shall not be officers or
2 employees of the United States;
3 and

4 “(IV) 3 members shall represent
5 State transportation departments from
6 3 different geographical regions of the
7 United States.

8 “(C) MEETINGS.—The advisory subcommit-
9 tees shall meet on a regular basis, but not less
10 than twice each year.

11 “(D) DUTIES.—The Committee shall pro-
12 vide to the Secretary, on a continuous basis, ad-
13 vice and guidance relating to—

14 “(i) the determination of surface trans-
15 portation research priorities;

16 “(ii) the improvement of the research
17 planning and implementation process;

18 “(iii) the design and selection of re-
19 search projects;

20 “(iv) the review of research results;

21 “(v) the planning and implementation
22 of technology transfer activities and

23 “(vi) the formulation of the surface
24 transportation research and technology de-

1 *ployment and deployment strategic plan re-*
2 *quired under subsection (c).*

3 “(E) *AUTHORIZATION OF APPROPRIA-*
4 *TIONS.—There is authorized to be appropriated*
5 *from the Highway Trust Fund (other than the*
6 *Mass Transit Account) to carry out this para-*
7 *graph \$187,726 for each fiscal year.*

8 “(b) *IMPLEMENTATION.—The Secretary shall—*

9 “(1) *provide for the integrated planning, coordi-*
10 *nation, and consultation among the operating admin-*
11 *istrations of the Department of Transportation, all*
12 *other Federal agencies with responsibility for surface*
13 *transportation research and technology development,*
14 *State and local governments, institutions of higher*
15 *education, industry, and other private and public sec-*
16 *tor organizations engaged in surface transportation-*
17 *related research and development activities; and*

18 “(2) *ensure that the surface transportation re-*
19 *search and technology development programs of the*
20 *Department do not duplicate other Federal, State, or*
21 *private sector research and development programs.*

22 “(c) *SURFACE TRANSPORTATION RESEARCH AND*
23 *TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—*

24 “(1) *IN GENERAL.—After receiving, and based*
25 *on, extensive consultation and input from stakeholders*

1 *representing the transportation community and the*
2 *Surface Transportation Research Advisory Com-*
3 *mittee, the Secretary shall, not later than 1 year after*
4 *the date of enactment of the Safe, Accountable, Flexi-*
5 *ble, and Efficient Transportation Equity Act of 2005,*
6 *complete, and shall periodically update thereafter, a*
7 *strategic plan for each of the core surface transpor-*
8 *tation research areas, including—*

9 *“(A) safety;*

10 *“(B) operations;*

11 *“(C) infrastructure (including pavements*
12 *and structures);*

13 *“(D) planning and environment;*

14 *“(E) policy; and*

15 *“(F) asset management.*

16 *“(2) COMPONENTS.—The strategic plan shall*
17 *specify—*

18 *“(A) surface transportation research objec-*
19 *tives and priorities;*

20 *“(B) specific surface transportation research*
21 *projects to be conducted;*

22 *“(C) recommended technology transfer ac-*
23 *tivities to promote the deployment of advances*
24 *resulting from the surface transportation re-*
25 *search conducted; and*

1 “(D) short- and long-term technology devel-
2 opment and deployment activities.

3 “(3) REVIEW AND SUBMISSION OF FINDINGS.—
4 The Secretary shall enter into a contract with the
5 Transportation Research Board of the National Acad-
6 emy of Sciences, on behalf of the Research and Tech-
7 nology Coordinating Committee of the National Re-
8 search Council, under which—

9 “(A) the Transportation Research Board
10 shall—

11 “(i) review the research and technology
12 planning and implementation process used
13 by Federal Highway Administration; and

14 “(ii) evaluate each of the strategic
15 plans prepared under this subsection—

16 “(I) to ensure that sufficient
17 stakeholder input is being solicited and
18 considered throughout the preparation
19 process; and

20 “(II) to offer recommendations
21 relevant to research priorities, project
22 selection, and deployment strategies;
23 and

24 “(B) the Secretary shall ensure that the Re-
25 search and Technology Coordinating Committee,

1 *in a timely manner, informs the Committee on*
2 *Environment and Public Works of the Senate*
3 *and the Committee on Transportation and Infra-*
4 *structure of the House of Representatives of the*
5 *findings of the review and evaluation under sub-*
6 *paragraph (A).*

7 “(4) *RESPONSES OF SECRETARY.*—*Not later*
8 *than 60 days after the date of completion of the stra-*
9 *tegic plan under this subsection, the Secretary shall*
10 *submit to the Committee on Environment and Public*
11 *Works of the Senate and the Committee on Transpor-*
12 *tation and Infrastructure of the House of Representa-*
13 *tives written responses to each of the recommenda-*
14 *tions of the Research and Technology Coordinating*
15 *Committee under paragraph (3)(A)(i)(II).*

16 “(d) *CONSISTENCY WITH GOVERNMENT PERFORM-*
17 *ANCE AND RESULTS ACT OF 1993.*—*The plans and reports*
18 *developed under this section shall be consistent with and*
19 *incorporated as part of the plans developed under section*
20 *306 of title 5 and sections 1115 and 1116 of title 31.*

21 “§ 509. ***New strategic highway research program***

22 “(a) *IN GENERAL.*—*The National Research Council*
23 *shall establish and carry out, through fiscal year 2009, a*
24 *new strategic highway research program.*

1 “(b) *BASIS; PRIORITIES.*—With respect to the program
2 established under subsection (a)—

3 “(1) the program shall be based on—

4 “(A) National Research Council Special Re-
5 port No. 260, entitled ‘Strategic Highway Re-
6 search’; and

7 “(B) the results of the detailed planning
8 work subsequently carried out to scope the re-
9 search areas through National Cooperative Re-
10 search Program Project 20–58.

11 “(2) the scope and research priorities of the pro-
12 gram shall—

13 “(A) be refined through stakeholder input in
14 the form of workshops, symposia, and panels;
15 and

16 “(B) include an examination of—

17 “(i) the roles of highway infrastruc-
18 ture, drivers, and vehicles in fatalities on
19 public roads;

20 “(ii) high-risk areas and activities as-
21 sociated with the greatest numbers of high-
22 way fatalities;

23 “(iii) the roles of various levels of gov-
24 ernment agencies and non-governmental or-
25 ganizations in reducing highway fatalities

1 *(including recommendations for methods of*
2 *strengthening highway safety partnerships);*

3 *“(iv) measures that may save the*
4 *greatest number of lives in the short- and*
5 *long-term;*

6 *“(v) renewal of aging infrastructure*
7 *with minimum impact on users of facilities;*

8 *“(vi) driving behavior and likely crash*
9 *causal factors to support improved counter-*
10 *measures;*

11 *“(vii) reduction in congestion due to*
12 *nonrecurring congestion;*

13 *“(viii) planning and designing of new*
14 *road capacity to meet mobility, economic,*
15 *environmental, and community needs;*

16 *“(3) the program shall consider, at a minimum,*
17 *the results of studies relating to the implementation*
18 *of the Strategic Highway Safety Plan prepared by the*
19 *American Association of State Highway and Trans-*
20 *portation Officials; and*

21 *“(4) the research results of the program, ex-*
22 *pressed in terms of technologies, methodologies, and*
23 *other appropriate categorizations, shall be dissemi-*
24 *nated to practicing engineers as soon as practicable*
25 *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 2005, 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 2005, 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 2005 and 2006 and once for the period*
12 *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 2005 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 *2005 through 2009, the Secretary shall make a*
13 *grant in the amount of \$938,629 to each of the*
14 *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) *\$375,452 for fiscal year 2005; and*

21 “(ii) *\$563,177 for each of fiscal years*
22 *2006 and 2007.*

23 “(C) *GROUP C.*—*For each of fiscal years*
24 *2005 through 2007, the Secretary shall make a*
25 *grant in the amount of \$938,629 to each of the*

1 *institutions in group C (as described in sub-*
2 *section (a)(4)(C)).*

3 “(D) *GROUP D.—For each of fiscal years*
4 *2005 through 2009, the Secretary shall make a*
5 *grant in the amount of \$1,877,258 to each of the*
6 *institutions in group D (as described in sub-*
7 *section (a)(4)(D)).*

8 “(E) *LIMITED GRANTS FOR GROUPS B AND*
9 *C.—For each of fiscal years 2008 and 2009, of*
10 *the institutions classified in groups B and C (as*
11 *described in subsection (a)(4)(B)), the Secretary*
12 *shall select and make grants in an amount total-*
13 *ing \$37,545,924 to not more than 15 institu-*
14 *tions.*

15 “(2) *USE OF FUNDS—*

16 “(A) *IN GENERAL.—Of the funds made*
17 *available for a fiscal year to a university trans-*
18 *portation center established under subsection (a)*
19 *or (b)—*

20 “(i) *not less than \$250,000 shall be*
21 *used to establish and maintain new faculty*
22 *positions for the teaching of undergraduate,*
23 *transportation-related courses;*

24 “(ii) *not more than \$500,000 for the*
25 *fiscal year, or \$1,000,000 in the aggregate,*

1 *may be used to construct or improve trans-*
2 *portation-related laboratory facilities; and*

3 *“(iii) not more than \$300,000 for the*
4 *fiscal year may be used for student intern-*
5 *ships of not more than 180 days in dura-*
6 *tion to enable students to gain experience by*
7 *working on transportation projects as in-*
8 *terns with design or construction firms.*

9 *“(B) FACILITIES AND ADMINISTRATION*
10 *FEE.—Not more than 10 percent of any grant*
11 *made available to a university transportation*
12 *center (or any institution or consortium that es-*
13 *tablishes such a center) for a fiscal year may be*
14 *used to pay to the appropriate nonprofit institu-*
15 *tion of higher learning any administration and*
16 *facilities fee (or any similar overhead fee) for the*
17 *fiscal year.*

18 *“(3) LIMITATION ON AVAILABILITY OF FUNDS.—*
19 *Funds made available under this subsection shall re-*
20 *main available for obligation for a period of 2 years*
21 *after September 30 of the fiscal year for which the*
22 *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 coal-*
16 *ition 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 *2005, the Secretary shall use to carry out this*
23 *subsection—*

24 “(A) \$9,386,289 for fiscal year 2005; and

25 “(B) \$11,263,547 for each of fiscal years
26 2006 through 2009.

1 **“§ 512. Transportation analysis simulation system**

2 “(a) *CONTINUATION OF TRANSIMS DEVELOPMENT.*—

3 “(1) *IN GENERAL.*—*The Secretary shall continue*
4 *the deployment of the advanced transportation model*
5 *known as the ‘Transportation Analysis Simulation*
6 *System’ (referred to in this section as ‘TRANSIMS’)*
7 *developed by the Los Alamos National Laboratory.*

8 “(2) *REQUIREMENTS AND CONSIDERATIONS.*—*In*
9 *carrying out paragraph (1), the Secretary shall—*

10 “(A) *further improve TRANSIMS to reduce*
11 *the cost and complexity of using the*
12 *TRANSIMS;*

13 “(B) *continue development of TRANSIMS*
14 *for applications to facilitate transportation*
15 *planning, regulatory compliance, and response to*
16 *natural disasters and other transportation dis-*
17 *ruptions; and*

18 “(C) *assist State transportation depart-*
19 *ments and metropolitan planning organizations,*
20 *especially smaller metropolitan planning organi-*
21 *zations, in the implementation of TRANSIMS*
22 *by providing training and technical assistance.*

23 “(b) *ELIGIBLE ACTIVITIES.*—*The Secretary shall use*
24 *funds made available to carry out this section—*

25 “(1) *to further develop TRANSIMS for addi-*
26 *tional applications, including—*

1 “(A) congestion analyses;

2 “(B) major investment studies;

3 “(C) economic impact analyses;

4 “(D) alternative analyses;

5 “(E) freight movement studies;

6 “(F) emergency evacuation studies;

7 “(G) port studies; and

8 “(H) airport access studies;

9 “(2) provide training and technical assistance
10 with respect to the implementation and application of
11 TRANSIMS to States, local governments, and metro-
12 politan planning organizations with responsibility for
13 travel modeling;

14 “(3) develop methods to simulate the national
15 transportation infrastructure as a single, integrated
16 system for the movement of individuals and goods;

17 “(4) provide funding to State transportation de-
18 partments and metropolitan planning organizations
19 for implementation of TRANSIMS.

20 “(c) ALLOCATION OF FUNDS.—Of the funds made
21 available to carry out this section for each fiscal year, not
22 less than 15 percent shall be allocated for activities de-
23 scribed in subsection (b)(3).

24 “(d) FUNDING.—Of the amounts made available under
25 section 2001(a) of the Safe, Accountable, Flexible, and Effi-

1 *cient Transportation Equity Act of 2005 for each of fiscal*
2 *years 2005 through 2009, the Secretary shall use \$893,082*
3 *to carry out this section.*

4 “(e) *AVAILABILITY OF FUNDS.—Funds made available*
5 *under this section shall be available to the Secretary*
6 *through the Transportation Planning, Research, and Devel-*
7 *opment Account of the Office of the Secretary.”.*

8 (b) *OTHER UNIVERSITY FUNDING.—No university*
9 *(other than university transportation centers specified in*
10 *section 510 of title 23, United States Code (as added by*
11 *subsection (a)) shall receive funds made available under sec-*
12 *tion 2001 to carry out research unless the university is se-*
13 *lected to receive the funds—*

14 (1) *through a competitive process that incor-*
15 *porates merit-based peer review; and*

16 (2) *based on a proposal submitted to the Sec-*
17 *retary by the university in response to a request for*
18 *proposals issued by the Secretary.*

19 (c) *CONFORMING AMENDMENT.—Section 5505 of title*
20 *49, United States Code, is repealed.*

21 **SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL**
22 **ANALYSIS EFFORTS.**

23 (a) *DEFINITIONS.—In this section:*

24 (1) *ADMINISTRATION.—The term “Administra-*
25 *tion” means the Federal Highway Administration.*

1 (2) *BOARD.*—*The term “Board” means the*
2 *Transportation Research Board of the National Acad-*
3 *emy of Sciences.*

4 (3) *BUREAU.*—*The term “Bureau” means the*
5 *Bureau of Transportation Statistics.*

6 (4) *DEPARTMENT.*—*The term “Department”*
7 *means the Department of Transportation.*

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

10 **(b) PRIORITY AREAS OF EFFORT.**—

11 (1) *STATISTICAL STANDARDS.*—*The Secretary*
12 *shall direct the Bureau to assume the role of the lead*
13 *agency in working with other agencies of the Depart-*
14 *ment to establish, by not later the date that is 1 year*
15 *after the date of enactment of this Act, statistical*
16 *standards for the Department.*

17 (2) *STATISTICAL ANALYSIS EFFORT.*—

18 (A) *IN GENERAL.*—*The Bureau shall pro-*
19 *vide to the Secretary, on an annual basis, an*
20 *overview of the level of effort expended on statis-*
21 *tical analyses by each agency within the Depart-*
22 *ment.*

23 (B) *DUTY OF AGENCIES.*—*Each agency of*
24 *the Department shall provide to the Bureau such*

1 *information as the Bureau may require in car-*
2 *rying out subparagraph (A).*

3 (3) *NATIONAL SECURITY.*—*The Bureau shall—*

4 (A) *conduct a study of the ways in which*
5 *transportation statistics are and may be used for*
6 *the purpose of national security; and*

7 (B) *submit to the Transportation Security*
8 *Administration recommendations for means by*
9 *which the use of transportation statistics for the*
10 *purpose of national security may be improved.*

11 (4) *MODERNIZATION.*—*The Bureau shall develop*
12 *new protocols for adapting data collection and deliv-*
13 *ery efforts in existence as of the date of enactment of*
14 *this Act to deliver information in a more timely and*
15 *frequent fashion.*

16 (c) *STUDY.*—

17 (1) *IN GENERAL.*—*Not later than 90 days after*
18 *the date of enactment of this Act, the Secretary shall*
19 *provide a grant to, or enter into a cooperative agree-*
20 *ment or contract with, the Board for the conduct of*
21 *a study of the data collection and statistical analysis*
22 *efforts of the Department with respect to the modes of*
23 *surface transportation for which funds are made*
24 *available under this Act.*

1 (2) *PURPOSE.*—*The purpose of the study shall be*
2 *to provide to the Department information for use by*
3 *agencies of the Department in providing to surface*
4 *transportation agencies and individuals engaged in*
5 *the surface transportation field higher quality, and*
6 *more relevant and timely, data, statistical analyses,*
7 *and products.*

8 (3) *CONTENT.*—*The study shall include—*

9 (A) *an examination and analysis of the ef-*
10 *forts, analyses, and products (with respect to*
11 *usefulness and policy relevance) of the Bureau as*
12 *of the date of the study, as compared with the*
13 *duties of the Bureau specified in subsections (c)*
14 *through (f) of section 111 of title 49, United*
15 *States Code;*

16 (B) *an examination and analysis of data*
17 *collected by, methods of data collection of, and*
18 *analyses performed by, agencies within the De-*
19 *partment; and*

20 (C) *recommendations relating to—*

21 (i) *the future efforts of the Department*
22 *in the area of surface transportation with*
23 *respect to—*

24 (I) *types of data collected;*

25 (II) *methods of data collection;*

1 (III) types of analyses performed;

2 and

3 (IV) products made available by

4 the Secretary to the transportation

5 community and Congress;

6 (ii) the means by which the Depart-

7 ment may cooperate with State transpor-

8 tation departments to provide technical as-

9 sistance in the use of data collected by traf-

10 fic operations centers; and

11 (iii) duplication of efforts within the

12 Department, including ways in which—

13 (I) the duplication may be re-

14 duced or eliminated; and

15 (II) each agency of the Depart-

16 ment may cooperate with, and com-

17 plement the efforts of, the others.

18 (4) CONSULTATION.—In conducting the study,

19 the Board shall consult with such stakeholders, agen-

20 cies, and other entities as the Board considers to be

21 appropriate.

22 (5) REPORT.—Not later than 1 year after the

23 date on which a grant is provided, or a cooperative

24 agreement or contract is entered into, for a study

25 under paragraph (1)—

1 (A) the Board shall submit to the Secretary,
2 the Committee on Environment and Public
3 Works of the Senate, and the Committee on
4 Transportation and Infrastructure of the House
5 of Representatives a final report on the results of
6 the study; and

7 (B) the results of the study shall be
8 published—

9 (i) by the Secretary, on the Internet
10 website of the Department; and

11 (ii) by the Board, on the Internet
12 website of the Board.

13 (6) *IMPLEMENTATION OF RESULTS.*—The Bureau
14 shall, to the maximum extent practicable, implement
15 any recommendations made with respect to the results
16 of the study under this subsection.

17 (7) *COMPLIANCE.*—

18 (A) *IN GENERAL.*—The Comptroller General
19 of the United States shall conduct a review of the
20 study under this subsection.

21 (B) *NONCOMPLIANCE.*—If the Comptroller
22 General of the United States determines that the
23 Bureau failed to conduct the study under this
24 subsection, the Bureau shall be ineligible to re-
25 ceive funds from the Highway Trust Fund until

1 *such time as the Bureau conducts the study*
2 *under this subsection.*

3 (d) *CONFORMING AMENDMENTS.*—*Section 111 of title*
4 *49, United States Code, is amended—*

5 (1) *by redesignating subsection (k) as subsection*
6 *(m);*

7 (2) *by inserting after subsection (j) the following:*

8 “(k) *ANNUAL REPORT.*—

9 “(1) *IN GENERAL.*—*For fiscal year 2005 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 *2005 shall be used only for the collection and statistical*
7 *analysis of information relating to surface transportation*
8 *systems.”; and*

9 (3) *in subsection (m) (as redesignated by sub-*
10 *paragraph (A)), by inserting “surface transportation”*
11 *after “sale of”.*

12 **SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EX-**
13 **CELLENCE.**

14 (a) *ESTABLISHMENT.*—*The Secretary shall establish*
15 *the centers for surface transportation excellence described in*
16 *subsection (b) to promote high-quality outcomes in support*
17 *of strategic national programs and activities, including—*

- 18 (1) *the environment;*
19 (2) *operations;*
20 (3) *surface transportation safety;*
21 (4) *project finance; and*
22 (5) *asset management.*

23 (b) *CENTERS.*—*The centers for surface transportation*
24 *excellence referred to in subsection (a) are—*

1 (1) a Center for Environmental Excellence to
2 provide technical assistance, information sharing of
3 best practices, and training in the use of tools and de-
4 cision-making processes to assist States in planning
5 and delivering environmentally-sound surface trans-
6 portation projects;

7 (2) a Center for Operations Excellence to provide
8 support for an integrated and coordinated national
9 program for implementing operations in planning
10 and management (including standards development)
11 for the transportation system in the United States;

12 (3) a Center for Excellence in Surface Transpor-
13 tation Safety to implement a program of support for
14 State transportation departments, including—

15 (A) the maintenance of an Internet site to
16 provide critical information on safety programs;

17 (B) the provision of technical assistance to
18 support a lead State transportation department
19 for each of the safety emphasis areas (as identi-
20 fied by the Secretary); and

21 (C) the provision of training and education
22 to enhance knowledge of personnel of State trans-
23 portation departments in support of safety high-
24 way goals;

25 (4) a Center for Excellence in Project Finance—

1 (A) to provide support to State transpor-
2 tation departments in the development of finance
3 plans and project oversight tools; and

4 (B) to develop and offer training in state-
5 of-the-art financing methods to advance projects
6 and leverage funds; and

7 (5) a Center for Excellence in Asset Management
8 to develop and conduct research, provide training and
9 education, and disseminate information on the bene-
10 fits and tools for asset management.

11 (c) PROGRAM ADMINISTRATION.—

12 (1) IN GENERAL.—Before funds authorized under
13 this section for fiscal years 2005 through 2009 are ob-
14 ligated, the Secretary shall review and approve a
15 multiyear strategic plan to be submitted by each of
16 the centers.

17 (2) TIMING.—The plan shall be submitted before
18 the beginning of fiscal year 2005 and, subsequently,
19 shall be annually updated.

20 (3) CONTENT.—The plan shall include—

21 (A) a list of research and technical assist-
22 ance projects and objectives; and

23 (B) a description of any other technology
24 transfer activities, including a summary of
25 training efforts.

1 (4) *COOPERATION AND COMPETITION.*—

2 (A) *IN GENERAL.*—*The Secretary shall*
3 *carry out this section by making grants to, or*
4 *entering into contracts, cooperative agreements,*
5 *and other transactions with—*

6 (i) *the National Academy of Sciences;*

7 (ii) *the American Association of State*
8 *Highway and Transportation Officials;*

9 (iii) *planning organizations;*

10 (iv) *a Federal laboratory;*

11 (v) *a State agency;*

12 (vi) *an authority, association, institu-*
13 *tion, or organization; or*

14 (vii) *a for-profit or nonprofit corpora-*
15 *tion.*

16 (B) *COMPETITION; REVIEW.*—*All parties en-*
17 *tering into contracts, cooperative agreements, or*
18 *other transactions with the Secretary, or receiv-*
19 *ing grants, to perform research or provide tech-*
20 *nical assistance under this section shall be se-*
21 *lected, to the maximum extent practicable—*

22 (i) *on a competitive basis; and*

23 (ii) *on the basis of the results of peer*
24 *review of proposals submitted to the Sec-*
25 *retary.*

1 (5) *NONDUPLICATION.*—*The Secretary shall en-*
2 *sure that activities conducted by each of the centers*
3 *do not duplicate, and to the maximum extent prac-*
4 *ticable, are integrated and coordinated with similar*
5 *activities conducted by the Federal Highway Admin-*
6 *istration, the local technical assistance program, uni-*
7 *versity transportation centers, and other research ef-*
8 *forts supported with funds authorized by this title.*

9 (d) *ALLOCATIONS.*—

10 (1) *IN GENERAL.*—*For each of fiscal years 2005*
11 *through 2009, of the funds made available under sec-*
12 *tion 2001(a)(1)(A), the Secretary shall set aside*
13 *\$9,386,289 to carry out this section.*

14 (2) *ALLOCATION OF FUNDS.*—*Of the funds made*
15 *available under paragraph (1)—*

16 (A) *20 percent shall be allocated to the Cen-*
17 *ter for Environmental Excellence established*
18 *under subsection (b)(1);*

19 (B) *30 percent shall be allocated to the Cen-*
20 *ter for Operations Excellence established under*
21 *subsection (b)(2);*

22 (C) *20 percent shall be allocated to the Cen-*
23 *ter for Excellence in Surface Transportation*
24 *Safety established under subsection (b)(3);*

1 (D) 10 percent shall be allocated to the Cen-
2 ter for Excellence in Project Finance established
3 under subsection (b)(4); and

4 (E) 20 percent shall be allocated to the Cen-
5 ter for Excellence in Asset Management estab-
6 lished under subsection (b)(5).

7 (3) *APPLICABILITY OF TITLE 23.*—Funds made
8 available under this section shall be available for obli-
9 gation in the same manner as if the funds were ap-
10 portioned under chapter 1 of title 23, United States
11 Code, except that the Federal share shall be 100 per-
12 cent.

13 **SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY**
14 **GRANTS.**

15 (a) *GRANTS.*—The Secretary shall provide grants for
16 the purpose of conducting a comprehensive, in-depth motor-
17 cycle crash causation study that employs the common inter-
18 national methodology for in-depth motorcycle accident in-
19 vestigation of the Organization for Economic Cooperation
20 and Development.

21 (b) *FUNDING.*—Of the amounts made available under
22 section 2001(a)(3), \$1,407,943 for each of fiscal years 2005
23 and 2006 shall be available to carry out this section.

1 **SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION**
2 **AND DEMONSTRATION PROGRAM.**

3 *Section 5117(b) of the Transportation Equity Act for*
4 *the 21st Century (112 Stat 449; 112 Stat. 864; 115 Stat.*
5 *2330) is amended by striking paragraph (3) and inserting*
6 *the following:*

7 “(3) **INTELLIGENT TRANSPORTATION INFRA-**
8 **STRUCTURE.**—

9 “(A) **DEFINITIONS.**—*In this paragraph:*

10 “(i) **CONGESTED AREA.**—*The term*
11 *‘congested area’ means a metropolitan area*
12 *that experiences significant traffic conges-*
13 *tion, as determined by the Secretary on an*
14 *annual basis.*

15 “(ii) **DEPLOYMENT AREA.**—*The term*
16 *‘deployment area’ means any of the metro-*
17 *politan areas of Baltimore, Birmingham,*
18 *Boston, Chicago, Cleveland, Dallas/Ft.*
19 *Worth, Denver, Detroit, Houston, Indianap-*
20 *olis, Las Vegas, Los Angeles, Miami, New*
21 *York/Northern New Jersey, Northern Ken-*
22 *tucky/Cincinnati, Oklahoma City, Orlando,*
23 *Philadelphia, Phoenix, Pittsburgh, Port-*
24 *land, Providence, Salt Lake, San Diego,*
25 *San Francisco, St. Louis, Seattle, Tampa,*
26 *and Washington, District of Columbia.*

1 “(iii) *METROPOLITAN AREA.*—

2 “(I) *IN GENERAL.*—*The term*
3 *‘metropolitan area’ means any area*
4 *that—*

5 “(aa) *has a population ex-*
6 *ceeding 300,000; and*

7 “(bb) *meets criteria estab-*
8 *lished by the Secretary in con-*
9 *junction with the intelligent vehi-*
10 *cle highway systems corridors pro-*
11 *gram.*

12 “(II) *INCLUSIONS.*—*The term*
13 *‘metropolitan area’ includes a major*
14 *transportation corridor serving a met-*
15 *ropolitan area.*

16 “(iv) *ORIGINAL CONTRACT.*—*The term*
17 *‘original contract’ means the Department of*
18 *Transportation contract numbered DTTS*
19 *59–99–D–00445 T020013.*

20 “(v) *PROGRAM.*—*The term ‘program’*
21 *means the 2-part intelligent transportation*
22 *infrastructure program carried out under*
23 *this paragraph.*

1 “(vi) *STATE TRANSPORTATION DE-*
2 *PARTMENT.—The term ‘State transportation*
3 *department’ means—*

4 “(I) *a State transportation de-*
5 *partment (as defined in section 101 of*
6 *title 23, United States Code); and*

7 “(II) *a designee of a State trans-*
8 *portation department (as so defined)*
9 *for the purpose of entering into con-*
10 *tracts.*

11 “(vii) *UNCOMMITTED FUNDS—The*
12 *term ‘uncommitted funds’ means the total*
13 *amount of funds that, as of the date that is*
14 *180 days after the date of enactment of the*
15 *Safe, Accountable, Flexible, and Efficient*
16 *Transportation Equity Act of 2005, remain*
17 *uncommitted under the original contract.*

18 “(B) *INTELLIGENT TRANSPORTATION INFRA-*
19 *STRUCTURE PROGRAM.—*

20 “(i) *IN GENERAL.—The Secretary shall*
21 *carry out a 2-part intelligent transpor-*
22 *tation infrastructure program in accord-*
23 *ance with this paragraph to advance the de-*
24 *ployment of an operational intelligent*
25 *transportation infrastructure system,*

1 through measurement of various transpor-
2 tation system activities, to
3 simultaneously—

4 “(I) aid in transportation plan-
5 ning and analysis; and

6 “(II) make a significant contribu-
7 tion to the ITS program under this
8 title.

9 “(ii) OBJECTIVES.—The objectives of
10 the program shall be—

11 “(I) to build or integrate an in-
12 frastructure of the measurement of var-
13 ious transportation system metrics to
14 aid in planning, analysis, and mainte-
15 nance of the Department of Transpor-
16 tation, including the buildout, mainte-
17 nance, and operation of greater than
18 40 metropolitan area systems with a
19 total cost of not to exceed \$2,000,000
20 for each metropolitan area;

21 “(II) to provide private tech-
22 nology commercialization initiatives to
23 generate revenues that will be rein-
24 vested in the intelligent transportation
25 infrastructure system;

1 “(III) to aggregate data into re-
2 ports for multipoint data distribution
3 techniques; and

4 “(IV) with respect to part I of the
5 program under subparagraph (C), to
6 use an advanced information system
7 designed and monitored by an entity
8 with experience with the Department of
9 Transportation in the design and mon-
10 itoring of high-reliability, mission-crit-
11 ical voice and data systems.

12 “(C) PART I.—

13 “(i) IN GENERAL.—In carrying out
14 part I of the program, the Secretary shall
15 permit the entity to which the original con-
16 tract was awarded to use uncommitted
17 funds to deploy intelligent transportation
18 infrastructure systems that have been ac-
19 cepted by the Secretary—

20 “(I) in accordance with the terms
21 of the original contract; and

22 “(II) in any deployment area,
23 with the consent of the State transpor-
24 tation department for the deployment
25 area.

1 “(ii) *APPLICABLE CONDITIONS.*—*The*
2 *same asset ownership, maintenance, fixed*
3 *price contract, and revenue sharing model,*
4 *and the same competitively selected consor-*
5 *tium leader, as were used for the deploy-*
6 *ment of intelligent transportation infra-*
7 *structure systems under the original con-*
8 *tract before the date of enactment of the*
9 *Safe, Accountable, Flexible, and Efficient*
10 *Transportation Equity Act of 2005 shall*
11 *apply to each deployment carried out under*
12 *clause (i).*

13 “(iii) *DEPLOYMENT IN CONGESTED*
14 *AREAS.*—*If the entity referred to in clause*
15 *(i) is unable to commit the uncommitted*
16 *funds by deploying intelligent transpor-*
17 *tation infrastructure systems in deployment*
18 *areas, as determined by the Secretary, the*
19 *entity may deploy the systems in accord-*
20 *ance with this paragraph in 1 or more con-*
21 *gested areas, with the consent of the State*
22 *transportation departments for the con-*
23 *gested areas.*

24 “(D) *PART II.*—

1 “(i) *IN GENERAL.*—*In carrying out*
2 *part II of the program, the Secretary shall*
3 *award, on a competitive basis, contracts for*
4 *the deployment of intelligent transportation*
5 *infrastructure systems that have been ac-*
6 *cepted by the Secretary in congested areas,*
7 *with the consent of the State transportation*
8 *departments for the congested areas.*

9 “(ii) *REQUIREMENTS.*—*The Secretary*
10 *shall award contracts under clause (i)—*

11 “(I) *for individual congested*
12 *areas among entities that seek to de-*
13 *ploy intelligent transportation infra-*
14 *structure systems in the congested*
15 *areas; and*

16 “(II) *on the condition that the*
17 *terms of each contract awarded re-*
18 *quires the entity deploying the intel-*
19 *ligent transportation infrastructure*
20 *system to ensure that the deployed sys-*
21 *tem is compatible (as determined by*
22 *the Secretary) with systems deployed*
23 *in other congested areas under this*
24 *paragraph.*

1 “(iii) *PROVISIONS IN CONTRACTS.*—

2 *The Secretary shall require that each con-*
3 *tract for the deployment of an intelligent*
4 *transportation infrastructure system under*
5 *this subparagraph contain such provisions*
6 *relating to asset ownership, maintenance,*
7 *fixed price, and revenue sharing as the Sec-*
8 *retary considers to be appropriate.*

9 “(E) *USE OF FUNDS FOR UNDEPLOYED SYS-*
10 *TEMS.*—

11 “(i) *IN GENERAL.*—*If, under part I or*
12 *part II of the program, a State transpor-*
13 *tation department for a deployment area or*
14 *congested area does not consent by the later*
15 *of the date that is 180 days after the date*
16 *of enactment of the Safe, Accountable, Flexi-*
17 *ble, and Efficient Transportation Equity*
18 *Act of 2005, or another date determined*
19 *jointly by the State transportation depart-*
20 *ment and the deployment area or congested*
21 *area, to participate in the deployment of an*
22 *intelligent transportation infrastructure*
23 *system in the deployment area or congested*
24 *area, upon application by any other deploy-*
25 *ment area or congested area that has con-*

1 *mented by that date to participate in the de-*
2 *ployment of such a system, the Secretary*
3 *shall supplement the funds made available*
4 *for each of the deployment areas or con-*
5 *gested areas submitting the application by*
6 *using for that purpose the funds not used*
7 *for deployment of the system in the non-*
8 *participating deployment area or congested*
9 *area.*

10 “(i) *NO INCLUSION IN COST LIMITA-*
11 *TION.—Costs paid using funds provided*
12 *through a supplementation under clause (i)*
13 *shall not be considered in determining the*
14 *limitation on maximum cost described in*
15 *subparagraph (F)(ii).*

16 “(F) *FEDERAL SHARE; LIMITS ON COSTS OF*
17 *SYSTEMS FOR METROPOLITAN AREAS.—*

18 “(i) *FEDERAL SHARE.—Subject to*
19 *clause (ii), the Federal share of the cost of*
20 *any project or activity carried out under*
21 *the program shall be 80 percent.*

22 “(ii) *LIMIT ON COSTS OF SYSTEM FOR*
23 *EACH METROPOLITAN AREA.—*

24 “(I) *IN GENERAL.—Not more than*
25 *\$2,000,000 may be provided under this*

1 *paragraph for deployment of an intel-*
2 *ligent transportation infrastructure*
3 *system for a metropolitan area.*

4 “(II) *FUNDING UNDER EACH*
5 *PART.—A metropolitan area in which*
6 *an intelligent transportation infra-*
7 *structure system is deployed under*
8 *part I or part II of the program under*
9 *subparagraph (C) or (D), respectively,*
10 *including through a supplementation*
11 *of funds under subparagraph (E), may*
12 *not receive any additional deployment*
13 *under the other part of the program.*

14 “(G) *USE OF RIGHTS-OF-WAY.—*

15 “(i) *IN GENERAL.—An intelligent*
16 *transportation system project described in*
17 *this paragraph or paragraph (6) that in-*
18 *volves privately-owned intelligent transpor-*
19 *tation system components and is carried*
20 *out using funds made available from the*
21 *Highway Trust Fund shall not be subject to*
22 *any law (including a regulation) of a State*
23 *or political subdivision of a State prohib-*
24 *iting or regulating commercial activities in*
25 *the rights-of-way of a highway for which*

1 *Federal-aid highway funds have been used*
2 *for planning, design, construction, or main-*
3 *tenance for the project, if the Secretary de-*
4 *termines that such use is in the public in-*
5 *terest.*

6 “(ii) *EFFECT OF SUBPARAGRAPH.—*
7 *Nothing in this subparagraph affects the*
8 *authority of a State or political subdivision*
9 *of a State—*

10 “(I) *to regulate highway safety; or*

11 “(II) *under sections 253 and*
12 *332(c)(7) of the Communications Act*
13 *of 1934 (47 U.S.C. 253, 332(c)(7)).*

14 “(H) *FUNDING.—*

15 “(i) *AUTHORIZATION OF APPROPRIA-*
16 *TIONS.—There is authorized to be appro-*
17 *priated out of the Highway Trust Fund*
18 *(other than the Mass Transit Account) to*
19 *carry out subparagraph (D) \$4,465,409 for*
20 *each fiscal year.*

21 “(ii) *ADDITIONAL AMOUNTS.—In addi-*
22 *tion to the amounts authorized to be appro-*
23 *priated under this subparagraph, funds*
24 *made available under title II of the Safe,*
25 *Affordable, Flexible, and Efficient Trans-*

1 *portation Equity Act of 2005, and titles 23*
2 *and 49, United States Code, for projects*
3 *and activities the objectives of which are*
4 *consistent with the objectives described in*
5 *subparagraph (B)(ii), may be used to carry*
6 *out part II of the program under subpara-*
7 *graph (D).*

8 *“(iii) AVAILABILITY; NO REDUCTION*
9 *OR SETASIDE.—Amounts made available by*
10 *this subparagraph—*

11 *“(I) shall remain available until*
12 *expended; and*

13 *“(II) shall not be subject to any*
14 *reduction or setaside.*

15 *“(iv) NO EFFECT ON PREVIOUSLY COM-*
16 *MITTED FUNDS.—Nothing in this para-*
17 *graph affects any funds committed under*
18 *the original contract before the date of en-*
19 *actment of the Safe, Accountable, Flexible,*
20 *and Efficient Transportation Equity Act of*
21 *2005.*

22 *“(v) CONTRACT AUTHORITY.—Except*
23 *as provided in subparagraph (F)(i), funds*
24 *authorized to be appropriated under this*
25 *subparagraph shall be available for obliga-*

1 *tion in the same manner as if the funds*
2 *were apportioned under chapter 1 of title*
3 *23, United States Code.”.*

4 ***Subtitle C—Intelligent***
5 ***Transportation System Research***

6 ***SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RE-***
7 ***SEARCH AND TECHNICAL ASSISTANCE PRO-***
8 ***GRAM.***

9 *(a) IN GENERAL.—Chapter 5 of title 23, United States*
10 *Code (as amended by section 2101), is amended by adding*
11 *at the end the following:*

12 ***“SUBCHAPTER II—INTELLIGENT TRANSPOR-***
13 ***TATION SYSTEM RESEARCH AND TECHNICAL***
14 ***ASSISTANCE PROGRAM***

15 ***“§ 521. Finding***

16 *“Congress finds that continued investment in architec-*
17 *ture and standards development, research, technical assist-*
18 *ance for State and local governments, and systems integra-*
19 *tion is needed to accelerate the rate at which intelligent*
20 *transportation systems—*

21 *“(1) are incorporated into the national surface*
22 *transportation network; and*

23 *“(2) as a result of that incorporation, improve*
24 *transportation safety and efficiency and reduce costs*

1 *and negative impacts on communities and the envi-*
2 *ronment.*

3 **“§ 522. Goals and purposes**

4 *“(a) GOALS.—The goals of the intelligent transpor-*
5 *tation system research and technical assistance program*
6 *include—*

7 *“(1) enhancement of surface transportation effi-*
8 *ciency and facilitation of intermodalism and inter-*
9 *national trade—*

10 *“(A) to meet a significant portion of future*
11 *transportation needs, including public access to*
12 *employment, goods, and services; and*

13 *“(B) to reduce regulatory, financial, and*
14 *other transaction costs to public agencies and*
15 *system users;*

16 *“(2) the acceleration of the use of intelligent*
17 *transportation systems to assist in the achievement of*
18 *national transportation safety goals, including the en-*
19 *hancement of safe operation of motor vehicles and*
20 *nonmotorized vehicles, with particular emphasis on*
21 *decreasing the number and severity of collisions;*

22 *“(3) protection and enhancement of the natural*
23 *environment and communities affected by surface*
24 *transportation, with particular emphasis on assisting*

1 *State and local governments in achieving national en-*
2 *vironmental goals;*

3 “(4) *accommodation of the needs of all users of*
4 *surface transportation systems, including—*

5 “(A) *operators of commercial vehicles, pas-*
6 *senger vehicles, and motorcycles;*

7 “(B) *users of public transportation users*
8 *(with respect to intelligent transportation system*
9 *user services); and*

10 “(C) *individuals with disabilities; and*

11 “(5)(A) *improvement of the ability of the United*
12 *States to respond to emergencies and natural disas-*
13 *ters; and*

14 “(B) *enhancement of national security and de-*
15 *fense mobility.*

16 “(b) *PURPOSES.—The Secretary shall carry out activi-*
17 *ties under the intelligent transportation system research*
18 *and technical assistance program to, at a minimum—*

19 “(1) *assist in the development of intelligent*
20 *transportation system technologies;*

21 “(2) *ensure that Federal, State, and local trans-*
22 *portation officials have adequate knowledge of intel-*
23 *ligent transportation systems for full consideration in*
24 *the transportation planning process;*

1 “(3) improve regional cooperation, interoper-
2 ability, and operations for effective intelligent trans-
3 portation system performance;

4 “(4) promote the innovative use of private re-
5 sources;

6 “(5) assist State transportation departments in
7 developing a workforce capable of developing, oper-
8 ating, and maintaining intelligent transportation
9 systems;

10 “(6) maintain an updated national ITS archi-
11 tecture and consensus-based standards while ensuring
12 an effective Federal presence in the formulation of do-
13 mestic and international ITS standards;

14 “(7) advance commercial vehicle operations com-
15 ponents of intelligent transportation systems—

16 “(A) to improve the safety and productivity
17 of commercial vehicles and drivers; and

18 “(B) to reduce costs associated with com-
19 mercial vehicle operations and Federal and State
20 commercial vehicle regulatory requirements;

21 “(8) evaluate costs and benefits of intelligent
22 transportation systems projects;

23 “(9) improve, as part of the Archived Data User
24 Service and in cooperation with the Bureau of Trans-
25 portation Statistics, the collection of surface transpor-

1 *tation system condition and performance data*
2 *through the use of intelligent transportation system*
3 *technologies; and*

4 *“(10) ensure access to transportation informa-*
5 *tion and services by travelers of all ages.*

6 **“§ 523. Definitions**

7 *“In this subchapter:*

8 *“(1) COMMERCIAL VEHICLE INFORMATION SYS-*
9 *TEMS AND NETWORKS.—The term ‘commercial vehicle*
10 *information systems and networks’ means the infor-*
11 *mation systems and communications networks that*
12 *support commercial vehicle operations.*

13 *“(2) COMMERCIAL VEHICLE OPERATIONS.—*

14 *“(A) IN GENERAL.—The term ‘commercial*
15 *vehicle operations’ means motor carrier oper-*
16 *ations and motor vehicle regulatory activities as-*
17 *sociated with the commercial movement of goods*
18 *(including hazardous materials) and passengers.*

19 *“(B) INCLUSIONS.—The term ‘commercial*
20 *vehicle operations’, with respect to the public sec-*
21 *tor, includes—*

22 *“(i) the issuance of operating creden-*
23 *tials;*

24 *“(ii) the administration of motor vehi-*
25 *cle and fuel taxes; and*

1 “(iii) roadside safety and border cross-
2 ing inspection and regulatory compliance
3 operations.

4 “(3) INTELLIGENT TRANSPORTATION INFRA-
5 STRUCTURE.—The term ‘intelligent transportation in-
6 frastructure’ means fully integrated public sector in-
7 telligent transportation system components, as defined
8 by the Secretary.

9 “(4) INTELLIGENT TRANSPORTATION SYSTEM.—
10 The term ‘intelligent transportation system’ means
11 electronics, photonics, communications, or informa-
12 tion processing used singly or in combination to im-
13 prove the efficiency or safety of a surface transpor-
14 tation system.

15 “(5) NATIONAL ITS ARCHITECTURE.—The term
16 ‘national ITS architecture’ means the common frame-
17 work for interoperability adopted by the Secretary
18 that defines—

19 “(A) the functions associated with intel-
20 ligent transportation system user services;

21 “(B) the physical entities or subsystems
22 within which the functions reside;

23 “(C) the data interfaces and information
24 flows between physical subsystems; and

1 “(D) the communications requirements as-
2 sociated with the information flows.

3 “(6) STANDARD.—The term ‘standard’ means a
4 document that—

5 “(A) contains technical specifications or
6 other precise criteria for intelligent transpor-
7 tation systems that are to be used consistently as
8 rules, guidelines, or definitions of characteristics
9 so as to ensure that materials, products, proc-
10 esses, and services are fit for their purposes; and

11 “(B) may—

12 “(i) support the national ITS architec-
13 ture; and

14 “(ii) promote—

15 “(I) the widespread use and adop-
16 tion of intelligent transportation sys-
17 tem technology as a component of the
18 surface transportation systems of the
19 United States; and

20 “(II) interoperability among in-
21 telligent transportation system tech-
22 nologies implemented throughout the
23 States.

1 **“§ 524. General authorities and requirements**

2 “(a) *SCOPE.*—Subject to this subchapter, the Secretary
3 shall carry out an ongoing intelligent transportation system
4 research program—

5 “(1) to research, develop, and operationally test
6 intelligent transportation systems; and

7 “(2) to provide technical assistance in the na-
8 tionwide application of those systems as a component
9 of the surface transportation systems of the United
10 States.

11 “(b) *POLICY.*—Intelligent transportation system oper-
12 ational tests and projects funded under this subchapter shall
13 encourage, but not displace, public-private partnerships or
14 private sector investment in those tests and projects.

15 “(c) *COOPERATION WITH GOVERNMENTAL, PRIVATE,*
16 *AND EDUCATIONAL ENTITIES.*—The Secretary shall carry
17 out the intelligent transportation system research and tech-
18 nical assistance program in cooperation with—

19 “(1) State and local governments and other pub-
20 lic entities;

21 “(2) the private sector;

22 “(3) Federal laboratories (as defined in section
23 501); and

24 “(4) colleges and universities, including histori-
25 cally black colleges and universities and other minor-
26 ity institutions of higher education.

1 “(d) *CONSULTATION WITH FEDERAL OFFICIALS.*—In
2 *carrying out the intelligent transportation system research*
3 *program, the Secretary, as appropriate, shall consult*
4 *with—*

5 “(1) *the Secretary of Commerce;*

6 “(2) *the Secretary of the Treasury;*

7 “(3) *the Administrator of the Environmental*
8 *Protection Agency;*

9 “(4) *the Director of the National Science Foun-*
10 *dation; and*

11 “(5) *the Secretary of Homeland Security.*

12 “(e) *TECHNICAL ASSISTANCE, TRAINING, AND INFOR-*
13 *MATION.*—*The Secretary may provide technical assistance,*
14 *training, and information to State and local governments*
15 *seeking to implement, operate, maintain, or evaluate intel-*
16 *ligent transportation system technologies and services.*

17 “(f) *TRANSPORTATION PLANNING.*—*The Secretary*
18 *may provide funding to support adequate consideration of*
19 *transportation system management and operations (includ-*
20 *ing intelligent transportation systems) within metropolitan*
21 *and statewide transportation planning processes.*

22 “(g) *INFORMATION CLEARINGHOUSE.*—*The Secretary*
23 *shall—*

1 “(1) *maintain a repository for technical and*
2 *safety data collected as a result of federally sponsored*
3 *projects carried out under this subchapter; and*

4 “(2) *on request, make that information (except*
5 *for proprietary information and data) readily avail-*
6 *able to all users of the repository at an appropriate*
7 *cost.*

8 “(h) *ADVISORY COMMITTEES.—*

9 “(1) *IN GENERAL.—In carrying out this sub-*
10 *chapter, the Secretary—*

11 “(A) *may use 1 or more advisory commit-*
12 *tees; and*

13 “(B) *shall designate a public-private orga-*
14 *nization, the members of which participate in*
15 *on-going research, planning, standards develop-*
16 *ment, deployment, and marketing of ITS pro-*
17 *grams, products, and services, and coordinate the*
18 *development and deployment of intelligent trans-*
19 *portation systems in the United States, as the*
20 *Federal advisory committee authorized by section*
21 *5204(h) of the Transportation Equity Act for the*
22 *21st Century (112 Stat. 454).*

23 “(2) *FUNDING.—Of the amount made available*
24 *to carry out this subchapter, the Secretary may use*

1 \$1,407,943 for each fiscal year for advisory commit-
2 tees described in paragraph (1).

3 “(3) *APPLICABILITY OF FEDERAL ADVISORY COM-*
4 *MITTEE ACT.*—Any advisory committee described in
5 paragraph (1) shall be subject to the Federal Advisory
6 Committee Act (5 U.S.C. App.).

7 “(i) *PROCUREMENT METHODS.*—The Secretary shall
8 develop and provide appropriate technical assistance and
9 guidance to assist State and local agencies in evaluating
10 and selecting appropriate methods of deployment and pro-
11 curement for intelligent transportation system projects car-
12 ried out using funds made available from the Highway
13 Trust Fund, including innovative and nontraditional meth-
14 ods such as Information Technology Omnibus Procurement
15 (as developed by the Secretary).

16 “(j) *EVALUATIONS.*—

17 “(1) *GUIDELINES AND REQUIREMENTS.*—

18 “(A) *IN GENERAL.*—The Secretary shall
19 issue revised guidelines and requirements for the
20 evaluation of operational tests and other intel-
21 ligent transportation system projects carried out
22 under this subchapter.

23 “(B) *OBJECTIVITY AND INDEPENDENCE.*—
24 The guidelines and requirements issued under
25 subparagraph (A) shall include provisions to en-

1 *sure the objectivity and independence of the eval-*
2 *uator so as to avoid any real or apparent con-*
3 *flict of interest or potential influence on the out-*
4 *come by—*

5 *“(i) parties to any such test; or*

6 *“(ii) any other formal evaluation car-*
7 *ried out under this subchapter.*

8 *“(C) FUNDING.—The guidelines and re-*
9 *quirements issued under subparagraph (A) shall*
10 *establish evaluation funding levels based on the*
11 *size and scope of each test that ensure adequate*
12 *evaluation of the results of the test or project.*

13 *“(2) SPECIAL RULE.—Any survey, questionnaire,*
14 *or interview that the Secretary considers necessary to*
15 *carry out the evaluation of any test or program as-*
16 *essment activity under this subchapter shall not be*
17 *subject to chapter 35 of title 44.*

18 **“§ 525. National ITS Program Plan**

19 *“(a) IN GENERAL.—*

20 *“(1) UPDATES.—Not later than 1 year after the*
21 *date of enactment of the Safe, Accountable, Flexible,*
22 *and Efficient Transportation Equity Act of 2005, the*
23 *Secretary, in consultation with interested stakeholders*
24 *(including State transportation departments) shall*
25 *develop a 5-year National ITS Program Plan.*

1 “(2) *SCOPE.*—*The National ITS Program Plan*
2 *shall—*

3 “(A) *specify the goals, objectives, and mile-*
4 *stones for the research and deployment of intel-*
5 *ligent transportation systems in the contexts of—*

6 “(i) *major metropolitan areas;*

7 “(ii) *smaller metropolitan and rural*
8 *areas; and*

9 “(iii) *commercial vehicle operations;*

10 “(B) *specify the manner in which specific*
11 *programs and projects will achieve the goals, ob-*
12 *jectives, and milestones referred to in subpara-*
13 *graph (A), including consideration of a 5-year*
14 *timeframe for the goals and objectives;*

15 “(C) *identify activities that provide for the*
16 *dynamic development, testing, and necessary re-*
17 *vision of standards and protocols to promote and*
18 *ensure interoperability in the implementation of*
19 *intelligent transportation system technologies,*
20 *including actions taken to establish standards;*
21 *and*

22 “(D) *establish a cooperative process with*
23 *State and local governments for—*

24 “(i) *determining desired surface trans-*
25 *portation system performance levels; and*

1 “(ii) *developing plans for accelerating*
2 *the incorporation of specific intelligent*
3 *transportation system capabilities into sur-*
4 *face transportation systems.*

5 “(b) *REPORTING.—The National ITS Program Plan*
6 *shall be transmitted and biennially updated as part of the*
7 *surface transportation research and technology development*
8 *strategic plan developed under section 508(c).*

9 “**§ 526. National ITS architecture and standards**

10 “(a) *IN GENERAL.—*

11 “(1) *DEVELOPMENT, IMPLEMENTATION, AND*
12 *MAINTENANCE.—In accordance with section 12(d) of*
13 *the National Technology Transfer and Advancement*
14 *Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the*
15 *Secretary shall develop, implement, and maintain a*
16 *national ITS architecture and supporting standards*
17 *and protocols to promote the widespread use and eval-*
18 *uation of intelligent transportation system technology*
19 *as a component of the surface transportation systems*
20 *of the United States.*

21 “(2) *INTEROPERABILITY AND EFFICIENCY.—To*
22 *the maximum extent practicable, the national ITS ar-*
23 *chitecture shall promote interoperability among, and*
24 *efficiency of, intelligent transportation system tech-*
25 *nologies implemented throughout the United States.*

1 “(3) *USE OF STANDARDS DEVELOPMENT ORGANI-*
2 *ZATIONS.—In carrying out this section, the Secretary*
3 *shall use the services of such standards development*
4 *organizations as the Secretary determines to be ap-*
5 *propriate.*

6 “(b) *PROVISIONAL STANDARDS.—*

7 “(1) *IN GENERAL.—If the Secretary finds that*
8 *the development or selection of an intelligent trans-*
9 *portation system standard jeopardizes the timely*
10 *achievement of the objectives identified in subsection*
11 *(a), the Secretary may establish a provisional*
12 *standard—*

13 “(A) *after consultation with affected parties;*
14 *and*

15 “(B) *by using, to the maximum extent prac-*
16 *ticable, the work product of appropriate stand-*
17 *ards development organizations.*

18 “(2) *CRITICAL STANDARDS.—If a standard iden-*
19 *tified by the Secretary as critical has not been adopt-*
20 *ed and published by the appropriate standards devel-*
21 *opment organization by the date of enactment of this*
22 *subchapter, the Secretary shall establish a provisional*
23 *standard—*

24 “(A) *after consultation with affected parties;*
25 *and*

1 “(B) by using, to the maximum extent prac-
2 ticable, the work product of appropriate stand-
3 ards development organizations.

4 “(3) *PERIOD OF EFFECTIVENESS.*—A provisional
5 standard established under paragraph (1) or (2)
6 shall—

7 “(A) be published in the *Federal Register*;
8 and

9 “(B) remain in effect until such time as the
10 appropriate standards development organization
11 adopts and publishes a standard.

12 “(c) *WAIVER OF REQUIREMENT TO ESTABLISH PROVI-*
13 *SIONAL CRITICAL STANDARD.*—

14 “(1) *IN GENERAL.*—The Secretary may waive
15 the requirement under subsection (b)(2) to establish a
16 provisional standard if the Secretary determines that
17 additional time would be productive in, or that estab-
18 lishment of a provisional standard would be counter-
19 productive to, the timely achievement of the objectives
20 identified in subsection (a).

21 “(2) *NOTICE.*—The Secretary shall publish in
22 the *Federal Register* a notice that describes—

23 “(A) each standard for which a waiver of
24 the provisional standard requirement is granted
25 under paragraph (1);

1 “(B) *the reasons for and effects of granting*
2 *the waiver; and*

3 “(C) *an estimate as to the date on which the*
4 *standard is expected to be adopted through a*
5 *process consistent with section 12(d) of the Na-*
6 *tional Technology Transfer and Advancement*
7 *Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).*

8 “(3) *WITHDRAWAL OF WAIVER.—*

9 “(A) *IN GENERAL.—The Secretary may*
10 *withdraw a waiver granted under paragraph (1)*
11 *at any time.*

12 “(B) *NOTICE.—On withdrawal of a waiver,*
13 *the Secretary shall publish in the Federal Reg-*
14 *ister a notice that describes—*

15 “(i) *each standard for which the waiv-*
16 *er has been withdrawn; and*

17 “(ii) *the reasons for withdrawing the*
18 *waiver.*

19 “(d) *CONFORMITY WITH NATIONAL ITS ARCHITEC-*
20 *TURE.—*

21 “(1) *IN GENERAL.—Except as provided in para-*
22 *graphs (2) and (3), the Secretary shall ensure that in-*
23 *telligent transportation system projects carried out*
24 *using funds made available from the Highway Trust*
25 *Fund conform to the national ITS architecture, ap-*

1 *plicable standards or provisional standards, and pro-*
 2 *ocols developed under subsection (a).*

3 “(2) *DISCRETION OF SECRETARY.*—*The Sec-*
 4 *retary may authorize exceptions to paragraph (1) for*
 5 *projects designed to achieve specific research objectives*
 6 *outlined in—*

7 “(A) *the National ITS Program Plan under*
 8 *section 525; or*

9 “(B) *the surface transportation research*
 10 *and technology development strategic plan devel-*
 11 *oped under section 508(c).*

12 “(3) *EXCEPTIONS.*—*Paragraph (1) shall not*
 13 *apply to funds used for operation or maintenance of*
 14 *an intelligent transportation system in existence on*
 15 *the date of enactment of this subchapter.*

16 **“§527. Commercial vehicle information systems and**
 17 **networks deployment**

18 “(a) *DEFINITIONS.*—*In this section:*

19 “(1) *COMMERCIAL VEHICLE INFORMATION SYS-*
 20 *TEMS AND NETWORKS.*—*The term ‘commercial vehicle*
 21 *information systems and networks’ means the infor-*
 22 *mation systems and communications networks that*
 23 *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 enforce-
5 ment 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 commercial
11 vehicles across the United States and across
12 international borders; and

13 “(E) promote the communication of infor-
14 mation among the States and encourage
15 multistate cooperation and corridor development.

16 “(2) COMMERCIAL VEHICLE OPERATIONS.—

17 “(A) IN GENERAL.—The term ‘commercial
18 vehicle operations’ means motor carrier oper-
19 ations and motor vehicle regulatory activities as-
20 sociated with the commercial movement of goods
21 (including hazardous materials) and passengers.

22 “(B) INCLUSIONS.—The term ‘commercial
23 vehicle operations’, with respect to the public sec-
24 tor, includes—

1 “(i) the issuance of operating creden-
2 tials;

3 “(ii) the administration of motor vehi-
4 cle and fuel taxes; and

5 “(iii) the administration of roadside
6 safety and border crossing inspection and
7 regulatory compliance operations.

8 “(3) *CORE DEPLOYMENT*.—The term ‘core de-
9 ployment’ means the deployment of systems in a
10 State necessary to provide the State with—

11 “(A) safety information exchange to—

12 “(i) electronically collect and transmit
13 commercial vehicle and driver inspection
14 data at a majority of inspection sites;

15 “(ii) connect to the *Safety and Fitness*
16 *Electronic Records* system for access to—

17 “(I) interstate carrier and com-
18 mercial vehicle data;

19 “(II) summaries of past safety
20 performance; and

21 “(III) commercial vehicle creden-
22 tials information; and

23 “(iii) exchange carrier data and com-
24 mercial vehicle safety and credentials infor-
25 mation within the State and connect to

1 *Safety and Fitness Electronic Records sys-*
2 *tem for access to interstate carrier and com-*
3 *mercial vehicle data;*

4 “(B) interstate credentials administration
5 to—

6 “(i)(I) perform end-to-end (including
7 carrier application) jurisdiction applica-
8 tion processing, and credential issuance, of
9 at least the International Registration Plan
10 and International Fuel Tax Agreement cre-
11 dentials; and

12 “(II) extend the processing to other cre-
13 dentials, including intrastate, titling, over-
14 size or overweight requirements, carrier reg-
15 istration, and hazardous materials;

16 “(ii) connect to the International Reg-
17 istration Plan and International Fuel Tax
18 Agreement clearinghouses; and

19 “(iii)(I) have at least 10 percent of the
20 transaction volume handled electronically;
21 and

22 “(II) have the capability to add more
23 carriers and to extend to branch offices
24 where applicable; and

1 “(C) roadside electronic screening to elec-
2 tronically screen transponder-equipped commer-
3 cial vehicles at a minimum of 1 fixed or mobile
4 inspection site and to replicate the screening at
5 other sites.

6 “(4) *EXPANDED DEPLOYMENT.*—The term ‘ex-
7 panded deployment’ means the deployment of systems
8 in a State that—

9 “(A) exceed the requirements of a core de-
10 ployment of commercial vehicle information sys-
11 tems and networks;

12 “(B) improve safety and the productivity of
13 commercial vehicle operations; and

14 “(C) enhance transportation security.

15 “(b) *PROGRAM.*—The Secretary shall carry out a com-
16 mercial vehicle information systems and networks program
17 to—

18 “(1) improve the safety and productivity of com-
19 mercial vehicles and drivers; and

20 “(2) reduce costs associated with commercial ve-
21 hicle operations and Federal and State commercial
22 vehicle regulatory requirements.

23 “(c) *PURPOSE.*—It is the purpose of the program to
24 advance the technological capability and promote the de-
25 ployment of intelligent transportation system applications

1 *for commercial vehicle operations, including commercial ve-*
2 *hicle, commercial driver, and carrier-specific information*
3 *systems and networks.*

4 “(d) *CORE DEPLOYMENT GRANTS.*—

5 “(1) *IN GENERAL.*—*The Secretary shall make*
6 *grants to eligible States for the core deployment of*
7 *commercial vehicle information systems and networks.*

8 “(2) *ELIGIBILITY.*—*To be eligible for a core de-*
9 *ployment grant under this subsection, a State shall—*

10 “(A) *have a commercial vehicle information*
11 *systems and networks program plan and a top*
12 *level system design approved by the Secretary;*

13 “(B) *certify to the Secretary that the com-*
14 *mercial vehicle information systems and net-*
15 *works deployment activities of the State (includ-*
16 *ing hardware procurement, software and system*
17 *development, and infrastructure modifica-*
18 *tions)—*

19 “(i) *are consistent with the national*
20 *intelligent transportation systems and com-*
21 *mercial vehicle information systems and*
22 *networks architectures and available stand-*
23 *ards; and*

1 “(ii) promote interoperability and effi-
2 ciency, to the maximum extent practicable;
3 and

4 “(C) agree to execute interoperability tests
5 developed by the Federal Motor Carrier Safety
6 Administration to verify that the systems of the
7 State conform with the national intelligent
8 transportation systems architecture, applicable
9 standards, and protocols for commercial vehicle
10 information systems and networks.

11 “(3) AMOUNT OF GRANTS.—The maximum ag-
12 gregate amount a State may receive under this sub-
13 section for the core deployment of commercial vehicle
14 information systems and networks may not exceed
15 \$2,500,000, including funds received under section
16 2001(a) of the Safe, Accountable, Flexible, and Effi-
17 cient Transportation Equity Act of 2005 for the core
18 deployment of commercial vehicle information systems
19 and networks.

20 “(4) USE OF FUNDS.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), funds from a grant under this sub-
23 section may only be used for the core deployment
24 of commercial vehicle information systems and
25 networks.

1 “(B) *REMAINING FUNDS.*—*An eligible State*
2 *that has completed the core deployment of com-*
3 *mercial vehicle information systems and net-*
4 *works, or completed the deployment before core*
5 *deployment grant funds are expended, may use*
6 *the remaining core deployment grant funds for*
7 *the expanded deployment of commercial vehicle*
8 *information systems and networks in the State.*

9 “(e) *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 (d), the Sec-*
13 *retary may make grants to each eligible State, on re-*
14 *quest, for the expanded deployment of commercial ve-*
15 *hicle information systems and networks.*

16 “(2) *ELIGIBILITY.*—*Each State that has com-*
17 *pleted the core deployment of commercial vehicle in-*
18 *formation systems and networks shall be eligible for*
19 *an expanded deployment grant.*

20 “(3) *AMOUNT OF GRANTS.*—*Each fiscal year, the*
21 *Secretary may distribute funds available for ex-*
22 *panded deployment grants equally among the eligible*
23 *States in an amount that does not exceed \$1,000,000*
24 *for each State.*

1 “(4) *USE OF FUNDS.*—*A State may use funds*
2 *from a grant under this subsection only for the ex-*
3 *expanded deployment of commercial vehicle information*
4 *systems and networks.*

5 “(f) *FEDERAL SHARE.*—*The Federal share of the cost*
6 *of a project payable from funds made available to carry*
7 *out this section shall be the share applicable under section*
8 *120(b), as adjusted under subsection (d) of that section.*

9 “(g) *FUNDING.*—*Funds authorized to be appropriated*
10 *to carry out this section shall be available for obligation*
11 *in the same manner and to the same extent as if the funds*
12 *were apportioned under chapter 1, except that the funds*
13 *shall remain available until expended.*

14 **“§ 528. Research and development**

15 “(a) *IN GENERAL.*—*The Secretary shall carry out a*
16 *comprehensive program of intelligent transportation system*
17 *research, development, and operational tests of intelligent*
18 *vehicles and intelligent infrastructure systems, and other*
19 *similar activities that are necessary to carry out this sub-*
20 *chapter.*

21 “(b) *PRIORITY AREAS.*—*Under the program, the Sec-*
22 *retary shall give priority to funding projects that—*

23 “(1) *assist in the development of an inter-*
24 *connected national intelligent transportation system*
25 *network that—*

1 “(A) improves the reliability of the surface
2 transportation system;

3 “(B) supports national security;

4 “(C) reduces, by at least 20 percent, the cost
5 of manufacturing, deploying, and operating in-
6 telligent transportation systems network compo-
7 nents;

8 “(D) could assist in deployment of the
9 Armed Forces in response to a crisis; and

10 “(E) improves response to, and evacuation
11 of the public during, an emergency situation;

12 “(2) address traffic management, incident man-
13 agement, transit management, toll collection traveler
14 information, or highway operations systems with
15 goals of—

16 “(A) reducing metropolitan congestion by 5
17 percent by 2010;

18 “(B) ensuring that a national, interoperable
19 511 system, along with a national traffic infor-
20 mation system that includes a user-friendly,
21 comprehensive website, is fully implemented for
22 use by travelers throughout the United States by
23 September 30, 2010; and

24 “(C)(i) improving incident management re-
25 sponse, particularly in rural areas, so that rural

1 *emergency response times are reduced by an av-*
2 *erage of 10 minutes; and*

3 “(i) *subject to subsection (d), improving*
4 *communication between emergency care pro-*
5 *viders and trauma centers;*

6 “(3) *address traffic management, incident man-*
7 *agement, transit management, toll collection, traveler*
8 *information, or highway operations systems;*

9 “(4) *conduct operational tests of the integration*
10 *of at least 3 crash-avoidance technologies in passenger*
11 *vehicles;*

12 “(5) *incorporate human factors research, includ-*
13 *ing the science of the driving process;*

14 “(6) *facilitate the integration of intelligent infra-*
15 *structure, vehicle, and control technologies;*

16 “(7) *incorporate research on the impact of envi-*
17 *ronmental, weather, and natural conditions on intel-*
18 *ligent transportation systems, including the effects of*
19 *cold climates;*

20 “(8) *as determined by the Secretary, will im-*
21 *prove the overall safety performance of vehicles and*
22 *roadways, including the use of real-time setting of*
23 *speed limits through the use of speed management*
24 *technology;*

25 “(9) *examine—*

1 “(A) the application to intelligent transpor-
2 tation systems of appropriately modified existing
3 technologies from other industries; and

4 “(B) the development of new, more robust
5 intelligent transportation systems technologies
6 and instrumentation;

7 “(10) develop and test communication tech-
8 nologies that—

9 “(A) are based on an assessment of the
10 needs of officers participating in a motor carrier
11 safety program funded under section 31104 of
12 title 49;

13 “(B) take into account the effectiveness and
14 adequacy of available technology;

15 “(C) address systems integration,
16 connectivity, and interoperability challenges;
17 and

18 “(D) provide the means for officers partici-
19 pating in a motor carrier safety program funded
20 under section 31104 of title 49 to directly assess,
21 without an intermediary, current and accurate
22 safety and regulatory information on motor car-
23 riers, commercial motor vehicles and drivers at
24 roadside or mobile inspection facilities;

1 “(11) enhance intermodal use of intelligent
2 transportation systems for diverse groups, including
3 for emergency and health-related services;

4 “(12) improve sensing and wireless communica-
5 tions that provide real-time information regarding
6 congestion and incidents;

7 “(13) develop and test high-accuracy, lane-level,
8 real-time accessible digital map architectures that can
9 be used by intelligent vehicles and intelligent infra-
10 structure elements to facilitate safety and crash avoid-
11 ance (including establishment of national standards
12 for an open-architecture digital map of all public
13 roads that is compatible with electronic 9–1–1 serv-
14 ices);

15 “(14) encourage the dual-use of intelligent trans-
16 portation system technologies (such as wireless com-
17 munications) for—

18 “(A) emergency services;

19 “(B) road pricing; and

20 “(C) local economic development; and

21 “(15) advance the use of intelligent transpor-
22 tation systems to facilitate high-performance trans-
23 portation systems, such as through—

24 “(A) congestion-pricing;

25 “(B) real-time facility management;

1 “(C) *rapid-emergency response; and*

2 “(D) *just-in-time transit.*

3 “(c) *OPERATIONAL TESTS.—Operational tests con-*
4 *ducted under this section shall be designed for—*

5 “(1) *the collection of data to permit objective*
6 *evaluation of the results of the tests;*

7 “(2) *the derivation of cost-benefit information*
8 *that is useful to others contemplating deployment of*
9 *similar systems; and*

10 “(3) *the development and implementation of*
11 *standards.*

12 “(d) *FEDERAL SHARE.—The Federal share of the costs*
13 *of operational tests under subsection (a) shall not exceed*
14 *80 percent.*

15 **“§ 529. Use of funds**

16 “(a) *IN GENERAL.—For each fiscal year, not more*
17 *than \$5,000,000 of the funds made available to carry out*
18 *this subchapter shall be used for intelligent transportation*
19 *system outreach, public relations, displays, tours, and bro-*
20 *chures.*

21 “(b) *APPLICABILITY.—Subsection (a) shall not apply*
22 *to intelligent transportation system training, scholarships,*
23 *or the publication or distribution of research findings, tech-*
24 *nical guidance, or similar documents.”.*

1 (b) *CONFORMING AMENDMENT.*—*Title V of the Trans-*
 2 *portation Equity Act for the 21st Century is amended by*
 3 *striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).*

4 **TITLE III—TRANSPORTATION**
 5 **DISCRETIONARY SPENDING**
 6 **GUARANTEE AND BUDGET**
 7 **OFFSETS**

8 **SEC. 3101. SENSE OF THE SENATE ON OVERALL FEDERAL**
 9 **BUDGET.**

10 *It is the sense of the Senate that—*

11 (1) *comprehensive statutory budget enforcement*
 12 *measures, the jurisdiction of which lies with the Sen-*
 13 *ate Budget Committee and Senate Governmental Af-*
 14 *airs Committee, should—*

15 (A) *be enacted this year; and*

16 (B) *address all areas of the Federal budget,*
 17 *including discretionary spending, direct spend-*
 18 *ing, and revenues; and*

19 (2) *special allocations for transportation should*
 20 *be included in that context.*

21 **SEC. 3102. DISCRETIONARY SPENDING CATEGORIES.**

22 (a) *DEFINITIONS.*—

23 (1) *HIGHWAY CATEGORY.*—*Section 250(c)(4)(B)*
 24 *of the Balanced Budget and Emergency Deficit Con-*

1 *trol Act of 1985 (2 U.S.C. 900(c)(4)(B)) is*
2 *amended—*

3 *(A) by striking “Transportation Equity Act*
4 *for the 21st Century” and inserting “Safe, Ac-*
5 *countable, Flexible, and Efficient Transportation*
6 *Equity Act of 2005”; and*

7 *(B) by adding at the end the following:*

8 *“(v) 69–8158–0–7–401 (Motor Carrier*
9 *Safety Grants).*

10 *“(vi) 69–8159–0–7–401 (Motor Carrier*
11 *Safety Operations and Programs).”.*

12 *(2) MASS TRANSIT CATEGORY.—Section*
13 *250(c)(4) of the Balanced Budget and Emergency*
14 *Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is*
15 *amended by striking subparagraph (C) and inserting*
16 *the following:*

17 *“(C) MASS TRANSIT CATEGORY.—The term*
18 *‘mass transit category’ means the following*
19 *budget accounts, or portions of the accounts, that*
20 *are subject to the obligation limitations on con-*
21 *tract authority provided in the Safe, Account-*
22 *able, Flexible, and Efficient Transportation Eq-*
23 *uity Act of 2005 or for which appropriations are*
24 *provided in accordance with authorizations con-*
25 *tained in that Act:*

1 “(i) 69–1120–0–1–401 (*Administrative*
2 *Expenses*).

3 “(ii) 69–1134–0–1–401 (*Capital In-*
4 *vestment Grants*).

5 “(iii) 69–8191–0–7–401 (*Discretionary*
6 *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 Capital*
18 *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) *HIGHWAY FUNDING REVENUE ALIGNMENT*.—*Sec-*
6 *tion 251(b)(1)(B) of the Balanced Budget and Emergency*
7 *Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is*
8 *amended—*

9 (1) *in clause (i)—*

10 (A) *by inserting “for each of fiscal years*
11 *2006 through 2009” after “submits the budget”;*

12 (B) *by inserting “the obligation limitation*
13 *and outlay limit for” after “adjustments to”;*
14 *and*

15 (C) *by striking “provided in clause*
16 *(ii)(I)(cc).” and inserting the following: “follows:*

17 “(I) *OMB shall take the actual*
18 *level of highway receipts for the year*
19 *before the current year and subtract*
20 *the sum of the estimated level of high-*
21 *way receipts in clause (iii), plus any*
22 *amount previously calculated under*
23 *clauses (i)(II) and (ii) for that year.*

24 “(II) *OMB shall take the current*
25 *estimate of highway receipts for the*

1 *current year and subtract the esti-*
2 *mated level of highway receipts in*
3 *clause (iii) for that year.*

4 “(III) OMB shall—

5 “(aa) take the sum of the
6 *amounts calculated under sub-*
7 *clauses (I) and (II) and add that*
8 *amount to the obligation limita-*
9 *tion set forth in section 3103 of*
10 *the Safe, Accountable, Flexible,*
11 *and Efficient Transportation Eq-*
12 *uity Act of 2005 for the highway*
13 *category for the budget year, and*
14 *calculate the outlay change result-*
15 *ing from that change in obliga-*
16 *tions relative to that amount for*
17 *the budget year and each outyear*
18 *using current estimates; and*

19 “(bb) after making the cal-
20 *ulation under item (aa), adjust*
21 *the obligation limitation set forth*
22 *in section 3103 of the Safe, Ac-*
23 *countable, Flexible, and Efficient*
24 *Transportation Equity Act of*
25 *2005 for the budget year by add-*

1 *ing the amount calculated under*
2 *subclauses (I) and (II).”;*

3 *(2) by striking clause (ii) and inserting the fol-*
4 *lowing:*

5 *“(ii) When the President submits the*
6 *supplementary budget estimates for each of*
7 *fiscal years 2006 through 2009 under sec-*
8 *tion 1106 of title 31, United States Code,*
9 *OMB’s Mid-Session Review shall include*
10 *adjustments to the obligation limitation and*
11 *outlay limit for the highway category for*
12 *the budget year and each outyear as follows:*

13 *“(I) OMB shall take the most re-*
14 *cent estimate of highway receipts for*
15 *the current year (based on OMB’s Mid-*
16 *Session Review) and subtract the esti-*
17 *mated level of highway receipts in*
18 *clause (iii) plus any amount pre-*
19 *viously calculated and included in the*
20 *President’s Budget under clause (i)(II)*
21 *for that year.*

22 *“(II) OMB shall—*

23 *“(aa) take the amount cal-*
24 *culated under subclause (I) and*
25 *add that amount to the amount of*

1 obligations set forth in section
2 3103 of the Safe, Accountable,
3 Flexible, and Efficient Transpor-
4 tation Equity Act of 2005 for the
5 highway category for the budget
6 year, and calculate the outlay
7 change resulting from that change
8 in obligations relative to that
9 amount for the budget year and
10 each outyear using current esti-
11 mates; and

12 “(bb) after making the cal-
13 culation under item (aa), adjust
14 the amount of obligations set forth
15 in section 3103 of the Safe, Ac-
16 countable, Flexible, and Efficient
17 Transportation Equity Act of
18 2005 for the budget year by add-
19 ing the amount calculated under
20 subclause (I).”; and

21 (3) by adding at the end the following:

22 “(iii) The estimated level of highway
23 receipts for the purpose of this subpara-
24 graph are—

1 “(I) for fiscal year 2005,
2 \$34,163,000,000;

3 “(II) for fiscal year 2006,
4 \$36,972,000,000;

5 “(III) for fiscal year 2007,
6 \$38,241,000,000;

7 “(IV) for fiscal year 2008,
8 \$39,432,000,000; and

9 “(V) for fiscal year 2009,
10 \$40,557,000,000.

11 “(iv) In this subparagraph, the term
12 “highway receipts” means the governmental
13 receipts and interest credited to the highway
14 account of the Highway Trust Fund.”.

15 (c) CONTINUATION OF SEPARATE SPENDING CAT-
16 EGORIES.—For the purpose of section 251(c) of the Bal-
17 anced Budget and Emergency Deficit Control Act of 1985
18 (2 U.S.C. 901(c)), the discretionary spending limits for the
19 highway category and the mass transit category shall be—

20 (1) for fiscal year 2005—

21 (A) \$33,657,000,000 for the highway cat-
22 egory; and

23 (B) \$6,844,000,000 for the mass transit cat-
24 egory;

25 (2) for fiscal year 2006—

1 (A) \$37,086,000,000 for the highway cat-
2 egory; and

3 (B) \$5,989,000,000 for the mass transit cat-
4 egory;

5 (3) for fiscal year 2007—

6 (A) \$40,192,000,000 for the highway cat-
7 egory; and

8 (B) \$7,493,000,000 for the mass transit cat-
9 egory;

10 (4) for fiscal year 2008—

11 (A) \$41,831,000,000 for the highway cat-
12 egory; and

13 (B) \$8,479,000,000 for the mass transit cat-
14 egory; and

15 (5) for fiscal year 2009—

16 (A) \$42,883,000,000 for the highway cat-
17 egory; and

18 (B) \$9,131,000,000 for the mass transit cat-
19 egory.

20 (d) *ADDITIONAL ADJUSTMENTS.*—Section 251(b)(1) of
21 the *Balanced Budget and Emergency Deficit Control Act*
22 of 1985 (2 U.S.C. 901(b)(1)) is amended—

23 (1) in subparagraph (C)—

1 (A) in clause (i), by striking “fiscal years
2 2000, 2001, 2002, or 2003,” and inserting “each
3 of fiscal years 2006, 2007, 2008, and 2009,”; and

4 (B) in clause (ii), by striking “2002 and
5 2003” and inserting “2008 and 2009”; and

6 (2) in subparagraph (D)—

7 (A) in clause (i)—

8 (i) by striking “1999” and inserting
9 “2005”;

10 (ii) by striking “2000 through 2003”
11 and inserting “2006 through 2009”; and

12 (iii) by striking “section 3103 of the
13 Transportation Equity Act for the 21st Cen-
14 tury” and inserting “section 6102 of the
15 Safe, Accountable, Flexible, and Efficient
16 Transportation Equity Act of 2005”; and

17 (B) in clause (ii), by striking “2000, 2001,
18 2002, or 2003” and inserting “2006, 2007, 2008,
19 and 2009”.

20 **SEC. 3103. LEVEL OF OBLIGATION LIMITATIONS.**

21 (a) *HIGHWAY CATEGORY*.—For the purpose of section
22 251(b) of the Balanced Budget and Emergency Deficit Con-
23 trol Act of 1985 (2 U.S.C. 901(b)), the level of obligation
24 limitations for the highway category is—

25 (1) for fiscal year 2005, \$35,154,000,000;

- 1 (2) for fiscal year 2006, \$40,110,000,000;
 2 (3) for fiscal year 2007, \$40,564,000,000;
 3 (4) for fiscal year 2008, \$42,544,000,000; and
 4 (5) for fiscal year 2009, \$43,281,000,000.

5 (b) *MASS TRANSIT CATEGORY*.—For the purpose of
 6 section 251(b) of the Balanced Budget and Emergency Def-
 7 icit Control Act of 1985 (2 U.S.C. 901(b)), the level of obli-
 8 gation limitations for the mass transit category is—

- 9 (1) for fiscal year 2005, \$7,646,336,000;
 10 (2) for fiscal year 2006, \$8,900,000,000;
 11 (3) for fiscal year 2007, \$9,267,464,000;
 12 (4) for fiscal year 2008, \$10,050,700,000; and
 13 (5) for fiscal year 2009, \$10,685,500,000.

14 **TITLE IV—SOLID WASTE**
 15 **DISPOSAL**

16 **SEC. 4001. INCREASED USE OF RECOVERED MINERAL COM-**
 17 **PONENT IN FEDERALLY FUNDED PROJECTS**
 18 **INVOLVING PROCUREMENT OF CEMENT OR**
 19 **CONCRETE.**

20 (a) *IN GENERAL*.—Subtitle F of the Solid Waste Dis-
 21 posal Act (42 U.S.C. 6961 et seq.) is amended by adding
 22 at the end the following:

1 **“SEC. 6005. INCREASED USE OF RECOVERED MINERAL COM-**
2 **PONENT IN FEDERALLY FUNDED PROJECTS**
3 **INVOLVING PROCUREMENT OF CEMENT OR**
4 **CONCRETE.**

5 “(a) *DEFINITIONS.*—*In this section:*

6 “(1) *AGENCY HEAD.*—*The term ‘agency head’*
7 *means—*

8 “(A) *the Secretary of Transportation; and*

9 “(B) *the head of each other Federal agency*
10 *that on a regular basis procures, or provides*
11 *Federal funds to pay or assist in paying the cost*
12 *of procuring, material for cement or concrete*
13 *projects.*

14 “(2) *CEMENT OR CONCRETE PROJECT.*—*The*
15 *term ‘cement or concrete project’ means a project for*
16 *the construction or maintenance of a highway or*
17 *other transportation facility or a Federal, State, or*
18 *local government building or other public facility*
19 *that—*

20 “(A) *involves the procurement of cement or*
21 *concrete; and*

22 “(B) *is carried out in whole or in part*
23 *using Federal funds.*

24 “(3) *RECOVERED MINERAL COMPONENT.*—*The*
25 *term ‘recovered mineral component’ means—*

26 “(A) *ground granulated blast furnace slag;*

1 “(B) coal combustion fly ash;

2 “(C) blast furnace slag aggregate;

3 “(D) silica fume; and

4 “(E) any other waste material or byproduct
5 recovered or diverted from solid waste that the
6 Administrator, in consultation with an agency
7 head, determines should be treated as recovered
8 mineral component under this section for use in
9 cement or concrete projects paid for, in whole or
10 in part, by the agency head.

11 “(b) IMPLEMENTATION OF REQUIREMENTS.—

12 “(1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of this section, the Adminis-
14 trator and each agency head shall take such actions
15 as are necessary to implement fully all procurement
16 requirements and incentives in effect as of the date of
17 enactment of this section (including guidelines under
18 section 6002) that provide for the use of cement and
19 concrete incorporating recovered mineral component
20 in cement or concrete projects.

21 “(2) PRIORITY.—In carrying out paragraph (1)
22 an agency head shall give priority to achieving great-
23 er use of recovered mineral component in cement or
24 concrete projects for which recovered mineral compo-

1 *nents historically have not been used or have been*
2 *used only minimally.*

3 “(3) *CONFORMANCE.*—*The Administrator and*
4 *each agency head shall carry out this subsection in*
5 *accordance with section 6002.*

6 “(c) *FULL IMPLEMENTATION STUDY.*—

7 “(1) *IN GENERAL.*—*The Administrator, in co-*
8 *operation with the Secretary of Transportation and*
9 *the Secretary of Energy, shall conduct a study to de-*
10 *termine the extent to which current procurement re-*
11 *quirements, when fully implemented in accordance*
12 *with subsection (b), may realize energy savings and*
13 *environmental benefits attainable with substitution of*
14 *recovered mineral component in cement used in ce-*
15 *ment or concrete projects.*

16 “(2) *MATTERS TO BE ADDRESSED.*—*The study*
17 *shall—*

18 “(A) *quantify the extent to which recovered*
19 *mineral components are being substituted for*
20 *Portland cement, particularly as a result of cur-*
21 *rent procurement requirements, and the energy*
22 *savings and environmental benefits associated*
23 *with that substitution;*

24 “(B) *identify all barriers in procurement*
25 *requirements to greater realization of energy sav-*

1 *ings and environmental benefits, including bar-*
2 *riers resulting from exceptions from current law;*
3 *and*

4 *“(C)(i) identify potential mechanisms to*
5 *achieve greater substitution of recovered mineral*
6 *component in types of cement or concrete projects*
7 *for which recovered mineral components histori-*
8 *cally have not been used or have been used only*
9 *minimally;*

10 *“(ii) evaluate the feasibility of establishing*
11 *guidelines or standards for optimized substi-*
12 *tution rates of recovered mineral component in*
13 *those cement or concrete projects; and*

14 *“(iii) identify any potential environmental*
15 *or economic effects that may result from greater*
16 *substitution of recovered mineral component in*
17 *those cement or concrete projects.*

18 *“(3) REPORT.—Not later than 30 months after*
19 *the date of enactment of this section, the Adminis-*
20 *trator shall submit to Congress a report on the study.*

21 *“(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—*
22 *Unless the study conducted under subsection (c) identifies*
23 *any effects or other problems described in subsection*
24 *(c)(2)(C)(iii) that warrant further review or delay, the Ad-*
25 *ministrator and each agency head shall, not later than 1*

1 year after the release of the report in accordance with sub-
 2 section (c)(3), take additional actions authorized under this
 3 Act to establish procurement requirements and incentives
 4 that provide for the use of cement and concrete with in-
 5 creased substitution of recovered mineral component in the
 6 construction and maintenance of cement or concrete
 7 projects, so as to—

8 “(1) realize more fully the energy savings and
 9 environmental benefits associated with increased sub-
 10 stitution; and

11 “(2) eliminate barriers identified under sub-
 12 section (c).

13 “(e) *EFFECT OF SECTION.*—Nothing in this section af-
 14 fects the requirements of section 6002 (including the guide-
 15 lines and specifications for implementing those require-
 16 ments).”.

17 (b) *TABLE OF CONTENTS AMENDMENT.*—The table of
 18 contents in section 1001 of the Solid Waste Disposal Act
 19 (42 U.S.C. prec. 6901) is amended by adding after the item
 20 relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded
 projects involving procurement of cement or concrete.”.

21 **SEC. 4002. USE OF GRANULAR MINE TAILINGS.**

22 (a) *IN GENERAL.*—Subtitle F of the Solid Waste Dis-
 23 posal Act (42 U.S.C. 6961 et seq.) (as amended by section
 24 4001(a)) is amended by adding at the end the following:

1 **“SEC. 6006. USE OF GRANULAR MINE TAILINGS.**

2 “(a) *MINE TAILINGS.*—

3 “(1) *IN GENERAL.*—Not later than 180 days
4 after the date of enactment of this section, the Admin-
5 istrator, in consultation with the Secretary of Trans-
6 portation and heads of other Federal agencies, shall
7 establish criteria (including an evaluation of whether
8 to establish a numerical standard for concentration of
9 lead and other hazardous substances) for the safe and
10 environmentally protective use of granular mine
11 tailings from the Tar Creek, Oklahoma Mining Dis-
12 trict, known as ‘chat’, for—

13 “(A) *cement or concrete projects; and*

14 “(B) *transportation construction projects*
15 *(including transportation construction projects*
16 *involving the use of asphalt) that are carried*
17 *out, in whole or in part, using Federal funds.*

18 “(2) *REQUIREMENTS.*—In establishing criteria
19 under paragraph (1), the Administrator shall
20 consider—

21 “(A) *the current and previous uses of*
22 *granular mine tailings as an aggregate for as-*
23 *phalt; and*

24 “(B) *any environmental and public health*
25 *risks and benefits derived from the removal,*

1 *transportation, and use in transportation*
2 *projects of granular mine tailings.*

3 “(3) *PUBLIC PARTICIPATION.*—*In establishing*
4 *the criteria under paragraph (1), the Administrator*
5 *shall solicit and consider comments from the public.*

6 “(4) *APPLICABILITY OF CRITERIA.*—*On the es-*
7 *tablishment of the criteria under paragraph (1), any*
8 *use of the granular mine tailings described in para-*
9 *graph (1) in a transportation project that is carried*
10 *out, in whole or in part, using Federal funds, shall*
11 *meet the criteria established under paragraph (1).*

12 “(b) *EFFECT OF SECTIONS.*—*Nothing in this section*
13 *or section 6005 affects any requirement of any law (includ-*
14 *ing a regulation) in effect on the date of enactment of this*
15 *section.”.*

16 “(b) *CONFORMING AMENDMENT.*—*The table of contents*
17 *in section 1001 of the Solid Waste Disposal Act (42 U.S.C.*
18 *prec. 6901) (as amended by section 4001(b)) is amended*
19 *by adding after the item relating to section 6005 the fol-*
20 *lowing:*

 “*Sec. 6006. Use of granular mine tailings.*”.

1 **TITLE V—HIGHWAY REAUTHOR-**
 2 **IZATION AND EXCISE TAX**
 3 **SIMPLIFICATION**

4 **SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.**

5 (a) *SHORT TITLE.*—This title may be cited as the
 6 “Highway Reauthorization and Excise Tax Simplification
 7 Act of 2005”.

8 (b) *AMENDMENT OF 1986 CODE.*—Except as otherwise
 9 expressly provided, whenever in this title an amendment
 10 or repeal is expressed in terms of an amendment to, or re-
 11 peal of, a section or other provision, the reference shall be
 12 considered to be made to a section or other provision of the
 13 Internal Revenue Code of 1986.

14 **Subtitle A—Trust Fund**
 15 **Reauthorization**

16 **SEC. 5101. EXTENSION OF HIGHWAY-RELATED TAXES AND**
 17 **TRUST FUNDS.**

18 (a) *EXTENSION OF TAXES.*—

19 (1) *IN GENERAL.*—The following provisions are
 20 each amended by striking “2005” each place it ap-
 21 pears and inserting “2011”:

22 (A) Section 4041(a)(1)(C)(iii)(I) (relating
 23 to rate of tax on certain buses).

24 (B) Section 4041(a)(2)(B) (relating to rate
 25 of tax on special motor fuels).

1 (C) Section 4041(m)(1) (relating to certain
2 alcohol fuels).

3 (D) Section 4051(c) (relating to termi-
4 nation of tax on heavy trucks and trailers).

5 (E) Section 4071(d) (relating to termi-
6 nation of tax on tires).

7 (F) Section 4081(d)(1) (relating to termi-
8 nation of tax on gasoline, diesel fuel, and ker-
9 osene).

10 (G) Section 4481(f) (relating to period tax
11 in effect).

12 (H) Section 4482(c)(4) (relating to taxable
13 period).

14 (I) Section 4482(d) (relating to special rule
15 for taxable period in which termination date oc-
16 curs).

17 (2) FLOOR STOCKS REFUNDS.—Section
18 6412(a)(1) (relating to floor stocks refunds) is
19 amended—

20 (A) by striking “2005” each place it ap-
21 pears and inserting “2011”, and

22 (B) by striking “2006” each place it ap-
23 pears and inserting “2012”.

1 (b) *EXTENSION OF CERTAIN EXEMPTIONS.*—*The fol-*
2 *lowing provisions are each amended by striking “2005” and*
3 *inserting “2011”:*

4 (1) *Section 4221(a) (relating to certain tax-free*
5 *sales).*

6 (2) *Section 4483(h) (relating to termination of*
7 *exemptions for highway use tax).*

8 (c) *EXTENSION OF TRANSFERS OF CERTAIN TAXES.*—

9 (1) *IN GENERAL.*—*Paragraphs (1), (2), and*
10 *(4)(D)((iii) of subsection (b) and subsection (c)(3) of*
11 *section 9503 (relating to the Highway Trust Fund)*
12 *are each amended—*

13 (A) *by striking “2005” each place it ap-*
14 *pears and inserting “2011”, and*

15 (B) *by striking “2006” each place it ap-*
16 *pears and inserting “2012”.*

17 (2) *MOTORBOAT AND SMALL-ENGINE FUEL TAX*
18 *TRANSFERS.*—

19 (A) *IN GENERAL.*—*Paragraphs (4)(A)(i)*
20 *and (5)(A) of section 9503(c) are each amended*
21 *by striking “2005” and inserting “2011”.*

22 (B) *CONFORMING AMENDMENTS TO LAND*
23 *AND WATER CONSERVATION FUND.*—*Section*
24 *201(b) of the Land and Water Conservation*

1 *Fund Act of 1965 (16 U.S.C. 460l–11(b)) is*
2 *amended—*

3 *(i) by striking “2003” and inserting*
4 *“2009”, and*
5 *(ii) by striking “2004” each place it*
6 *appears and inserting “2010”.*

7 *(d) EXTENSION AND EXPANSION OF EXPENDITURES*
8 *FROM TRUST FUNDS.—*

9 *(1) HIGHWAY TRUST FUND.—*

10 *(A) HIGHWAY ACCOUNT.—Paragraph (1) of*
11 *section 9503(c) is amended—*

12 *(i) in the matter before subparagraph*
13 *(A), by striking “June 1, 2005” and insert-*
14 *ing “October 1, 2009”,*

15 *(ii) by striking “or” at the end of sub-*
16 *paragraph (J),*

17 *(iii) by striking the period at the end*
18 *of subparagraph (K) and inserting “, or”,*

19 *(iv) by inserting after subparagraph*
20 *(K) the following new subparagraph:*

21 *“(L) authorized to be paid out of the High-*
22 *way Trust Fund under the Safe, Accountable,*
23 *Flexible, and Efficient Transportation Equity*
24 *Act of 2005.”, and*

1 (v) in the matter after subparagraph
2 (L), as added by clause (iv), by striking
3 “Surface Transportation Extension Act of
4 2004, Part V” and inserting “Safe, Ac-
5 countable, Flexible, and Efficient Transpor-
6 tation Equity Act of 2005”.

7 (B) MASS TRANSIT ACCOUNT.—Paragraph
8 (3) of section 9503(e) is amended—

9 (i) in the matter before subparagraph
10 (A), by striking “June 1, 2005” and insert-
11 ing “October 1, 2009”,

12 (ii) by striking “or” at the end of sub-
13 paragraph (H),

14 (iii) by inserting “or” at the end of
15 subparagraph (I),

16 (iv) by inserting after subparagraph
17 (I) the following new subparagraph:

18 “(J) Safe, Accountable, Flexible, and Effi-
19 cient Transportation Equity Act of 2005,” and

20 (v) in the matter after subparagraph
21 (J), as added by clause (iv), by striking
22 “Surface Transportation Extension Act of
23 2004, Part V” and inserting “Safe, Ac-
24 countable, Flexible, and Efficient Transpor-
25 tation Equity Act of 2005”.

1 (C) *EXCEPTION TO LIMITATION ON TRANS-*
2 *FERS.—Subparagraph (B) of section 9503(b)(6)*
3 *is amended by striking “June 1, 2005” and in-*
4 *serting “October 1, 2009”.*

5 (D) *EXPENDITURES FOR HIGHWAY USE*
6 *TAX EVASION PROJECTS.—Section 9503(c) is*
7 *amended by adding at the end the following new*
8 *paragraph:*

9 “(6) *HIGHWAY USE TAX EVASION PROJECTS.—*
10 *From amounts available in the Highway Trust Fund,*
11 *there is authorized to be expended—*

12 “(A) *for the period beginning with fiscal*
13 *year 2006 and ending with fiscal year 2009 to*
14 *the Internal Revenue Service—*

15 “(i) *\$120,000,000 for enforcement of*
16 *fuel tax compliance, including the pre-cer-*
17 *tification of tax-exempt users, and*

18 “(ii) *\$80,000,000 for the excise fuel in-*
19 *formation reporting system, of which*
20 *\$40,000,000 shall be allocated to the excise*
21 *summary terminal activity reporting sys-*
22 *tem, and*

23 “(B) *for each of the fiscal years 2006, 2007,*
24 *2008, and 2009 to the Federal Highway Admin-*
25 *istration, \$50,000,000 to be allocated \$1,000,000*

1 to each State to combat fuel tax evasion on the
2 State level.”.

3 (2) *AQUATIC RESOURCES TRUST FUND.*—

4 (A) *SPORT FISH RESTORATION ACCOUNT.*—
5 Paragraph (2) of section 9504(b) is amended by
6 striking “Surface Transportation Extension Act
7 of 2004, Part V” each place it appears and in-
8 serting “Safe, Accountable, Flexible, and Effi-
9 cient Transportation Equity Act of 2005” .

10 (B) *EXCEPTION TO LIMITATION ON TRANS-*
11 *FERS.*—Paragraph (2) of section 9504(d) is
12 amended by striking “June 1, 2005” and insert-
13 ing “October 1, 2009”.

14 (e) *EFFECTIVE DATE.*—The amendments made by this
15 section shall take effect on the date of the enactment of this
16 Act.

17 **SEC. 5102. MODIFICATION OF ADJUSTMENTS OF APPOR-**
18 **TIONMENTS.**

19 (a) *IN GENERAL.*—Section 9503(d) (relating to adjust-
20 ments for apportionments) is amended—

21 (1) by striking “24-month” in paragraph (1)(B)
22 and inserting “48-month”, and

23 (2) by striking “2 YEARS’ ” in the heading for
24 paragraph (3) and inserting “4 YEARS’ ”.

1 (b) *MEASUREMENT OF NET HIGHWAY RECEIPTS.*—
2 *Section 9503(d) is amended by redesignating paragraph (6)*
3 *as paragraph (7) and by inserting after paragraph (5) the*
4 *following new paragraph:*

5 “(6) *MEASUREMENT OF NET HIGHWAY RE-*
6 *CEIPTS.—For purposes of making any estimate under*
7 *paragraph (1) of net highway receipts for periods*
8 *ending after the date specified in subsection (b)(1),*
9 *the Secretary shall treat—*

10 “(A) *each expiring provision of subsection*
11 *(b) which is related to appropriations or trans-*
12 *fers to the Highway Trust Fund to have been ex-*
13 *tended through the end of the 48-month period*
14 *referred to in paragraph (1)(B), and*

15 “(B) *with respect to each tax imposed under*
16 *the sections referred to in subsection (b)(1), the*
17 *rate of such tax during the 48-month period re-*
18 *ferred to in paragraph (1)(B) to be the same as*
19 *the rate of such tax as in effect on the date of*
20 *such estimate.”.*

21 (c) *EFFECTIVE DATE.*—*The amendments made by this*
22 *section shall take effect on the date of the enactment of this*
23 *Act.*

1 ***Subtitle B—Excise Tax Reform and***
2 ***Simplification***

3 ***PART I—HIGHWAY EXCISE TAXES***

4 ***SEC. 5201. MODIFICATION OF GAS GUZZLER TAX.***

5 *(a) UNIFORM APPLICATION OF TAX.—Subparagraph*
6 *(A) of section 4064(b)(1) (defining automobile) is amended*
7 *by striking the second sentence.*

8 *(b) EFFECTIVE DATE.—The amendment made by this*
9 *section shall take effect on October 1, 2005.*

10 ***SEC. 5202. EXCLUSION FOR TRACTORS WEIGHING 19,500***
11 ***POUNDS OR LESS FROM FEDERAL EXCISE***
12 ***TAX ON HEAVY TRUCKS AND TRAILERS.***

13 *(a) IN GENERAL.—Subsection (a) of section 4051 (re-*
14 *lating to imposition of tax) is amended by redesignating*
15 *paragraph (4) as paragraph (5) and by inserting after*
16 *paragraph (3) the following new paragraph:*

17 *“(4) EXCLUSION FOR TRACTORS WEIGHING 19,500*
18 *POUNDS OR LESS.—The tax imposed by paragraph*
19 *(1) shall not apply to tractors of the kind chiefly used*
20 *for highway transportation in combination with a*
21 *trailer or semitrailer if such tractor has a gross vehi-*
22 *cle weight of 19,500 pounds or less (as determined*
23 *under regulations prescribed by the Secretary).”.*

24 *(b) EFFECTIVE DATE.—The amendments made by this*
25 *section shall apply to sales after September 30, 2005.*

1 **SEC. 5203. EXEMPTION FOR EQUIPMENT FOR TRANS-**
2 **PORTING BULK BEDS OF FARM CROPS FROM**
3 **EXCISE TAX ON RETAIL SALE OF HEAVY**
4 **TRUCKS AND TRAILERS.**

5 (a) *IN GENERAL.*—Section 4053 of the Internal Rev-
6 enue Code of 1986 (relating to exemptions) is amended by
7 adding at the end the following new paragraph:

8 “(9) *EQUIPMENT FOR TRANSPORTING BULK BEDS*
9 *OF FARM CROPS.*—Any box, container, receptacle, bin,
10 or other similar article the length of which does not
11 exceed 26 feet, which is mounted or placed on an
12 automobile truck, and which is sold to a person who
13 certifies to the seller that—

14 “(A) such person is actively engaged in the
15 trade or business of farming, and

16 “(B) the primary use of the article is to
17 haul to and on farms bulk beds of farm crops
18 grown in connection with such trade or busi-
19 ness.”.

20 (b) *RECAPTURE OF TAX UPON RESALE OR NON-*
21 *EXEMPT USE.*—Section 4052 (relating to definitions and
22 special rules) is amended by redesignating subsection (g)
23 as subsection (h) and by inserting after subsection (f) the
24 following new subsection:

1 “(g) *IMPOSITION OF TAX ON SALES, ETC., WITHIN 2*
2 *YEARS OF EQUIPMENT FOR TRANSPORTING BULK BEDS OF*
3 *FARM CROPS PURCHASED TAX-FREE.*—

4 “(1) *IN GENERAL.*—If—

5 “(A) *no tax was imposed under section*
6 *4051 on the first retail sale of any article de-*
7 *scribed in section 4053(9) by reason of its ex-*
8 *empt use, and*

9 “(B) *within 2 years after the date of such*
10 *first retail sale, such article is resold by the pur-*
11 *chaser or such purchaser makes a substantial*
12 *nonexempt use of such article,*

13 *then such sale or use of such article by such purchaser*
14 *shall be treated as the first retail sale of such article*
15 *for a price equal to its fair market value at the time*
16 *of such sale or use.*

17 “(2) *EXEMPT USE.*—For purposes of this sub-
18 *section, the term ‘exempt use’ means any use of an*
19 *article described in section 4053(9) if the first retail*
20 *sale of such article is not taxable under section 4051*
21 *by reason of such use.”.*

22 “(b) *EFFECTIVE DATE.*—The amendments made by this
23 *section shall apply to sales after September 30, 2005.*

1 **SEC. 5204. VOLUMETRIC EXCISE TAX CREDIT FOR ALTER-**
2 **NATIVE FUELS.**

3 (a) *IMPOSITION OF TAX.—*

4 (1) *IN GENERAL.—Section 4081(a)(2)(A) (relat-*
5 *ing to rates of tax), as amended by section 5611 of*
6 *this Act, is amended—*

7 (A) *by striking “and” at the end of clause*

8 *(ii),*

9 (B) *by striking the period at the end of*
10 *clause (iii), and*

11 (C) *by adding at the end the following new*
12 *clauses:*

13 “*(iv) in the case of P Series Fuels, 18.3*
14 *cents per gallon,*

15 “*(v) in the case of compressed natural*
16 *gas and hydrogen, 18.3 cents per energy*
17 *equivalent of a gallon of gasoline, and*

18 “*(vi) in the case of liquefied natural*
19 *gas, any liquid fuel (other than ethanol and*
20 *methanol) derived from coal (including*
21 *peat), and liquid hydrocarbons derived from*
22 *biomass (as defined in section 29(c)(3)),*
23 *24.3 cents per gallon.”.*

24 (2) *TREATMENT OF ALTERNATIVE FUEL AS TAX-*
25 *ABLE FUEL.—*

1 (A) *IN GENERAL.*—Section 4083(a)(1) (de-
2 fining taxable fuel) is amended—

3 (i) by striking “and” at the end of sub-
4 paragraph (B),

5 (ii) by striking the period at the end of
6 subparagraph (C) and inserting “, and”,
7 and

8 (iii) by adding at the end the following
9 new subparagraph:

10 “(D) alternative fuel.”.

11 (B) *DEFINITION.*—Section 4083(a) is
12 amended by adding at the end the following new
13 paragraph:

14 “(4) *ALTERNATIVE FUEL.*—The term ‘alternative
15 fuel’ means—

16 “(A) compressed or liquefied natural gas,

17 “(B) *P Series Fuels* (as defined by the Sec-
18 retary of Energy under section 13211(2) of title
19 42, United States Code,

20 “(C) hydrogen,

21 “(D) any liquid fuel (other than ethanol
22 and methanol) derived from coal (including
23 peat), and

24 “(E) liquid hydrocarbons derived from bio-
25 mass (as defined in section 29(c)(3)).”.

1 (3) *CONFORMING AMENDMENT.*—Section 4041(a),
2 *as amended by section 5101 of this Act, is amended*
3 *by striking paragraphs (2) and (3) and inserting the*
4 *following:*

5 “(2) *SPECIAL MOTOR FUELS.*—

6 “(A) *IN GENERAL.*—*There is hereby im-*
7 *posed a tax on any alternative fuel (other than*
8 *gas oil or fuel oil) and liquefied petroleum gas—*

9 “*(i) sold by any person to an owner,*
10 *lessee, or other operator of a motor vehicle*
11 *or motorboat for use as a fuel in such motor*
12 *vehicle or motorboat, or*

13 “*(ii) used by any person as a fuel in*
14 *a motor vehicle or motorboat unless there*
15 *was a taxable sale of such fuel under clause*
16 *(i).*

17 “(B) *EXEMPTION FOR PREVIOUSLY TAXED*
18 *FUEL.*—*No tax shall be imposed by this para-*
19 *graph on the sale or use of any alternative fuel*
20 *or liquefied petroleum gas if tax was imposed on*
21 *such alternative fuel or liquefied petroleum gas*
22 *under section 4081 and the tax thereon was not*
23 *credited or refunded.*

24 “(C) *RATE OF TAX.*—*Except as otherwise*
25 *provided, the rate of the tax imposed by this*

1 paragraph shall be the rate of tax specified in
 2 clause (iv), (v), or (vi) of section 4081(a)(2)(A)
 3 on the alternative fuel which is in effect at the
 4 time of such sale or use. In the case of liquefied
 5 petroleum gas, the rate of the tax imposed by
 6 this paragraph shall be 13.6 cents per gallon (3.2
 7 cents per gallon in the case of any sale or use
 8 after September 30, 2011).

9 “(D) *BUS USES.*—No tax shall be imposed
 10 by this paragraph on any sale for use, or use, de-
 11 scribed in subparagraph (B) or (C) of section
 12 6427(b)(2) (relating to school bus and intracity
 13 transportation).”.

14 (b) *CREDIT FOR ALTERNATIVE FUEL AND ALTER-*
 15 *NATIVE FUEL MIXTURES.*—

16 (1) *IN GENERAL.*—Section 6426(a) (relating to
 17 allowance of credits) is amended by striking “plus” at
 18 the end of paragraph (1), by striking the period at the
 19 end of paragraph (2) and by adding at the end the
 20 following new paragraphs:

21 “(3) the alternative fuel credit, plus

22 “(4) the alternative fuel mixture credit.”.

23 (2) *ALTERNATIVE FUEL AND ALTERNATIVE FUEL*
 24 *MIXTURE CREDIT.*—Section 6426 (relating to credit
 25 for alcohol fuel and biodiesel mixtures) is amended by

1 *redesignating subsections (d) and (e) as subsections*
2 *(f) and (g) and by inserting after subsection (c) the*
3 *following new subsection:*

4 *“(d) ALTERNATIVE FUEL CREDIT.—*

5 *“(1) IN GENERAL.—For purposes of this section,*
6 *the alternative fuel credit is the product of 50 cents*
7 *and the number of gallons of an alternative fuel or*
8 *gasoline gallon equivalents of a nonliquid alternative*
9 *fuel sold by the taxpayer for use as a motor fuel in*
10 *a highway vehicle.*

11 *“(2) ALTERNATIVE FUEL.—For purposes of this*
12 *section, the term ‘alternative fuel’—*

13 *“(A) has the meaning given such term by*
14 *subparagraphs (A), (B), (C), and (E) of section*
15 *4083(a)(4),*

16 *“(B) includes any liquid fuel derived from*
17 *coal (including peat) through the Fischer-*
18 *Tropsch process, and*

19 *“(C) does not include ethanol, methanol, or*
20 *biodiesel.*

21 *“(3) GASOLINE GALLON EQUIVALENT.—For pur-*
22 *poses of this subsection, the term ‘gasoline gallon*
23 *equivalent’ means, with respect to any nonliquid al-*
24 *ternative fuel, the amount of such fuel having a Btu*
25 *content of 124,800 (higher heating value).*

1 “(4) *TERMINATION.*—*This subsection shall not*
2 *apply to any sale, use, or removal for any period*
3 *after September 30, 2009.*

4 “(e) *ALTERNATIVE FUEL MIXTURE CREDIT.*—

5 “(1) *IN GENERAL.*—*For purposes of this section,*
6 *the alternative fuel mixture credit is the product of 50*
7 *cents and the number of gallons of alternative fuel*
8 *used by the taxpayer in producing any alternative*
9 *fuel mixture for sale or use in a trade or business of*
10 *the taxpayer.*

11 “(2) *ALTERNATIVE FUEL MIXTURE.*—*For pur-*
12 *poses of this section, the term ‘alternative fuel mix-*
13 *ture’ means a mixture of alternative fuel and taxable*
14 *fuel (as defined in subparagraph (A), (B), or (C) of*
15 *section 4083(a)(1)) which—*

16 “(A) *is sold by the taxpayer producing such*
17 *mixture to any person for use as fuel in a high-*
18 *way vehicle, or*

19 “(B) *is used as a fuel in a highway vehicle*
20 *by the taxpayer producing such mixture.*

21 “(3) *TERMINATION.*—*This subsection shall not*
22 *apply to any sale, use, or removal for any period*
23 *after September 30, 2009.”.*

24 “(3) *CONFORMING AMENDMENTS.*—

1 (A) *The section heading for section 6426 is*
2 *amended by striking “ALCOHOL FUEL AND*
3 *BIODIESEL” and inserting “CERTAIN ALTER-*
4 *NATIVE FUEL”.*

5 (B) *The table of sections for subchapter B of*
6 *chapter 65 is amended by striking “alcohol fuel*
7 *and biodiesel” in the item relating to section*
8 *6426 and inserting “certain alternative fuel”.*

9 (C) *Section 6427(a) is amended by striking*
10 *“paragraph (2) or (3) of section 4041(a) or sec-*
11 *tion 4041(c)” and inserting “section 4041(a)(2)*
12 *or 4041(c)”.*

13 (D) *Section 6427(e) is amended—*

14 (i) *by inserting “or the alternative fuel*
15 *mixture credit” after “biodiesel mixture*
16 *credit” in paragraph (1),*

17 (ii) *by redesignating paragraphs (2)*
18 *and (3) as paragraphs (3) and (4), respec-*
19 *tively, and by inserting after paragraph (1)*
20 *the following new paragraph:*

21 “(2) *ALTERNATIVE FUEL.—If any person pro-*
22 *duces an alternative fuel described in section 6426 in*
23 *such person’s trade or business, the Secretary shall*
24 *pay (without interest) to such person an amount*

1 *equal to the alternative fuel credit with respect to*
2 *such fuel.”,*

3 *(iii) by striking “under paragraph (1)*
4 *with respect to any mixture” in paragraph*
5 *(3) (as redesignated by clause (ii)) and in-*
6 *serting “under paragraph (1) or (2) with*
7 *respect to any mixture or alternative fuel”,*

8 *(iv) by striking “and” at the end of*
9 *paragraph (4)(A) (as redesignated by clause*
10 *(ii)),*

11 *(v) by striking the period at the end of*
12 *paragraph (4)(B) (as so redesignated),*

13 *(vi) by adding at the end of paragraph*
14 *(4) (as so redesignated) the following new*
15 *subparagraph:*

16 *“(C) any alternative fuel or alternative fuel*
17 *mixture (as defined in section 6426 (d)(2) or*
18 *(e)(3)) sold or used after September 30, 2009.”,*
19 *and*

20 *(vii) by striking “OR BIODIESEL USED*
21 *TO PRODUCE ALCOHOL FUEL AND BIO-*
22 *DIESEL MIXTURES” in the heading and in-*
23 *serting “, BIODIESEL, OR ALTERNATIVE*
24 *FUEL”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to any sale, use, or removal for any pe-*
 3 *riod after September 30, 2006.*

4 **PART II—AQUATIC EXCISE TAXES**

5 **SEC. 5211. ELIMINATION OF AQUATIC RESOURCES TRUST**
 6 **FUND AND TRANSFORMATION OF SPORT FISH**
 7 **RESTORATION ACCOUNT.**

8 (a) *SIMPLIFICATION OF FUNDING FOR BOAT SAFETY*
 9 *ACCOUNT.*—

10 (1) *IN GENERAL.*—*Section 9503(c)(4) (relating*
 11 *to transfers from Trust Fund for motorboat fuel taxes)*
 12 *is amended—*

13 (A) *by striking “Fund—” and all that fol-*
 14 *lows through “shall be transferred” in subpara-*
 15 *graph (B) and inserting “Fund which is attrib-*
 16 *utable to motorboat fuel taxes received on or*
 17 *after October 1, 2005, and before October 1,*
 18 *2011, shall be transferred”;*

19 (B) *by striking subparagraph (A), and*

20 (C) *by redesignating subparagraphs (B)*
 21 *through (E) as subparagraphs (A) through (D),*
 22 *respectively.*

23 (2) *CONFORMING AMENDMENTS.*—

1 (A) Subparagraph (B) of section 9503(c)(4),
2 as redesignated by paragraph (1)(C), is
3 amended—

4 (i) by striking “ACCOUNT” in the head-
5 ing thereof and inserting “AND BOATING
6 TRUST FUND”,

7 (ii) by striking “or (B)” in clause (ii),
8 and

9 (iii) by striking “account in the
10 Aquatic Resources” and inserting “and
11 Boating”.

12 (B) Paragraph (5) of section 9503(c) is
13 amended by striking “Account in the Aquatic
14 Resources” in subparagraph (A) and inserting
15 “and Boating”.

16 (b) *MERGING OF ACCOUNTS.*—

17 (1) *IN GENERAL.*—Subsection (a) of section 9504
18 is amended to read as follows:

19 “(a) *CREATION OF TRUST FUND.*—There is hereby es-
20 tablished in the Treasury of the United States a trust fund
21 to be known as the ‘Sport Fish Restoration and Boating
22 Trust Fund’. Such Trust Fund shall consist of such
23 amounts as may be appropriated, credited, or paid to it
24 as provided in this section, section 9503(c)(4), section
25 9503(c)(5), or section 9602(b).”.

1 (2) *CONFORMING AMENDMENTS.*—

2 (A) *Subsection (b) of section 9504, as*
3 *amended by section 5001 of this Act, is*
4 *amended—*

5 (i) *by striking “ACCOUNT” in the head-*
6 *ing thereof and inserting “AND BOATING*
7 *TRUST FUND”*,

8 (ii) *by striking “Account” both places*
9 *it appears in paragraphs (1) and (2) and*
10 *inserting “and Boating Trust Fund”, and*

11 (iii) *by striking “ACCOUNT” both*
12 *places it appears in the headings for para-*
13 *graphs (1) and (2) and inserting “TRUST*
14 *FUND”*.

15 (B) *Subsection (d) of section 9504, as*
16 *amended by section 5001 of this Act, is*
17 *amended—*

18 (i) *by striking “AQUATIC RESOURCES”*
19 *in the heading thereof,*

20 (ii) *by striking “any Account in the*
21 *Aquatic Resources” in paragraph (1) and*
22 *inserting “the Sport Fish Restoration and*
23 *Boating”, and*

1 (iii) by striking “any such Account”
2 in paragraph (1) and inserting “such Trust
3 Fund”.

4 (C) Subsection (e) of section 9504 is amend-
5 ed by striking “Boat Safety Account and Sport
6 Fish Restoration Account” and inserting “Sport
7 Fish Restoration and Boating Trust Fund”.

8 (D) Section 9504 is amended by striking
9 “**AQUATIC RESOURCES**” in the heading thereof
10 and inserting “**SPORT FISH RESTORATION**
11 **AND BOATING**”.

12 (E) The item relating to section 9504 in the
13 table of sections for subchapter A of chapter 98
14 is amended by striking “aquatic resources” and
15 inserting “sport fish restoration and boating”.

16 (c) *PHASEOUT OF BOAT SAFETY ACCOUNT.*—Sub-
17 section (c) of section 9504 is amended to read as follows:

18 “(c) *EXPENDITURES FROM BOAT SAFETY ACCOUNT.*—
19 Amounts remaining in the Boat Safety Account on October
20 1, 2005, and amounts thereafter credited to the Account
21 under section 9602(b), shall be available, without further
22 appropriation, for making expenditures before October 1,
23 2010, to carry out the purposes of section 15 of the Dingell-
24 Johnson Sport Fish Restoration Act (as in effect on the date
25 of the enactment of the Safe, Accountable, Flexible, and Ef-

1 *ficent Transportation Equity Act of 2005). For purposes*
2 *of section 9602, the Boat Safety Account shall be treated*
3 *as a Trust Fund established by this subchapter.”.*

4 *(d) EFFECTIVE DATE.—The amendments made by this*
5 *section shall take effect on October 1, 2005.*

6 **SEC. 5212. REPEAL OF HARBOR MAINTENANCE TAX ON EX-**
7 **PORTS.**

8 *(a) IN GENERAL.—Subsection (d) of section 4462 (re-*
9 *lating to definitions and special rules) is amended to read*
10 *as follows:*

11 *“(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The*
12 *tax imposed by section 4461(a) shall not apply to any port*
13 *use with respect to any commercial cargo to be exported*
14 *from the United States.”.*

15 *(b) CONFORMING AMENDMENTS.—*

16 *(1) Section 4461(c)(1) is amended by adding*
17 *“or” at the end of subparagraph (A), by striking sub-*
18 *paragraph (B), and by redesignating subparagraph*
19 *(C) as subparagraph (B).*

20 *(2) Section 4461(c)(2) is amended by striking*
21 *“imposed—” and all that follows through “in any*
22 *other case,” and inserting “imposed”.*

23 *(c) EFFECTIVE DATE.—The amendments made by this*
24 *section shall take effect before, on, and after the date of the*
25 *enactment of this Act.*

1 **SEC. 5213. CAP ON EXCISE TAX ON CERTAIN FISHING**
2 **EQUIPMENT.**

3 (a) *IN GENERAL.*—Paragraph (1) of section 4161(a)
4 (relating to sport fishing equipment) is amended to read
5 as follows:

6 “(1) *IMPOSITION OF TAX.*—

7 “(A) *IN GENERAL.*—There is hereby im-
8 posed on the sale of any article of sport fishing
9 equipment by the manufacturer, producer, or im-
10 porter a tax equal to 10 percent of the price for
11 which so sold.

12 “(B) *LIMITATION ON TAX IMPOSED ON*
13 *FISHING RODS AND POLES.*—The tax imposed by
14 subparagraph (A) on any fishing rod or pole
15 shall not exceed \$10.”.

16 (b) *CONFORMING AMENDMENTS.*—Section 4161(a)(2)
17 is amended by striking “paragraph (1)” both places it ap-
18 pears and inserting “paragraph (1)(A)”.

19 (c) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to articles sold by the manufacturer,
21 producer, or importer after September 30, 2005.

1 **PART III—AERIAL EXCISE TAXES**

2 **SEC. 5221. CLARIFICATION OF EXCISE TAX EXEMPTIONS**
 3 **FOR AGRICULTURAL AERIAL APPLICATORS**
 4 **AND EXEMPTION FOR FIXED-WING AIRCRAFT**
 5 **ENGAGED IN FORESTRY OPERATIONS.**

6 (a) *NO WAIVER BY FARM OWNER, TENANT, OR OPER-*
 7 *ATOR NECESSARY.*—Subparagraph (B) of section
 8 6420(c)(4) (relating to certain farming use other than by
 9 owner, etc.) is amended to read as follows:

10 “(B) if the person so using the gasoline is
 11 an aerial or other applicator of fertilizers or
 12 other substances and is the ultimate purchaser of
 13 the gasoline, then subparagraph (A) of this para-
 14 graph shall not apply and the aerial or other ap-
 15 plicator shall be treated as having used such gas-
 16 oline on a farm for farming purposes.”.

17 (b) *EXEMPTION INCLUDES FUEL USED BETWEEN AIR-*
 18 *FIELD AND FARM.*—Section 6420(c)(4), as amended by sub-
 19 section (a), is amended by adding at the end the following
 20 new flush sentence:

21 “In the case of an aerial applicator, gasoline shall be
 22 treated as used on a farm for farming purposes if the
 23 gasoline is used for the direct flight between the air-
 24 field and 1 or more farms.”.

25 (c) *EXEMPTION FROM TAX ON AIR TRANSPORTATION*
 26 *OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO*

1 *FIXED-WING AIRCRAFT.*—*Subsection (f) of section 4261 (re-*
2 *lating to tax on air transportation of persons) is amended*
3 *to read as follows:*

4 “(f) *EXEMPTION FOR CERTAIN USES.*—*No tax shall be*
5 *imposed under subsection (a) or (b) on air transportation—*

6 “(1) *by helicopter for the purpose of transporting*
7 *individuals, equipment, or supplies in the exploration*
8 *for, or the development or removal of, hard minerals,*
9 *oil, or gas, or*

10 “(2) *by helicopter or by fixed-wing aircraft for*
11 *the purpose of the planting, cultivation, cutting, or*
12 *transportation of, or caring for, trees (including log-*
13 *ging operations),*

14 *but only if the helicopter or fixed-wing aircraft does not*
15 *take off from, or land at, a facility eligible for assistance*
16 *under the Airport and Airway Development Act of 1970,*
17 *or otherwise use services provided pursuant to section 44509*
18 *or 44913(b) or subchapter I of chapter 471 of title 49,*
19 *United States Code, during such use. In the case of heli-*
20 *copter transportation described in paragraph (1), this sub-*
21 *section shall be applied by treating each flight segment as*
22 *a distinct flight.”.*

23 (d) *EFFECTIVE DATE.*—*The amendments made by this*
24 *section shall apply to fuel use or air transportation after*
25 *September 30, 2005.*

1 **SEC. 5222. MODIFICATION OF RURAL AIRPORT DEFINITION.**

2 (a) *IN GENERAL.*—Section 4261(e)(1)(B) (defining
3 rural airport) is amended—

4 (1) by inserting “(in the case of any airport de-
5 scribed in clause (ii)(III), on flight segments of at
6 least 100 miles)” after “by air” in clause (i), and

7 (2) by striking “or” at the end of subclause (I)
8 of clause (ii), by striking the period at the end of sub-
9 clause (II) of clause (ii) and inserting “, or”, and by
10 adding at the end of clause (ii) the following new sub-
11 clause:

12 “(III) is not connected by paved
13 roads to another airport.”.

14 (b) *EFFECTIVE DATE.*—The amendments made by this
15 section shall take effect on October 1, 2005.

16 **SEC. 5223. EXEMPTION FROM TAXES ON TRANSPORTATION**
17 **PROVIDED BY SEAPLANES.**

18 (a) *IN GENERAL.*—Section 4261 (relating to imposi-
19 tion of tax) is amended by redesignating subsection (i) as
20 subsection (j) and by inserting after subsection (h) the fol-
21 lowing new subsection:

22 “(i) *EXEMPTION FOR SEAPLANES.*—No tax shall be
23 imposed by this section or section 4271 on any air trans-
24 portation by a seaplane with respect to any segment con-
25 sisting of a takeoff from, and a landing on, water, but only
26 if the places at which such takeoff and landing occur have

1 *not received and are not receiving financial assistance from*
 2 *the Airport and Airways Trust Fund.”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to transportation beginning after Sep-*
 5 *tember 30, 2005.*

6 **SEC. 5224. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM**
 7 **TAXES ON AIR TRANSPORTATION.**

8 (a) *IN GENERAL.*—*Section 4281 (relating to small air-*
 9 *craft on nonestablished lines) is amended by adding at the*
 10 *end the following new sentence: “For purposes of this sec-*
 11 *tion, an aircraft shall not be considered as operated on an*
 12 *established line at any time during which such aircraft is*
 13 *being operated on a flight the sole purpose of which is sight-*
 14 *seeing.”.*

15 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 16 *section shall apply with respect to transportation beginning*
 17 *after September 30, 2005, but shall not apply to any*
 18 *amount paid before such date for such transportation.*

19 **PART IV—TAXES RELATING TO ALCOHOL**

20 **SEC. 5231. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON**
 21 **PRODUCERS AND MARKETERS OF ALCOHOLIC**
 22 **BEVERAGES.**

23 (a) *REPEAL OF OCCUPATIONAL TAXES.*—

1 (1) *IN GENERAL.*—*The following provisions of*
 2 *part II of subchapter A of chapter 51 (relating to oc-*
 3 *cupational taxes) are hereby repealed:*

4 (A) *Subpart A (relating to proprietors of*
 5 *distilled spirits plants, bonded wine cellars, etc.).*

6 (B) *Subpart B (relating to brewer).*

7 (C) *Subpart D (relating to wholesale deal-*
 8 *ers) (other than sections 5114 and 5116).*

9 (D) *Subpart E (relating to retail dealers)*
 10 *(other than section 5124).*

11 (E) *Subpart G (relating to general provi-*
 12 *sions) (other than sections 5142, 5143, 5145, and*
 13 *5146).*

14 (2) *NONBEVERAGE DOMESTIC DRAWBACK.*—*Sec-*
 15 *tion 5131 is amended by striking “, on payment of*
 16 *a special tax per annum,”.*

17 (3) *INDUSTRIAL USE OF DISTILLED SPIRITS.*—
 18 *Section 5276 is hereby repealed.*

19 (b) *CONFORMING AMENDMENTS.*—

20 (1)(A) *The heading for part II of subchapter A*
 21 *of chapter 51 and the table of subparts for such part*
 22 *are amended to read as follows:*

23 **“PART II—MISCELLANEOUS PROVISIONS**

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping and registration by dealers.

“Subpart D. Other provisions.”.

1 (B) *The table of parts for such subchapter A is*
2 *amended by striking the item relating to part II and*
3 *inserting the following new item:*

“Part II. Miscellaneous provisions.”.

4 (2) *Subpart C of part II of such subchapter (re-*
5 *lating to manufacturers of stills) is redesignated as*
6 *subpart A.*

7 (3)(A) *Subpart F of such part II (relating to*
8 *nonbeverage domestic drawback claimants) is redesign-*
9 *ated as subpart B and sections 5131 through 5134*
10 *are redesignated as sections 5111 through 5114, re-*
11 *spectively.*

12 (B) *The table of sections for such subpart B, as*
13 *so redesignated, is amended—*

14 (i) *by redesignating the items relating to*
15 *sections 5131 through 5134 as relating to sec-*
16 *tions 5111 through 5114, respectively, and*

17 (ii) *by striking “and rate of tax” in the*
18 *item relating to section 5111, as so redesignated.*

19 (C) *Section 5111, as redesignated by subpara-*
20 *graph (A), is amended—*

21 (i) *by striking “**AND RATE OF TAX**” in*
22 *the section heading,*

23 (ii) *by striking the subsection heading for*
24 *subsection (a), and*

25 (iii) *by striking subsection (b).*

1 (4) *Part II of subchapter A of chapter 51 is*
 2 *amended by adding after subpart B, as redesignated*
 3 *by paragraph (3), the following new subpart:*

4 **“Subpart C—Recordkeeping and Registration by**
 5 **Dealers**

 “Sec. 5121. *Recordkeeping by wholesale dealers.*

 “Sec. 5122. *Recordkeeping by retail dealers.*

 “Sec. 5123. *Preservation and inspection of records, and entry of premises for*
 inspection.

 “Sec. 5124. *Registration by dealers.*”.

6 (5)(A) *Section 5114 (relating to records) is*
 7 *moved to subpart C of such part II and inserted after*
 8 *the table of sections for such subpart.*

9 (B) *Section 5114 is amended—*

10 *(i) by striking the section heading and in-*
 11 *serting the following new heading:*

12 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,**

13 *and*

14 *(ii) by redesignating subsection (c) as subsection*
 15 *(d) and by inserting after subsection (b) the following*
 16 *new subsection:*

17 “(c) *WHOLESALE DEALERS.—For purposes of this*
 18 *part—*

19 “(1) *WHOLESALE DEALER IN LIQUORS.—The*
 20 *term ‘wholesale dealer in liquors’ means any dealer*
 21 *(other than a wholesale dealer in beer) who sells, or*
 22 *offers for sale, distilled spirits, wines, or beer, to an-*
 23 *other dealer.*

1 “(2) *WHOLESALE DEALER IN BEER.*—*The term*
2 *‘wholesale dealer in beer’ means any dealer who sells,*
3 *or offers for sale, beer, but not distilled spirits or*
4 *wines, to another dealer.*

5 “(3) *DEALER.*—*The term ‘dealer’ means any*
6 *person who sells, or offers for sale, any distilled spir-*
7 *its, wines, or beer.*

8 “(4) *PRESUMPTION IN CASE OF SALE OF 20 WINE*
9 *GALLONS OR MORE.*—*The sale, or offer for sale, of dis-*
10 *tilled spirits, wines, or beer, in quantities of 20 wine*
11 *gallons or more to the same person at the same time,*
12 *shall be presumptive evidence that the person making*
13 *such sale, or offer for sale, is engaged in or carrying*
14 *on the business of a wholesale dealer in liquors or a*
15 *wholesale dealer in beer, as the case may be. Such*
16 *presumption may be overcome by evidence satisfac-*
17 *torily showing that such sale, or offer for sale, was*
18 *made to a person other than a dealer.”.*

19 (C) Paragraph (3) of section 5121(d), as so re-
20 designated, is amended by striking “section 5146”
21 and inserting “section 5123”.

22 (6)(A) Section 5124 (relating to records) is
23 moved to subpart C of part II of subchapter A of
24 chapter 51 and inserted after section 5121.

25 (B) Section 5124 is amended—

1 (i) by striking the section heading and in-
2 serting the following new heading:

3 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”**,

4 (ii) by striking “section 5146” in subsection (c)
5 and inserting “section 5123”, and

6 (iii) by redesignating subsection (c) as subsection
7 (d) and inserting after subsection (b) the following
8 new subsection:

9 “(c) *RETAIL DEALERS.*—For purposes of this
10 *section*—

11 “(1) *RETAIL DEALER IN LIQUORS.*—The term
12 ‘retail dealer in liquors’ means any dealer (other than
13 a retail dealer in beer or a limited retail dealer) who
14 sells, or offers for sale, distilled spirits, wines, or beer,
15 to any person other than a dealer.

16 “(2) *RETAIL DEALER IN BEER.*—The term ‘retail
17 dealer in beer’ means any dealer (other than a lim-
18 ited retail dealer) who sells, or offers for sale, beer, but
19 not distilled spirits or wines, to any person other
20 than a dealer.

21 “(3) *LIMITED RETAIL DEALER.*—The term ‘lim-
22 ited retail dealer’ means any fraternal, civic, church,
23 labor, charitable, benevolent, or ex-servicemen’s orga-
24 nization making sales of distilled spirits, wine or beer
25 on the occasion of any kind of entertainment, dance,

1 picnic, bazaar, or festival held by it, or any person
2 making sales of distilled spirits, wine or beer to the
3 members, guests, or patrons of bona fide fairs, re-
4 unions, picnics, carnivals, or other similar outings, if
5 such organization or person is not otherwise engaged
6 in business as a dealer.

7 “(4) DEALER.—The term ‘dealer’ has the mean-
8 ing given such term by section 5121(c)(3).”

9 (7) Section 5146 is moved to subpart C of part
10 II of subchapter A of chapter 51, inserted after section
11 5122, and redesignated as section 5123.

12 (8) Subpart C of part II of subchapter A of
13 chapter 51, as amended by paragraph (7), is amended
14 by adding at the end the following new section:

15 **“SEC. 5124. REGISTRATION BY DEALERS.**

16 “Every dealer who is subject to the recordkeeping re-
17 quirements under section 5121 or 5122 shall register with
18 the Secretary such dealer’s name or style, place of residence,
19 trade or business, and the place where such trade or busi-
20 ness is to be carried on. In case of a firm or company, the
21 names of the several persons constituting the same, and the
22 places of residence, shall be so registered.”

23 (9) Section 7012 is amended by redesignating
24 paragraphs (4) and (5) as paragraphs (5) and (6),

1 *respectively, and by inserting after paragraph (3) the*
2 *following new paragraph:*

3 “(4) *For provisions relating to registration by*
4 *dealers in distilled spirits, wines, and beer, see section*
5 *5124.*”.

6 (10) *Part II of subchapter A of chapter 51 is*
7 *amended by inserting after subpart C the following*
8 *new subpart:*

9 **“Subpart D—Other Provisions**

 “Sec. 5131. *Packaging distilled spirits for industrial uses.*

 “Sec. 5132. *Prohibited purchases by dealers.*”.

10 (11) *Section 5116 is moved to subpart D of part*
11 *II of subchapter A of chapter 51, inserted after the*
12 *table of sections, redesignated as section 5131, and*
13 *amended by inserting “(as defined in section*
14 *5121(c))” after “dealer” in subsection (a).*

15 (12) *Subpart D of part II of subchapter A of*
16 *chapter 51 is amended by adding at the end the fol-*
17 *lowing new section:*

18 **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

19 “(a) *IN GENERAL.—Except as provided in regulations*
20 *prescribed by the Secretary, it shall be unlawful for a dealer*
21 *to purchase distilled spirits for resale from any person other*
22 *than a wholesale dealer in liquors who is required to keep*
23 *the records prescribed by section 5121.*

1 “(b) *LIMITED RETAIL DEALERS.*—A limited retail
2 dealer may lawfully purchase distilled spirits for resale
3 from a retail dealer in liquors.

4 “(c) *PENALTY AND FORFEITURE.*—

*“For penalty and forfeiture provisions applicable to violations of subsection (a),
 see sections 5687 and 7302.”.*

5 (13) Subsection (b) of section 5002 is amended—

6 (A) by striking “section 5112(a)” and in-
7 serting “section 5121(c)(3)”,

8 (B) by striking “section 5112” and insert-
9 ing “section 5121(c)”,

10 (C) by striking “section 5122” and insert-
11 ing “section 5122(c)”.

12 (14) Subparagraph (A) of section 5010(c)(2) is
13 amended by striking “section 5134” and inserting
14 “section 5114”.

15 (15) Subsection (d) of section 5052 is amended
16 to read as follows:

17 “(d) *BREWER.*—For purposes of this chapter, the term
18 ‘brewer’ means any person who brews beer or produces beer
19 for sale. Such term shall not include any person who pro-
20 duces only beer exempt from tax under section 5053(e).”.

21 (16) The text of section 5182 is amended to read
22 as follows:

*“For provisions requiring recordkeeping by wholesale liquor dealers, see sec-
 tion 5112, and by retail liquor dealers, see section 5122.”.*

1 (17) *Subsection (b) of section 5402 is amended*
2 *by striking “section 5092” and inserting “section*
3 *5052(d)”.*

4 (18) *Section 5671 is amended by striking “or*
5 *5091”.*

6 (19)(A) *Part V of subchapter J of chapter 51 is*
7 *hereby repealed.*

8 (B) *The table of parts for such subchapter J is*
9 *amended by striking the item relating to part V.*

10 (20)(A) *Sections 5142, 5143, and 5145 are*
11 *moved to subchapter D of chapter 52, inserted after*
12 *section 5731, redesignated as sections 5732, 5733, and*
13 *5734, respectively, and amended by striking “this*
14 *part” each place it appears and inserting “this sub-*
15 *chapter”.*

16 (B) *Section 5732, as redesignated by subpara-*
17 *graph (A), is amended by striking “(except the tax*
18 *imposed by section 5131)” each place it appears.*

19 (C) *Paragraph (2) of section 5733(c), as redesign-*
20 *ated by subparagraph (A), is amended by striking*
21 *“liquors” both places it appears and inserting “to-*
22 *bacco products and cigarette papers and tubes”.*

23 (D) *The table of sections for subchapter D of*
24 *chapter 52 is amended by adding at the end the fol-*
25 *lowing:*

“Sec. 5732. Payment of tax.

*“Sec. 5733. Provisions relating to liability for occupational taxes.
“Sec. 5734. Application of State laws.”.*

1 (E) Section 5731 is amended by striking sub-
2 section (c) and by redesignating subsection (d) as sub-
3 section (c).

4 (21) Subsection (c) of section 6071 is amended
5 by striking “section 5142” and inserting “section
6 5732”.

7 (22) Paragraph (1) of section 7652(g) is
8 amended—

9 (A) by striking “subpart F” and inserting
10 “subpart B”, and

11 (B) by striking “section 5131(a)” and in-
12 serting “section 5111”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this
14 section shall take effect on July 1, 2008, but shall not apply
15 to taxes imposed for periods before such date.

16 **SEC. 5232. MODIFICATION OF LIMITATION ON RATE OF RUM**
17 **EXCISE TAX COVER OVER TO PUERTO RICO**
18 **AND VIRGIN ISLANDS.**

19 (a) *IN GENERAL.*—Section 7652(f)(1) (relating to lim-
20 itation on cover over of tax on distilled spirits) is amended
21 by inserting “, and \$13.50 in the case of distilled spirits
22 brought into the United States after December 31, 2005,
23 and before January 1, 2007” after “2006”.

24 (b) *SPECIAL RULE.*—

1 (1) *IN GENERAL.*—*After December 31, 2005, and*
2 *before January 1, 2007, the Commonwealth of Puerto*
3 *Rico shall make a Conservation Trust Fund transfer*
4 *from the treasury of Puerto Rico within 30 days from*
5 *the date of each cover overpayment to such treasury*
6 *under section 7652(e) of the Internal Revenue Code of*
7 *1986.*

8 (2) *CONSERVATION TRUST FUND TRANSFER.*—

9 (A) *IN GENERAL.*—*For purposes of this sub-*
10 *section, the term “Conservation Trust Fund*
11 *transfer” means a transfer to the Puerto Rico*
12 *Conservation Trust Fund of an amount equal to*
13 *50 cents per proof gallon of the taxes imposed*
14 *under section 5001 or section 7652 of such Code*
15 *on distilled spirits that are covered over to the*
16 *treasury of Puerto Rico under section 7652(e) of*
17 *such Code.*

18 (B) *TREATMENT OF TRANSFER.*—*Each Con-*
19 *servation Trust Fund transfer shall be treated as*
20 *principal for an endowment, the income from*
21 *which to be available for use by the Puerto Rico*
22 *Conservation Trust Fund for the purposes for*
23 *which the Trust Fund was established.*

24 (C) *RESULT OF NONTRANSFER.*—

1 (i) *IN GENERAL.*—Upon notification
2 by the Secretary of the Interior that a Con-
3 servation Trust Fund transfer has not been
4 made by the Commonwealth of Puerto Rico,
5 the Secretary of the Treasury shall, except
6 as provided in clause (ii), deduct and with-
7 hold from the next cover overpayment to be
8 made to the treasury of Puerto Rico under
9 section 7652(e) of such Code an amount
10 equal to the appropriate Conservation Trust
11 Fund transfer and interest thereon at the
12 underpayment rate established under sec-
13 tion 6621 of such Code as of the due date
14 of such transfer. The Secretary of the Treas-
15 ury shall transfer such amount deducted
16 and withheld, and the interest thereon, di-
17 rectly to the Puerto Rico Conservation
18 Trust Fund.

19 (ii) *GOOD-CAUSE EXCEPTION.*—If the
20 Secretary of the Interior finds, after con-
21 sultation with the Governor of Puerto Rico,
22 that the failure by the Commonwealth of
23 Puerto Rico to make a required transfer
24 was for good cause, and notifies the Sec-
25 retary of the Treasury of the finding of such

1 *good cause before the due date of the next*
2 *cover overpayment following the notification*
3 *of nontransfer, then the Secretary of the*
4 *Treasury shall not deduct the amount of*
5 *such nontransfer from any cover overpay-*
6 *ment.*

7 (3) *PUERTO RICO CONSERVATION TRUST FUND.—*
8 *For purposes of this subsection, the term “Puerto Rico*
9 *Conservation Trust Fund” means the fund established*
10 *pursuant to a Memorandum of Understanding be-*
11 *tween the United States Department of the Interior*
12 *and the Commonwealth of Puerto Rico, dated Decem-*
13 *ber 24, 1968.*

14 **SEC. 5233. INCOME TAX CREDIT FOR DISTILLED SPIRITS**
15 **WHOLESALERS AND FOR DISTILLED SPIRITS**
16 **IN CONTROL STATE BAILMENT WAREHOUSES**
17 **FOR COSTS OF CARRYING FEDERAL EXCISE**
18 **TAXES ON BOTTLED DISTILLED SPIRITS.**

19 (a) *IN GENERAL.—Subpart A of part I of subchapter*
20 *A of chapter 51 (relating to gallonage and occupational*
21 *taxes) is amended by adding at the end the following new*
22 *section:*

1 **“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF**
2 **CARRYING EXCISE TAX.**

3 *“(a) IN GENERAL.—For purposes of section 38, the*
4 *amount of the distilled spirits credit for any taxable year*
5 *is the amount equal to the product of—*

6 *“(1) in the case of—*

7 *“(A) any eligible wholesaler, the number of*
8 *cases of bottled distilled spirits—*

9 *“(i) which were bottled in the United*
10 *States, and*

11 *“(ii) which are purchased by such*
12 *wholesaler during the taxable year directly*
13 *from the bottler of such spirits, or*

14 *“(B) any person which is subject to section*
15 *5005 and which is not an eligible wholesaler, the*
16 *number of cases of bottled distilled spirits which*
17 *are stored in a warehouse operated by, or on be-*
18 *half of, a State or political subdivision thereof,*
19 *or an agency of either, on which title has not*
20 *passed on an unconditional sale basis, and*

21 *“(2) the average tax-financing cost per case for*
22 *the most recent calendar year ending before the begin-*
23 *ning of such taxable year.*

24 *“(b) ELIGIBLE WHOLESALER.—For purposes of this*
25 *section, the term ‘eligible wholesaler’ means any person*
26 *which holds a permit under the Federal Alcohol Adminis-*

1 *tration Act as a wholesaler of distilled spirits which is not*
2 *a State or political subdivision thereof, or an agency of ei-*
3 *ther.*

4 “(c) *AVERAGE TAX-FINANCING COST.*—

5 “(1) *IN GENERAL.*—*For purposes of this section,*
6 *the average tax-financing cost per case for any cal-*
7 *endar year is the amount of interest which would ac-*
8 *cruce at the deemed financing rate during a 60-day*
9 *period on an amount equal to the deemed Federal ex-*
10 *cise tax per case.*

11 “(2) *DEEMED FINANCING RATE.*—*For purposes*
12 *of paragraph (1), the deemed financing rate for any*
13 *calendar year is the average of the corporate overpay-*
14 *ment rates under paragraph (1) of section 6621(a)*
15 *(determined without regard to the last sentence of*
16 *such paragraph) for calendar quarters of such year.*

17 “(3) *DEEMED FEDERAL EXCISE TAX PER*
18 *CASE.*—*For purposes of paragraph (1), the deemed*
19 *Federal excise tax per case is \$25.68.*

20 “(d) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For*
21 *purposes of this section—*

22 “(1) *CASE.*—*The term ‘case’ means 12 80-proof*
23 *750-milliliter bottles.*

1 “(2) *NUMBER OF CASES IN LOT.*—*The number of*
 2 *cases in any lot of distilled spirits shall be determined*
 3 *by dividing the number of liters in such lot by 9.*”.

4 **(b) CREDIT TREATED AS PART OF GENERAL BUSI-**
 5 **NESS CREDIT.**—*Section 38(b) (relating to current year*
 6 *business credit) is amended by striking “plus” at the end*
 7 *of paragraph (18), by striking the period at the end of para-*
 8 *graph (19), and inserting “, plus”, and by adding at the*
 9 *end the following new paragraph:*

10 “(20) *the distilled spirits credit determined*
 11 *under section 5011(a).*”.

12 **(c) CONFORMING AMENDMENT.**—*The table of sections*
 13 *for subpart A of part I of subchapter A of chapter 51 is*
 14 *amended by adding at the end the following new item:*

 “*Sec. 5011. Income tax credit for average cost of carrying excise tax.*”.

15 **(d) EFFECTIVE DATE.**—*The amendments made by this*
 16 *section shall apply to taxable years beginning after Sep-*
 17 *tember 30, 2005.*

18 **SEC. 5234. QUARTERLY EXCISE TAX FILING FOR SMALL AL-**
 19 **COHOL EXCISE TAXPAYERS.**

20 **(a) IN GENERAL.**—*Subsection (d) of section 5061 (re-*
 21 *lating to time for collecting tax on distilled spirits, wines,*
 22 *and beer) is amended by redesignating paragraphs (4) and*
 23 *(5) as paragraphs (5) and (6), respectively, and by insert-*
 24 *ing after paragraph (3) the following new paragraph:*

1 “(4) *TAXPAYERS LIABLE FOR TAXES OF NOT*
2 *MORE THAN \$50,000.—*

3 “(A) *IN GENERAL.—In the case of any tax-*
4 *payer who reasonably expects to be liable for not*
5 *more than \$50,000 in taxes imposed with respect*
6 *to distilled spirits, wines, and beer under sub-*
7 *parts A, C, and D for the calendar year and who*
8 *was liable for not more than \$50,000 in such*
9 *taxes in the preceding calendar year, the last*
10 *day for the payment of tax shall be the 14th day*
11 *after the last day of the calendar quarter during*
12 *which the action giving rise to the imposition of*
13 *such tax occurs.*

14 “(B) *NO APPLICATION AFTER LIMIT EX-*
15 *CEEDED.—Subparagraph (A) shall not apply to*
16 *any taxpayer for any portion of the calendar*
17 *year following the first date on which the aggre-*
18 *gate amount of tax due under subparts A, C, and*
19 *D from such taxpayer during such calendar year*
20 *exceeds \$50,000, and any tax under such sub-*
21 *parts which has not been paid on such date shall*
22 *be due on the 14th day after the last day of the*
23 *semimonthly period in which such date occurs.*

24 “(C) *CALENDAR QUARTER.—For purposes*
25 *of this paragraph, the term ‘calendar quarter’*

1 *means the three-month period ending on March*
2 *31, June 30, September 30, or December 31.”.*

3 **(b) CONFORMING AMENDMENT.**—*Section 5061(d)(6),*
4 *as redesignated by subsection (a), is amended by striking*
5 *“paragraph (4)” and inserting “paragraph (5)”.*

6 **(c) EFFECTIVE DATE.**—*The amendments made by this*
7 *section shall apply with respect to quarterly periods begin-*
8 *ning on and after January 1, 2006.*

9 **PART V—SPORT EXCISE TAXES**

10 **SEC. 5241. CUSTOM GUNSMITHS.**

11 **(a) SMALL MANUFACTURERS EXEMPT FROM FIRE-**
12 **ARMS EXCISE TAX.**—*Section 4182 (relating to exemptions)*
13 *is amended by redesignating subsection (c) as subsection (d)*
14 *and by inserting after subsection (b) the following new sub-*
15 *section:*

16 **“(c) SMALL MANUFACTURERS, ETC.—**

17 **“(1) IN GENERAL.**—*The tax imposed by section*
18 *4181 shall not apply to any pistol, revolver, or fire-*
19 *arm described in such section if manufactured, pro-*
20 *duced, or imported by a person who manufactures,*
21 *produces, and imports less than an aggregate of 50 of*
22 *such articles during the calendar year.*

23 **“(2) CONTROLLED GROUPS.**—*All persons treated*
24 *as a single employer for purposes of subsection (a) or*

1 **(b)** of section 52 shall be treated as one person for
 2 purposes of paragraph (1).”.

3 **(b) EFFECTIVE DATE.**—

4 **(1) IN GENERAL.**—The amendments made by
 5 this section shall apply to articles sold by the manu-
 6 facturer, producer, or importer after September 30,
 7 2005.

8 **(2) NO INFERENCE.**—Nothing in the amend-
 9 ments made by this section shall be construed to cre-
 10 ate any inference with respect to the proper tax treat-
 11 ment of any sales before the effective date of such
 12 amendments.

13 **Subtitle C—Miscellaneous**
 14 **Provisions**

15 **SEC. 5301. MOTOR FUEL TAX ENFORCEMENT ADVISORY**
 16 **COMMISSION.**

17 **(a) ESTABLISHMENT.**—There is established a Motor
 18 Fuel Tax Enforcement Advisory Commission (in this sec-
 19 tion referred to as the “Commission”).

20 **(b) FUNCTION.**—The Commission shall—

21 **(1)** review motor fuel revenue collections, histor-
 22 ical and current;

23 **(2)** review the progress of investigations;

24 **(3)** develop and review legislative proposals with
 25 respect to motor fuel taxes;

1 (4) *monitor the progress of administrative regu-*
2 *lation projects relating to motor fuel taxes;*

3 (5) *review the results of Federal and State agen-*
4 *cy cooperative efforts regarding motor fuel taxes;*

5 (6) *review the results of Federal interagency co-*
6 *operative efforts regarding motor fuel taxes; and*

7 (7) *evaluate and make recommendations to the*
8 *President and Congress regarding—*

9 (A) *the effectiveness of existing Federal en-*
10 *forcement programs regarding motor fuel taxes,*

11 (B) *enforcement personnel allocation, and*

12 (C) *proposals for regulatory projects, legis-*
13 *lation, and funding.*

14 (c) *MEMBERSHIP.—*

15 (1) *APPOINTMENT.—The Commission shall be*
16 *composed of the following representatives appointed*
17 *by the Chairmen and the Ranking Members of the*
18 *Committee on Finance of the Senate and the Com-*
19 *mittee on Ways and Means of the House of Represent-*
20 *atives:*

21 (A) *At least 1 representative from each of*
22 *the following Federal entities: the Department of*
23 *Homeland Security, the Department of Trans-*
24 *portation—Office of Inspector General, the Fed-*

1 *eral Highway Administration, the Department*
2 *of Defense, and the Department of Justice.*

3 *(B) At least 1 representative from the Fed-*
4 *eration of State Tax Administrators.*

5 *(C) At least 1 representative from any State*
6 *department of transportation.*

7 *(D) 2 representatives from the highway con-*
8 *struction industry.*

9 *(E) 6 representatives from industries relat-*
10 *ing to fuel distribution — refiners (2 representa-*
11 *tives), distributors (1 representative), pipelines*
12 *(1 representative), and terminal operators (2*
13 *representatives).*

14 *(F) 1 representative from the retail fuel in-*
15 *dustry.*

16 *(G) 2 representatives from the staff of the*
17 *Committee on Finance of the Senate and 2 rep-*
18 *resentatives from the staff of the Committee on*
19 *Ways and Means of the House of Representa-*
20 *tives.*

21 *(2) TERMS.—Members shall be appointed for the*
22 *life of the Commission.*

23 *(3) VACANCIES.—A vacancy in the Commission*
24 *shall be filled in the manner in which the original*
25 *appointment was made.*

1 (4) *TRAVEL EXPENSES.*—*Members shall serve*
2 *without pay but shall receive travel expenses, includ-*
3 *ing per diem in lieu of subsistence, in accordance*
4 *with sections 5702 and 5703 of title 5, United States*
5 *Code.*

6 (5) *CHAIRMAN.*—*The Chairman of the Commis-*
7 *sion shall be elected by the members.*

8 (d) *FUNDING.*—*Such sums as are necessary shall be*
9 *available from the Highway Trust fund for the expenses of*
10 *the Commission.*

11 (e) *CONSULTATION.*—*Upon request of the Commission,*
12 *representatives of the Department of the Treasury and the*
13 *Internal Revenue Service shall be available for consultation*
14 *to assist the Commission in carrying out its duties under*
15 *this section.*

16 (f) *OBTAINING DATA.*—*The Commission may secure*
17 *directly from any department or agency of the United*
18 *States, information (other than information required by*
19 *any law to be kept confidential by such department or agen-*
20 *cy) necessary for the Commission to carry out its duties*
21 *under this section. Upon request of the Commission, the*
22 *head of that department or agency shall furnish such non-*
23 *confidential information to the Commission. The Commis-*
24 *sion shall also gather evidence through such means as it*
25 *may deem appropriate, including through holding hearings*

1 *and soliciting comments by means of Federal Register no-*
2 *tices.*

3 (g) *TERMINATION.*—*The Commission shall terminate*
4 *as of the close of September 30, 2009.*

5 **SEC. 5302. NATIONAL SURFACE TRANSPORTATION INFRA-**
6 **STRUCTURE FINANCING COMMISSION.**

7 (a) *ESTABLISHMENT.*—*There is established a National*
8 *Surface Transportation Infrastructure Financing Commis-*
9 *sion (in this section referred to as the “Commission”). The*
10 *Commission shall hold its first meeting within 90 days of*
11 *the appointment of the eighth individual to be named to*
12 *the Commission.*

13 (b) *FUNCTION.*—

14 (1) *IN GENERAL.*—*The Commission shall, with*
15 *respect to the period beginning on the date of the en-*
16 *actment of this Act and ending before 2016—*

17 (A) *make a thorough investigation and*
18 *study of revenues flowing into the Highway*
19 *Trust Fund under current law, including the in-*
20 *dividual components of the overall flow of such*
21 *revenues;*

22 (B) *consider whether the amount of such*
23 *revenues is likely to increase, decline, or remain*
24 *unchanged, absent changes in the law, particu-*
25 *larly by taking into account the impact of pos-*

1 *sible changes in public vehicular choice, fuel use,*
2 *or travel alternatives that could be expected to*
3 *reduce or increase revenues into the Highway*
4 *Trust Fund;*

5 *(C) consider alternative approaches to gen-*
6 *erating revenues for the Highway Trust Fund,*
7 *and the level of revenues that such alternatives*
8 *would yield;*

9 *(D) consider highway and transit needs and*
10 *whether additional revenues into the Highway*
11 *Trust Fund, or other Federal revenues dedicated*
12 *to highway and transit infrastructure, would be*
13 *required in order to meet such needs; and*

14 *(E) study such other matters closely related*
15 *to the subjects described in the preceding sub-*
16 *paragraphs as it may deem appropriate.*

17 *(2) PREPARATION OF REPORT.—Based on such*
18 *investigation and study, the Commission shall develop*
19 *a final report, with recommendations and the bases*
20 *for those recommendations, indicating policies that*
21 *should be adopted, or not adopted, to achieve various*
22 *levels of annual revenue for the Highway Trust Fund*
23 *and to enable the Highway Trust Fund to receive rev-*
24 *enues sufficient to meet highway and transit needs.*

1 *Such recommendations shall address, among other*
2 *matters as the Commission may deem appropriate—*

3 *(A) what levels of revenue are required by*
4 *the Federal Highway Trust Fund in order for it*
5 *to meet needs to maintain and improve the con-*
6 *dition and performance of the Nation's highway*
7 *and transit systems;*

8 *(B) what levels of revenue are required by*
9 *the Federal Highway Trust Fund in order to en-*
10 *sure that Federal levels of investment in high-*
11 *ways and transit do not decline in real terms;*
12 *and*

13 *(C) the extent, if any, to which the High-*
14 *way Trust Fund should be augmented by other*
15 *mechanisms or funds as a Federal means of fi-*
16 *ancing highway and transit infrastructure in-*
17 *vestments.*

18 *(c) MEMBERSHIP.—*

19 *(1) APPOINTMENT.—The Commission shall be*
20 *composed of 15 members, appointed as follows:*

21 *(A) 7 members appointed by the Secretary*
22 *of Transportation, in consultation with the Sec-*
23 *retary of the Treasury.*

1 (B) 2 members appointed by the Chairman
2 of the Committee on Ways and Means of the
3 House of Representatives.

4 (C) 2 members appointed by the Ranking
5 Minority Member of the Committee on Ways and
6 Means of the House of Representatives.

7 (D) 2 members appointed by the Chairman
8 of the Committee on Finance of the Senate.

9 (E) 2 members appointed by the Ranking
10 Minority Member of the Committee on Finance
11 of the Senate.

12 (2) QUALIFICATIONS.—Members appointed pur-
13 suant to paragraph (1) shall be appointed from
14 among individuals knowledgeable in the fields of pub-
15 lic transportation finance or highway and transit
16 programs, policy, and needs, and may include rep-
17 resentatives of interested parties, such as State and
18 local governments or other public transportation au-
19 thorities or agencies, representatives of the transpor-
20 tation construction industry (including suppliers of
21 technology, machinery and materials), transportation
22 labor (including construction and providers), trans-
23 portation providers, the financial community, and
24 users of highway and transit systems.

1 (3) *TERMS.*—*Members shall be appointed for the*
2 *life of the Commission.*

3 (4) *VACANCIES.*—*A vacancy in the Commission*
4 *shall be filled in the manner in which the original*
5 *appointment was made.*

6 (5) *TRAVEL EXPENSES.*—*Members shall serve*
7 *without pay but shall receive travel expenses, includ-*
8 *ing per diem in lieu of subsistence, in accordance*
9 *with sections 5702 and 5703 of title 5, United States*
10 *Code.*

11 (6) *CHAIRMAN.*—*The Chairman of the Commis-*
12 *sion shall be elected by the members.*

13 (d) *STAFF.*—*The Commission may appoint and fix the*
14 *pay of such personnel as it considers appropriate.*

15 (e) *FUNDING.*—*Funding for the Commission shall be*
16 *provided by the Secretary of the Treasury and by the Sec-*
17 *retary of Transportation, out of funds available to those*
18 *agencies for administrative and policy functions.*

19 (f) *STAFF OF FEDERAL AGENCIES.*—*Upon request of*
20 *the Commission, the head of any department or agency of*
21 *the United States may detail any of the personnel of that*
22 *department or agency to the Commission to assist in car-*
23 *rying out its duties under this section.*

24 (g) *OBTAINING DATA.*—*The Commission may secure*
25 *directly from any department or agency of the United*

1 *States, information (other than information required by*
2 *any law to be kept confidential by such department or agen-*
3 *cy) necessary for the Commission to carry out its duties*
4 *under this section. Upon request of the Commission, the*
5 *head of that department or agency shall furnish such non-*
6 *confidential information to the Commission. The Commis-*
7 *sion shall also gather evidence through such means as it*
8 *may deem appropriate, including through holding hearings*
9 *and soliciting comments by means of Federal Register no-*
10 *tices.*

11 *(h) REPORT.—Not later than 2 years after the date*
12 *of its first meeting, the Commission shall transmit its final*
13 *report, including recommendations, to the Secretary of*
14 *Transportation, the Secretary of the Treasury, and the*
15 *Committee on Ways and Means of the House of Representa-*
16 *tives, the Committee on Finance of the Senate, the Com-*
17 *mittee on Transportation and Infrastructure of the House*
18 *of Representatives, the Committee on Environment and*
19 *Public Works of the Senate, and the Committee on Banking,*
20 *Housing, and Urban Affairs of the Senate.*

21 *(i) TERMINATION.—The Commission shall terminate*
22 *on the 180th day following the date of transmittal of the*
23 *report under subsection (h). All records and papers of the*
24 *Commission shall thereupon be delivered to the Adminis-*

1 *trator of General Services for deposit in the National Ar-*
2 *chives.*

3 **SEC. 5303. EXPANSION OF HIGHWAY TRUST FUND EXPENDI-**
4 **TURE PURPOSES TO INCLUDE FUNDING FOR**
5 **STUDIES OF SUPPLEMENTAL OR ALTER-**
6 **NATIVE FINANCING FOR THE HIGHWAY**
7 **TRUST FUND.**

8 (a) *IN GENERAL.*—*From amounts available in the*
9 *Highway Trust Fund, there is authorized to be expended*
10 *for 2 comprehensive studies of supplemental or alternative*
11 *funding sources for the Highway Trust Fund—*

12 (1) *\$1,000,000 to the Western Transportation In-*
13 *stitute of the College of Engineering at Montana State*
14 *University for the study and report described in sub-*
15 *section (b), and*

16 (2) *\$16,500,000 to the Public Policy Center of*
17 *the University of Iowa for the study and report de-*
18 *scribed in subsection (c).*

19 (b) *STUDY OF FUNDING MECHANISMS.*—*Not later than*
20 *December 31, 2006, the Western Transportation Institute*
21 *of the College of Engineering at Montana State University*
22 *shall report to the Secretary of the Treasury and the Sec-*
23 *retary of Transportation on a study of highway funding*
24 *mechanisms of other industrialized nations, an examina-*
25 *tion of the viability of alternative funding proposals, in-*

1 *cluding congestion pricing, greater reliance on tolls, privat-*
2 *ization of facilities, and bonding for construction of added*
3 *capacity, and an examination of increasing the rates of*
4 *motor fuels taxes in effect on the date of the enactment of*
5 *this Act, including the indexation of such rates.*

6 (c) *STUDY ON FIELD TEST OF ONBOARD COMPUTER*
7 *ASSESSMENT OF HIGHWAY USE TAXES.*—*Not later than*
8 *December 31, 2011, the Public Policy Center of the Univer-*
9 *sity of Iowa shall direct, analyze, and report to the Sec-*
10 *retary of the Treasury and the Secretary of Transportation*
11 *on a long-term field test of an approach to assessing high-*
12 *way use taxes based upon actual mileage driven by a spe-*
13 *cific vehicle on specific types of highways by use of an on-*
14 *board computer—*

15 (1) *which is linked to satellites to calculate high-*
16 *way mileage traversed,*

17 (2) *which computes the appropriate highway use*
18 *tax for each of the Federal, State, and local govern-*
19 *ments as the vehicle makes use of the highways, and*

20 (3) *the data from which is periodically*
21 *downloaded by the vehicle owner to a collection center*
22 *for an assessment of highway use taxes due in each*
23 *jurisdiction traversed. The components of the field test*
24 *shall include 2 years for preparation, including selec-*

1 *tion of vendors and test participants, and 3-year test-*
2 *ing period.*

3 **SEC. 5304. DELTA REGIONAL TRANSPORTATION PLAN.**

4 *(a) STUDY.—The Delta Regional Authority shall con-*
5 *duct a study of the transportation assets and needs in the*
6 *States of Alabama, Arkansas, Illinois, Kentucky, Lou-*
7 *isiana, Mississippi, Missouri, and Tennessee which com-*
8 *prise the Delta region.*

9 *(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—*
10 *Upon completion of the study required under subsection (a),*
11 *the Delta Regional Authority shall establish a regional stra-*
12 *tegic transportation plan to achieve efficient transportation*
13 *systems in the Delta region. In developing the regional stra-*
14 *tegic transportation plan, the Delta Regional Authority*
15 *shall consult with local planning and development districts,*
16 *local and regional governments, metropolitan planning or-*
17 *ganizations, State transportation entities, and Federal*
18 *transportation agencies.*

19 *(c) ELEMENTS OF STUDY AND PLAN.—The study and*
20 *plan under this section shall include the following transpor-*
21 *tation modes and systems: transit, rail, highway, interstate,*
22 *bridges, air, airports, waterways, and ports.*

23 *(d) AUTHORIZATION OF APPROPRIATIONS.—There is*
24 *authorized to be appropriated to the Delta Regional Author-*
25 *ity \$500,000 for each of the fiscal years 2005 and 2006 to*

1 *carry out the purposes of this section, to remain available*
2 *until expended.*

3 **SEC. 5305. BUILD AMERICA CORPORATION.**

4 (a) *ESTABLISHMENT OF BUILD AMERICA CORPORA-*
5 *TION.—There is established a nonprofit corporation, to be*
6 *known as the “Build America Corporation”. The Build*
7 *America Corporation is not an agency or establishment of*
8 *the United States Government. The purpose of the Corpora-*
9 *tion is to issue Build America bonds. The Corporation shall*
10 *be subject, to the extent consistent with this section, to the*
11 *laws of the State of Delaware applicable to corporations not*
12 *for profit.*

13 (b) *USE OF BUILD AMERICA BOND PROCEEDS.—The*
14 *proceeds from the sale of any Build America bonds issued*
15 *by the Build America Corporation as authorized by sub-*
16 *section (a) may be used to fund any qualified project.*

17 (c) *QUALIFIED PROJECTS.—For purposes of this*
18 *section—*

19 (1) *IN GENERAL.—With respect to any Build*
20 *America bonds issued by the Build America Corpora-*
21 *tion as authorized by subsection (a), the term “quali-*
22 *fied project” means any—*

23 (A) *qualified highway project,*

24 (B) *qualified public transportation project,*

25 *and*

1 (C) congestion relief project,
2 proposed by 1 or more States and approved by the
3 Build America Corporation, which meets the require-
4 ments under subparagraphs (A), (B), and (C) of
5 paragraph (5).

6 (2) *QUALIFIED HIGHWAY PROJECT*.—The term
7 “qualified highway project” means a project for high-
8 way facilities or other facilities which are eligible for
9 assistance under title 23, United States Code.

10 (3) *QUALIFIED PUBLIC TRANSPORTATION*
11 *PROJECT*.—The term “qualified public transportation
12 project” means a project for public transportation fa-
13 cilities or other facilities which are eligible for assist-
14 ance under title 49, United States Code.

15 (4) *CONGESTION RELIEF PROJECT*.—The term
16 “congestion relief project” means an intermodal
17 freight transfer facility, freight rail facility, freight
18 movement corridor, intercity passenger rail facility,
19 intercity bus facility, border crossing facility, or other
20 public or private facility approved as a congestion re-
21 lief project by the Secretary of Transportation. In
22 making such approvals, the Secretary of Transpor-
23 tation shall—

1 (A) consider the economic, environmental,
2 mobility, and national security improvements to
3 be realized through the project, and

4 (B) give preference to projects with national
5 or regional significance, including any projects
6 sponsored by a coalition of States or a combina-
7 tion of States and private sector entities, in
8 terms of generating economic benefits, supporting
9 international commerce, or otherwise enhancing
10 the national transportation system.

11 (5) *ADDITIONAL REQUIREMENTS FOR QUALIFIED*
12 *PROJECTS.—For purposes of paragraph (1)—*

13 (A) *COSTS OF QUALIFIED PROJECTS.—The*
14 *requirement of this subparagraph is met if the*
15 *costs of the qualified project funded by Build*
16 *America bonds only relate to capital investments*
17 *and do not include any costs relating to oper-*
18 *ations, maintenance, or rolling stock.*

19 (B) *APPLICABILITY OF FEDERAL LAW.—The*
20 *requirement of this subparagraph is met if the*
21 *requirements of any Federal law, including titles*
22 *23, 40, and 49 of the United States Code, which*
23 *would otherwise apply to projects to which the*
24 *United States is a party or to funds made avail-*

1 able under such law and projects assisted with
2 those funds are applied to—

3 (i) funds made available under Build
4 America bonds for similar qualified
5 projects, and

6 (ii) similar qualified projects assisted
7 by the Build America Corporation through
8 the use of such funds.

9 (C) UTILIZATION OF UPDATED CONSTRU-
10 TION TECHNOLOGY FOR QUALIFIED PROJECTS.—
11 The requirement of this subparagraph is met if
12 the appropriate State agency relating to the
13 qualified project has updated its accepted con-
14 struction technologies to match a list prescribed
15 by the Secretary of Transportation and in effect
16 on the date of the approval of the project as a
17 qualified project.

18 **SEC. 5306. INCREASE IN DOLLAR LIMITATION FOR QUALI-**
19 **FIED TRANSPORTATION FRINGE BENEFITS.**

20 (a) IN GENERAL.—Section 132(f)(2) (relating to limi-
21 tation on exclusion) is amended—

22 (1) by striking “\$100” in subparagraph (A) and
23 inserting “\$155 (in the case of any calendar year
24 after 2009, the dollar amount specified in subpara-
25 graph (B) for such year)”, and

1 (2) by striking “\$175” in subparagraph (B) and
2 inserting “\$200”.

3 (b) *INFLATION ADJUSTMENT CONFORMING AMEND-*
4 *MENTS.*—Subparagraph (A) of section 132(f)(6) (relating to
5 *inflation adjustment*) is amended—

6 (1) by striking the last sentence,

7 (2) by striking “1999” and inserting “2008”,
8 and

9 (3) by striking “1998” and inserting “2007”.

10 (c) *EFFECTIVE DATE.*—The amendments made by this
11 *section shall apply to taxable years beginning after Decem-*
12 *ber 31, 2005.*

13 **SEC. 5307. TREASURY STUDY OF HIGHWAY FUELS USED BY**
14 **TRUCKS FOR NON-TRANSPORTATION PUR-**
15 **POSES.**

16 (a) *STUDY.*—The Secretary of the Treasury shall con-
17 *duct a study regarding the use of highway motor fuel by*
18 *trucks that is not used for the propulsion of the vehicle. As*
19 *part of such study—*

20 (1) *in the case of vehicles carrying equipment*
21 *that is unrelated to the transportation function of the*
22 *vehicle—*

23 (A) *the Secretary of the Treasury, in con-*
24 *sultation with the Secretary of Transportation,*
25 *and with public notice and comment, shall deter-*

1 *mine the average annual amount of tax paid fuel*
2 *consumed per vehicle, by type of vehicle, used by*
3 *the propulsion engine to provide the power to op-*
4 *erate the equipment attached to the highway ve-*
5 *hicle, and*

6 *(B) the Secretary of the Treasury shall re-*
7 *view the technical and administrative feasibility*
8 *of exempting such nonpropulsive use of highway*
9 *fuels for the highway motor fuels excise taxes,*
10 *shall propose options for implementing exemp-*
11 *tions for classes of vehicles whose nonpropulsive*
12 *fuel use exceeds 50 percent,*

13 *(2) in the case where non-transportation equip-*
14 *ment is run by a separate motor—*

15 *(A) the Secretary of the Treasury shall de-*
16 *termine the annual average amount of fuel ex-*
17 *empted from tax in the use of such equipment by*
18 *equipment type, and*

19 *(B) the Secretary of the Treasury shall re-*
20 *view issues of administration and compliance re-*
21 *lated to the present-law exemption provided for*
22 *such fuel use, and*

23 *(3) the Secretary of the Treasury shall—*

24 *(A) estimate the amount of taxable fuel con-*
25 *sumed by trucks and the emissions of various*

1 *pollutants due to the long-term idling of diesel*
2 *engines, and*

3 *(B) determine the cost of reducing such*
4 *long-term idling through the use of plug-ins at*
5 *truck stops, auxiliary power units, or other tech-*
6 *nologies.*

7 *(b) REPORT.—Not later than January 1, 2007, the*
8 *Secretary of the Treasury shall report the findings of the*
9 *study required under subsection (a) to the Committee on*
10 *Finance of the Senate and the Committee on Ways and*
11 *Means of the House of Representatives, except that the Sec-*
12 *retary shall report and take action under subsection (a)(1)*
13 *not later than July 1, 2006.*

14 **SEC. 5308. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS**
15 **AND RAIL-TRUCK TRANSFER FACILITIES.**

16 *(a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-*
17 *section (a) of section 142 (relating to exempt facility bond)*
18 *is amended by striking “or” at the end of paragraph (13),*
19 *by striking the period at the end of paragraph (14), and*
20 *by adding at the end the following:*

21 *“(15) qualified highway facilities, or*

22 *“(16) qualified surface freight transfer facili-*
23 *ties.”.*

1 (b) *QUALIFIED HIGHWAY FACILITIES AND QUALIFIED*
2 *SURFACE FREIGHT TRANSFER FACILITIES.*—Section 142 is
3 amended by adding at the end the following:

4 “(m) *QUALIFIED HIGHWAY AND SURFACE FREIGHT*
5 *TRANSFER FACILITIES.*—

6 “(1) *QUALIFIED HIGHWAY FACILITIES.*—For
7 purposes of subsection (a)(15), the term ‘qualified
8 highway facilities’ means—

9 “(A) any surface transportation project
10 which receives Federal assistance under title 23,
11 United States Code (as in effect on the date of
12 the enactment of this subsection), or

13 “(B) any project for an international bridge
14 or tunnel for which an international entity au-
15 thorized under Federal or State law is respon-
16 sible and which receives Federal assistance under
17 such title 23.

18 “(2) *QUALIFIED SURFACE FREIGHT TRANSFER*
19 *FACILITIES.*—For purposes of subsection (a)(16), the
20 term ‘qualified surface freight transfer facilities’
21 means facilities for the transfer of freight from truck
22 to rail or rail to truck (including any temporary
23 storage facilities directly related to such transfers)
24 which receives Federal assistance under either title 23

1 or title 49, United States Code (as in effect on the
2 date of the enactment of this subsection).

3 “(3) NATIONAL LIMITATION ON AMOUNT OF TAX-
4 EXEMPT FINANCING FOR FACILITIES.—

5 “(A) NATIONAL LIMITATION.—There is a
6 national highway and surface freight transfer fa-
7 cilities bond limitation for each calendar year.
8 Such limitation is \$130,000,000 for 2005,
9 \$750,000,000 for 2006, 2007, 2008, and 2009,
10 \$1,870,000,000 for 2010, \$2,000,000,000 for
11 2011, 2012, 2013, 2014, and 2015, and zero
12 thereafter.

13 “(B) ENFORCEMENT OF NATIONAL LIMITA-
14 TION.—An issue shall not be treated as an issue
15 described in subsection (a)(15) or (a)(16) if the
16 aggregate face amount of bonds issued pursuant
17 to such issue for any calendar year (when added
18 to the aggregate face amount of bonds previously
19 issued as part of issues described in subsections
20 (a)(15) and (a)(16) for such calendar year) ex-
21 ceeds the national highway and surface freight
22 transfer facilities bond limitation for such cal-
23 endar year.

24 “(C) ALLOCATION BY SECRETARY OF TRANS-
25 PORTATION.—The Secretary of Transportation

1 shall allocate the amount described in subpara-
2 graph (A) among projects for qualified highway
3 facilities and qualified surface freight transfer
4 facilities in such manner as the Secretary deter-
5 mines appropriate.

6 “(4) *EXPENDITURE OF PROCEEDS.*—An issue
7 shall not be treated as an issue described in subsection
8 (a)(15) or (a)(16) unless at least 95 percent of the net
9 proceeds of the issue is expended for projects described
10 in paragraph (3)(C) within the 5-year period begin-
11 ning on the date of issuance. If at least 95 percent of
12 such net proceeds is not expended with such 5-year
13 period, an issue shall be treated as continuing to meet
14 the requirements of this paragraph if the issuer uses
15 all unspent proceeds of the issue to redeem bonds of
16 the issue within 90 days after the end of such 5-year
17 period. The Secretary, at the request of the issuer,
18 may extend such 5-year period if the issuer establishes
19 that any failure to meet such period is due to cir-
20 cumstances beyond the control of the issuer.”.

21 (c) *EXEMPTION FROM GENERAL STATE VOLUME*
22 *CAPS.*—Paragraph (3) of section 146(g) of the Internal
23 Revenue Code of 1986 (relating to exception for certain
24 bonds) is amended by striking “or (14)” and all that follows

1 *through the end of the paragraph and inserting “(14), (15),*
2 *or (16) of section 142(a), and”.*

3 *(d) EFFECTIVE DATE.—The amendments made by this*
4 *section apply to bonds issued after the date of the enactment*
5 *of this Act.*

6 **SEC. 5309. TAX TREATMENT OF STATE OWNERSHIP OF RAIL-**
7 **ROAD REAL ESTATE INVESTMENT TRUST.**

8 *(a) IN GENERAL.—If a State owns all of the out-*
9 *standing stock of a corporation—*

10 *(1) which is a real estate investment trust on the*
11 *date of the enactment of this Act,*

12 *(2) which is a non-operating class III railroad,*
13 *and*

14 *(3) substantially all of the activities of which*
15 *consist of the ownership, leasing, and operation by*
16 *such corporation of facilities, equipment, and other*
17 *property used by the corporation or other persons for*
18 *railroad transportation and for economic development*
19 *purposes for the benefit of the State and its citizens,*
20 *then, to the extent such activities are of a type which are*
21 *an essential governmental function within the meaning of*
22 *section 115 of the Internal Revenue Code of 1986, income*
23 *derived from such activities by the corporation shall be*
24 *treated as accruing to the State for purposes of section 115*
25 *of such Code.*

1 (b) *GAIN OR LOSS NOT RECOGNIZED ON CONVER-*
2 *SION.*—*Notwithstanding section 337(d) of the Internal Rev-*
3 *enue Code of 1986—*

4 (1) *no gain or loss shall be recognized under sec-*
5 *tion 336 or 337 of such Code, and*

6 (2) *no change in basis of the property of such*
7 *corporation shall occur,*

8 *because of any change of status of a corporation to a tax-*
9 *exempt entity by reason of the application of subsection (a).*

10 (c) *TAX-EXEMPT FINANCING.*—

11 (1) *IN GENERAL.*—*Any obligation issued by a*
12 *corporation described in subsection (a) at least 95*
13 *percent of the net proceeds (as defined in section*
14 *150(a) of the Internal Revenue Code of 1986) of which*
15 *are to be used to provide for the acquisition, construc-*
16 *tion, or improvement of railroad transportation in-*
17 *frastructure (including railroad terminal facilities)—*

18 (A) *shall be treated as a State or local bond*
19 *(within the meaning of section 103(c) of such*
20 *Code), and*

21 (B) *shall not be treated as a private activ-*
22 *ity bond (within the meaning of section*
23 *103(b)(1) of such Code) solely by reason of the*
24 *ownership or use of such railroad transportation*
25 *infrastructure by the corporation.*

1 (2) *NO INFERENCE.*—*Except as provided in*
2 *paragraph (1), nothing in this subsection shall be*
3 *construed to affect the treatment of the private use of*
4 *proceeds or property financed with obligations issued*
5 *by the corporation for purposes of section 103 of the*
6 *Internal Revenue Code of 1986 and part IV of sub-*
7 *chapter B of such Code.*

8 (d) *DEFINITIONS.*—*For purposes of this section:*

9 (1) *REAL ESTATE INVESTMENT TRUST.*—*The*
10 *term “real estate investment trust” has the meaning*
11 *given such term by section 856(a) of the Internal Rev-*
12 *enue Code of 1986.*

13 (2) *NON-OPERATING CLASS III RAILROAD.*—*The*
14 *term “non-operating class III railroad” has the*
15 *meaning given such term by part A of subtitle IV of*
16 *title 49, United States Code (49 U.S.C. 10101 et seq.),*
17 *and the regulations thereunder.*

18 (3) *STATE.*—*The term “State” includes—*

19 (A) *the District of Columbia and any pos-*
20 *session of the United States, and*

21 (B) *any authority, agency, or public cor-*
22 *poration of a State.*

23 (e) *APPLICABILITY.*—

24 (1) *IN GENERAL.*—*Except as provided in para-*
25 *graph (2), this section shall apply on and after the*

1 *date on which a State becomes the owner of all of the*
 2 *outstanding stock of a corporation described in sub-*
 3 *section (a) through action of such corporation’s board*
 4 *of directors.*

5 (2) *EXCEPTION.—This section shall not apply to*
 6 *any State which—*

7 (A) *becomes the owner of all of the voting*
 8 *stock of a corporation described in subsection (a)*
 9 *after December 31, 2003, or*

10 (B) *becomes the owner of all of the out-*
 11 *standing stock of a corporation described in sub-*
 12 *section (a) after December 31, 2006.*

13 **SEC. 5310. INCENTIVES FOR THE INSTALLATION OF ALTER-**
 14 **NATIVE FUEL REFUELING STATIONS.**

15 (a) *IN GENERAL.—Subpart B of part IV of subchapter*
 16 *A of chapter 1 (relating to foreign tax credit, etc.) is amend-*
 17 *ed by adding at the end the following new section:*

18 **“SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
 19 **ERTY CREDIT.**

20 “(a) *CREDIT ALLOWED.—There shall be allowed as a*
 21 *credit against the tax imposed by this chapter for the tax-*
 22 *able year an amount equal to 50 percent of the cost of any*
 23 *qualified alternative fuel vehicle refueling property placed*
 24 *in service by the taxpayer during the taxable year.*

1 “(b) *LIMITATION.*—*The credit allowed under sub-*
2 *section (a) with respect to any alternative fuel vehicle re-*
3 *fueling property shall not exceed—*

4 “(1) *\$30,000 in the case of a property of a char-*
5 *acter subject to an allowance for depreciation, and*

6 “(2) *\$1,000 in any other case.*

7 “(c) *QUALIFIED ALTERNATIVE FUEL VEHICLE RE-*
8 *FUELING PROPERTY.*—

9 “(1) *IN GENERAL.*—*Except as provided in para-*
10 *graph (2), the term ‘qualified alternative fuel vehicle*
11 *refueling property’ has the meaning given to such*
12 *term by section 179A(d), but only with respect to any*
13 *fuel at least 85 percent of the volume of which consists*
14 *of ethanol, natural gas, compressed natural gas, lique-*
15 *fied natural gas, and hydrogen.*

16 “(2) *RESIDENTIAL PROPERTY.*—*In the case of*
17 *any property installed on property which is used as*
18 *the principal residence (within the meaning of section*
19 *121) of the taxpayer, paragraph (1) of section*
20 *179A(d) shall not apply.*

21 “(d) *APPLICATION WITH OTHER CREDITS.*—*The cred-*
22 *it allowed under subsection (a) for any taxable year shall*
23 *not exceed the excess (if any) of—*

1 “(1) *the regular tax for the taxable year reduced*
2 *by the sum of the credits allowable under subpart A*
3 *and sections 27, 29, and 30, over*

4 “(2) *the tentative minimum tax for the taxable*
5 *year.*

6 “(e) *CARRYFORWARD ALLOWED.—*

7 “(1) *IN GENERAL.—If the credit amount allow-*
8 *able under subsection (a) for a taxable year exceeds*
9 *the amount of the limitation under subsection (d) for*
10 *such taxable year, such excess shall be allowed as a*
11 *credit carryforward for each of the 20 taxable years*
12 *following the unused credit year.*

13 “(2) *RULES.—Rules similar to the rules of sec-*
14 *tion 39 shall apply with respect to the credit*
15 *carryforward under paragraph (1).*

16 “(f) *SPECIAL RULES.—For purposes of this section—*

17 “(1) *BASIS REDUCTION.—The basis of any prop-*
18 *erty shall be reduced by the portion of the cost of such*
19 *property taken into account under subsection (a).*

20 “(2) *NO DOUBLE BENEFIT.—No deduction shall*
21 *be allowed under section 179A with respect to any*
22 *property with respect to which a credit is allowed*
23 *under subsection (a).*

24 “(3) *PROPERTY USED BY TAX-EXEMPT ENTITY.—*
25 *In the case of any qualified alternative fuel vehicle re-*

1 *fueling property the use of which is described in para-*
2 *graph (3) or (4) of section 50(b) and which is not*
3 *subject to a lease, the person who sold such property*
4 *to the person or entity using such property shall be*
5 *treated as the taxpayer that placed such property in*
6 *service, but only if such person clearly discloses to*
7 *such person or entity in a document the amount of*
8 *any credit allowable under subsection (a) with respect*
9 *to such property (determined without regard to sub-*
10 *section (d)).*

11 *“(4) PROPERTY USED OUTSIDE UNITED STATES,*
12 *ETC., NOT QUALIFIED.—No credit shall be allowable*
13 *under subsection (a) with respect to any property re-*
14 *ferred to in section 50(b)(1) or with respect to the*
15 *portion of the cost of any property taken into account*
16 *under section 179.*

17 *“(5) ELECTION NOT TO TAKE CREDIT.—No credit*
18 *shall be allowed under subsection (a) for any property*
19 *if the taxpayer elects not to have this section apply*
20 *to such property.*

21 *“(6) RECAPTURE RULES.—Rules similar to the*
22 *rules of section 179A(e)(4) shall apply.*

23 *“(g) REGULATIONS.—The Secretary shall prescribe*
24 *such regulations as necessary to carry out the provisions*
25 *of this section.*

1 “(h) *TERMINATION.*—*This section shall not apply to*
2 *any property placed in service after December 31, 2009.*”.

3 (b) *CONFORMING AMENDMENTS.*—

4 (1) *Section 1016(a) is amended by striking*
5 *“and” at the end of paragraph (30), by striking the*
6 *period at the end of paragraph (31) and inserting “,*
7 *and”, and by adding at the end the following new*
8 *paragraph:*

9 “(32) *to the extent provided in section*
10 *30B(f)(1).*”.

11 (2) *Section 55(c)(2) is amended by inserting*
12 *“30B(d),” after “30(b)(3),”.*

13 (3) *Section 6501(m) is amended by inserting*
14 *“30B(f)(5),” after “30(d)(4),”.*

15 (4) *The table of sections for subpart B of part IV*
16 *of subchapter A of chapter 1 is amended by inserting*
17 *after the item relating to section 30A the following*
18 *new item:*

“*Sec. 30B Alternative fuel vehicle refueling property credit.*”.

19 (c) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to property placed in service after the*
21 *date of the enactment of this Act, in taxable years ending*
22 *after such date.*

1 **SEC. 5311. MODIFICATION OF RECAPTURE RULES FOR AM-**
2 **ORTIZABLE SECTION 197 INTANGIBLES.**

3 (a) *IN GENERAL.*—Subsection (b) of section 1245 is
4 amended by adding at the end the following new paragraph:

5 “(9) *DISPOSITION OF AMORTIZABLE SECTION 197*
6 *INTANGIBLES.*—

7 “(A) *IN GENERAL.*—If a taxpayer disposes
8 of more than 1 amortizable section 197 intan-
9 gible (as defined in section 197(c)) in a trans-
10 action or a series of related transactions, all such
11 amortizable 197 intangibles shall be treated as 1
12 section 1245 property for purposes of this sec-
13 tion.

14 “(B) *EXCEPTION.*—Subparagraph (A) shall
15 not apply to any amortizable section 197 intan-
16 gible (as so defined) with respect to which the
17 adjusted basis exceeds the fair market value.”.

18 (b) *EFFECTIVE DATE.*—The amendment made by this
19 section shall apply to dispositions of property after the date
20 of the enactment of this Act.

21 **SEC. 5312. DIESEL FUEL TAX EVASION REPORT.**

22 Not later than 360 days after the date of the enactment
23 of this Act, the Commissioner of the Internal Revenue shall
24 report to the Committees on Finance and Environment and
25 Public Works of the Senate and the Committees on Ways
26 and Means and Transportation and Infrastructure of the

1 *House of Representatives on the availability of new tech-*
2 *nologies that can be employed to enhance collections of the*
3 *excise tax on diesel fuel and the plans of the Internal Rev-*
4 *enue Service to employ such technologies.*

5 ***Subtitle D—Fuels-related Technical***
6 ***Corrections***

7 ***SEC. 5401. FUELS-RELATED TECHNICAL CORRECTIONS.***

8 *(a) AMENDMENTS RELATED TO SECTION 301 OF THE*
9 *AMERICAN JOBS CREATION ACT OF 2004.—Section 6427 is*
10 *amended—*

11 *(1) by striking subsection (f), and*

12 *(2) by striking subsection (o) and redesignating*
13 *subsection (p) as subsection (o).*

14 *(b) AMENDMENTS RELATED TO SECTION 853 OF THE*
15 *AMERICAN JOBS CREATION ACT OF 2004.—*

16 *(1) Subparagraph (C) of section 4081(a)(2) is*
17 *amended by striking “for use in commercial avia-*
18 *tion” and inserting “for use in commercial aviation*
19 *by a person registered for such use under section*
20 *4101”.*

21 *(2) So much of paragraph (2) of section 4081(d)*
22 *as precedes subparagraph (A) is amended to read as*
23 *follows:*

1 “(2) *AVIATION FUELS.*—*The rates of tax speci-*
2 *fied in clauses (ii) and (iv) of subsection (a)(2)(A)*
3 *shall be 4.3 cents per gallon—*”.

4 (3) *Section 6421(f)(2) is amended—*

5 (A) *by striking “noncommercial aviation*
6 *(as defined in section 4041(c)(2))” in subpara-*
7 *graph (A) and inserting “aviation which is not*
8 *commercial aviation (as defined in section*
9 *4083(b))”, and*

10 (B) *by striking “aviation which is not non-*
11 *commercial aviation” in subparagraph (B) and*
12 *inserting “commercial aviation”.*

13 (c) *AMENDMENT RELATED TO SECTION 9005 OF THE*
14 *TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—*
15 *The last sentence of paragraph (2) of section 9504(b) is*
16 *amended by striking “subparagraph (B)”, and inserting*
17 *“subparagraph (C)”.*

18 (d) *EFFECTIVE DATES.—*

19 (1) *AMERICAN JOBS CREATION ACT OF 2004.—*
20 *The amendments made by subsections (a) and (b)*
21 *shall take effect as if included in the provisions of the*
22 *American Jobs Creation Act of 2004 to which they re-*
23 *late.*

24 (2) *TRANSPORTATION EQUITY ACT FOR THE 21ST*
25 *CENTURY.—The amendment made by subsection (c)*

1 shall take effect as if included in the provision of the
 2 Transportation Equity Act for the 21st Century to
 3 which it relates.

4 **Subtitle E—Revenue Offset**
 5 **Provisions**

6 **PART I—GENERAL PROVISIONS**

7 **SEC. 5501. TREATMENT OF CONTINGENT PAYMENT CON-**
 8 **VERTIBLE DEBT INSTRUMENTS.**

9 (a) *IN GENERAL.*—Section 1275(d) (relating to regula-
 10 tion authority) is amended—

11 (1) by striking “The Secretary” and inserting
 12 the following:

13 “(1) *IN GENERAL.*—The Secretary”, and

14 (2) by adding at the end the following new para-
 15 graph:

16 “(2) *TREATMENT OF CONTINGENT PAYMENT CON-*
 17 *VERTIBLE DEBT.*—

18 “(A) *IN GENERAL.*—In the case of a debt in-
 19 strument which—

20 “(i) is convertible into stock of the
 21 issuing corporation, into stock or debt of a
 22 related party (within the meaning of section
 23 267(b) or 707(b)(1)), or into cash or other
 24 property in an amount equal to the approx-
 25 imate value of such stock or debt, and

1 “(ii) provides for contingent payments,
2 any regulations which require original issue dis-
3 count to be determined by reference to the com-
4 parable yield of a noncontingent fixed-rate debt
5 instrument shall be applied as if the regulations
6 require that such comparable yield be determined
7 by reference to a noncontingent fixed-rate debt
8 instrument which is convertible into stock.

9 “(B) *SPECIAL RULE.*—For purposes of sub-
10 paragraph (A), the comparable yield shall be de-
11 termined without taking into account the yield
12 resulting from the conversion of a debt instru-
13 ment into stock.”.

14 (b) *CROSS REFERENCE.*—Section 163(e)(6) (relating
15 to cross references) is amended by adding at the end the
16 following:

17 “*For the treatment of contingent payment con-*
18 *vertible debt, see section 1275(d)(2).*”.

19 (c) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to debt instruments issued on or after
21 the date of the enactment of this Act.

22 **SEC. 5502. FRIVOLOUS TAX SUBMISSIONS.**

23 (a) *CIVIL PENALTIES.*—Section 6702 is amended to
24 read as follows:

1 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

2 “(a) *CIVIL PENALTY FOR FRIVOLOUS TAX RE-*
3 *TURNS.—A person shall pay a penalty of \$5,000 if—*

4 “(1) *such person files what purports to be a re-*
5 *turn of a tax imposed by this title but which—*

6 “(A) *does not contain information on which*
7 *the substantial correctness of the self-assessment*
8 *may be judged, or*

9 “(B) *contains information that on its face*
10 *indicates that the self-assessment is substantially*
11 *incorrect; and*

12 “(2) *the conduct referred to in paragraph (1)—*

13 “(A) *is based on a position which the Sec-*
14 *retary has identified as frivolous under sub-*
15 *section (c), or*

16 “(B) *reflects a desire to delay or impede the*
17 *administration of Federal tax laws.*

18 “(b) *CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUB-*
19 *MISSIONS.—*

20 “(1) *IMPOSITION OF PENALTY.—Except as pro-*
21 *vided in paragraph (3), any person who submits a*
22 *specified frivolous submission shall pay a penalty of*
23 *\$5,000.*

24 “(2) *SPECIFIED FRIVOLOUS SUBMISSION.—For*
25 *purposes of this section—*

1 “(A) *SPECIFIED FRIVOLOUS SUBMISSION.*—
2 *The term ‘specified frivolous submission’ means*
3 *a specified submission if any portion of such*
4 *submission—*

5 “(i) *is based on a position which the*
6 *Secretary has identified as frivolous under*
7 *subsection (c), or*

8 “(ii) *reflects a desire to delay or im-*
9 *pede the administration of Federal tax*
10 *laws.*

11 “(B) *SPECIFIED SUBMISSION.*—*The term*
12 *‘specified submission’ means—*

13 “(i) *a request for a hearing under—*

14 “(I) *section 6320 (relating to no-*
15 *tice and opportunity for hearing upon*
16 *filing of notice of lien), or*

17 “(II) *section 6330 (relating to no-*
18 *tice and opportunity for hearing before*
19 *levy), and*

20 “(ii) *an application under—*

21 “(I) *section 6159 (relating to*
22 *agreements for payment of tax liability*
23 *in installments),*

24 “(II) *section 7122 (relating to*
25 *compromises), or*

1 “(III) section 7811 (relating to
2 taxpayer assistance orders).

3 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
4 SION.—If the Secretary provides a person with notice
5 that a submission is a specified frivolous submission
6 and such person withdraws such submission within
7 30 days after such notice, the penalty imposed under
8 paragraph (1) shall not apply with respect to such
9 submission.

10 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
11 retary shall prescribe (and periodically revise) a list of posi-
12 tions which the Secretary has identified as being frivolous
13 for purposes of this subsection. The Secretary shall not in-
14 clude in such list any position that the Secretary deter-
15 mines meets the requirement of section
16 6662(d)(2)(B)(ii)(II).

17 “(d) REDUCTION OF PENALTY.—The Secretary may
18 reduce the amount of any penalty imposed under this sec-
19 tion if the Secretary determines that such reduction would
20 promote compliance with and administration of the Federal
21 tax laws.

22 “(e) PENALTIES IN ADDITION TO OTHER PEN-
23 ALTIES.—The penalties imposed by this section shall be in
24 addition to any other penalty provided by law.”.

1 **(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-**
 2 **INGS BEFORE LEVY.—**

3 **(1) FRIVOLOUS REQUESTS DISREGARDED.—***Sec-*
 4 *tion 6330 (relating to notice and opportunity for*
 5 *hearing before levy) is amended by adding at the end*
 6 *the following new subsection:*

7 **“(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—**
 8 *Notwithstanding any other provision of this section, if the*
 9 *Secretary determines that any portion of a request for a*
 10 *hearing under this section or section 6320 meets the require-*
 11 *ment of clause (i) or (ii) of section 6702(b)(2)(A), then the*
 12 *Secretary may treat such portion as if it were never sub-*
 13 *mitted and such portion shall not be subject to any further*
 14 *administrative or judicial review.”*

15 **(2) PRECLUSION FROM RAISING FRIVOLOUS**
 16 **ISSUES AT HEARING.—***Section 6330(c)(4) is*
 17 *amended—*

18 **(A) by striking “(A)” and inserting**
 19 **“(A)(i)”;**

20 **(B) by striking “(B)” and inserting “(i)”;**

21 **(C) by striking the period at the end of the**
 22 **first sentence and inserting “; or”;** and

23 **(D) by inserting after subparagraph (A)(ii)**
 24 **(as so redesignated) the following:**

1 “(B) the issue meets the requirement of
2 clause (i) or (ii) of section 6702(b)(2)(A).”.

3 (3) STATEMENT OF GROUNDS.—Section
4 6330(b)(1) is amended by striking “under subsection
5 (a)(3)(B)” and inserting “in writing under subsection
6 (a)(3)(B) and states the grounds for the requested
7 hearing”.

8 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-
9 INGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is
10 amended—

11 (1) in subsection (b)(1), by striking “under sub-
12 section (a)(3)(B)” and inserting “in writing under
13 subsection (a)(3)(B) and states the grounds for the re-
14 quested hearing”, and

15 (2) in subsection (c), by striking “and (e)” and
16 inserting “(e), and (g)”.

17 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
18 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
19 MENTS.—Section 7122 is amended by adding at the end
20 the following new subsection:

21 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
22 standing any other provision of this section, if the Secretary
23 determines that any portion of an application for an offer-
24 in-compromise or installment agreement submitted under
25 this section or section 6159 meets the requirement of clause

1 *(i) or (ii) of section 6702(b)(2)(A), then the Secretary may*
 2 *treat such portion as if it were never submitted and such*
 3 *portion shall not be subject to any further administrative*
 4 *or judicial review.”.*

5 *(e) CLERICAL AMENDMENT.—The table of sections for*
 6 *part I of subchapter B of chapter 68 is amended by striking*
 7 *the item relating to section 6702 and inserting the following*
 8 *new item:*

“Sec. 6702. Frivolous tax submissions.”.

9 *(f) EFFECTIVE DATE.—The amendments made by this*
 10 *section shall apply to submissions made and issues raised*
 11 *after the date on which the Secretary first prescribes a list*
 12 *under section 6702(c) of the Internal Revenue Code of 1986,*
 13 *as amended by subsection (a).*

14 **SEC. 5503. INCREASE IN CERTAIN CRIMINAL PENALTIES.**

15 *(a) IN GENERAL.—Section 7206 (relating to fraud and*
 16 *false statements) is amended—*

17 *(1) by striking “Any person who—” and insert-*
 18 *ing “(a) IN GENERAL.—Any person who—”, and*

19 *(2) by adding at the end the following new sub-*
 20 *section:*

21 *“(b) INCREASE IN MONETARY LIMITATION FOR UN-*
 22 *DERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—*

23 *If any portion of any underpayment (as defined in section*
 24 *6664(a)) or overpayment (as defined in section 6401(a)) of*
 25 *tax required to be shown on a return is attributable to*

1 *fraudulent action described in subsection (a), the applicable*
2 *dollar amount under subsection (a) shall in no event be less*
3 *than an amount equal to such portion. A rule similar to*
4 *the rule under section 6663(b) shall apply for purposes of*
5 *determining the portion so attributable.”.*

6 (b) *INCREASE IN PENALTIES.—*

7 (1) *ATTEMPT TO EVADE OR DEFEAT TAX.—Section*
8 *7201 is amended—*

9 (A) *by striking “\$100,000” and inserting*
10 *“\$500,000”,*

11 (B) *by striking “\$500,000” and inserting*
12 *“\$1,000,000”, and*

13 (C) *by striking “5 years” and inserting “10*
14 *years”.*

15 (2) *WILLFUL FAILURE TO FILE RETURN, SUPPLY*
16 *INFORMATION, OR PAY TAX.—Section 7203 is*
17 *amended—*

18 (A) *in the first sentence—*

19 (i) *by striking “Any person” and in-*
20 *serting the following:*

21 *“(a) IN GENERAL.—Any person”, and*

22 (ii) *by striking “\$25,000” and insert-*
23 *ing “\$50,000”,*

24 (B) *in the third sentence, by striking “sec-*
25 *tion” and inserting “subsection”, and*

1 (C) by adding at the end the following new
2 subsection:

3 “(b) *AGGRAVATED FAILURE TO FILE.*—

4 “(1) *IN GENERAL.*—In the case of any failure de-
5 scribed in paragraph (2), the first sentence of sub-
6 section (a) shall be applied by substituting—

7 “(A) ‘felony’ for ‘misdemeanor’,

8 “(B) ‘\$500,000 (\$1,000,000’ for ‘\$25,000
9 (\$100,000’, and

10 “(C) ‘10 years’ for ‘1 year’.

11 “(2) *FAILURE DESCRIBED.*—A failure described
12 in this paragraph is a failure to make a return de-
13 scribed in subsection (a) for a period of 3 or more
14 consecutive taxable years and the aggregated tax li-
15 ability for such period is at least \$100,000.”.

16 (3) *FRAUD AND FALSE STATEMENTS.*—Section
17 7206(a) (as redesignated by subsection (a)) is
18 amended—

19 (A) by striking “\$100,000” and inserting
20 “\$500,000”,

21 (B) by striking “\$500,000” and inserting
22 “\$1,000,000”, and

23 (C) by striking “3 years” and inserting “5
24 years”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to actions, and failures to act, occurring*
3 *after the date of the enactment of this Act.*

4 **SEC. 5504. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
5 **INTEREST ON UNDERPAYMENTS RELATED TO**
6 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
7 **MENTS.**

8 (a) *DETERMINATION OF PENALTY.*—

9 (1) *IN GENERAL.*—*Notwithstanding any other*
10 *provision of law, in the case of an applicable*
11 *taxpayer—*

12 (A) *the determination as to whether any in-*
13 *terest or applicable penalty is to be imposed with*
14 *respect to any arrangement described in para-*
15 *graph (2), or to any underpayment of Federal*
16 *income tax attributable to items arising in con-*
17 *nection with any such arrangement, shall be*
18 *made without regard to the rules of subsections*
19 *(b), (c), and (d) of section 6664 of the Internal*
20 *Revenue Code of 1986, and*

21 (B) *if any such interest or applicable pen-*
22 *alty is imposed, the amount of such interest or*
23 *penalty shall be equal to twice that determined*
24 *without regard to this section.*

1 (2) *APPLICABLE TAXPAYER.*—*For purposes of*
2 *this subsection—*

3 (A) *IN GENERAL.*—*The term “applicable*
4 *taxpayer” means a taxpayer which—*

5 (i) *has underreported its United States*
6 *income tax liability with respect to any*
7 *item which directly or indirectly involves—*

8 (I) *any financial arrangement*
9 *which in any manner relies on the use*
10 *of offshore payment mechanisms (in-*
11 *cluding credit, debit, or charge cards)*
12 *issued by banks or other entities in for-*
13 *ign jurisdictions, or*

14 (II) *any offshore financial ar-*
15 *rangement (including any arrange-*
16 *ment with foreign banks, financial in-*
17 *stitutions, corporations, partnerships,*
18 *trusts, or other entities), and*

19 (ii) *has not signed a closing agreement*
20 *pursuant to the Voluntary Offshore Compli-*
21 *ance Initiative established by the Depart-*
22 *ment of the Treasury under Revenue Proce-*
23 *dure 2003-11 or voluntarily disclosed its*
24 *participation in such arrangement by noti-*
25 *fying the Internal Revenue Service of such*

1 *arrangement prior to the issue being raised*
2 *by the Internal Revenue Service during an*
3 *examination.*

4 *(B) AUTHORITY TO WAIVE.—The Secretary*
5 *of the Treasury or the Secretary’s delegate may*
6 *waive the application of paragraph (1) to any*
7 *taxpayer if the Secretary or the Secretary’s dele-*
8 *gate determines that the use of such offshore pay-*
9 *ment mechanisms is incidental to the trans-*
10 *action and, in addition, in the case of a trade*
11 *or business, such use is conducted in the ordi-*
12 *nary course of the trade or business of the tax-*
13 *payer.*

14 *(C) ISSUES RAISED.—For purposes of sub-*
15 *paragraph (A)(ii), an item shall be treated as an*
16 *issue raised during an examination if the indi-*
17 *vidual examining the return—*

18 *(i) communicates to the taxpayer*
19 *knowledge about the specific item, or*

20 *(ii) has made a request to the taxpayer*
21 *for information and the taxpayer could not*
22 *make a complete response to that request*
23 *without giving the examiner knowledge of*
24 *the specific item.*

1 (b) *DEFINITIONS AND RULES.*—For purposes of this
2 section—

3 (1) *APPLICABLE PENALTY.*—The term “applica-
4 ble penalty” means any penalty, addition to tax, or
5 fine imposed under chapter 68 of the Internal Rev-
6 enue Code of 1986.

7 (2) *FEEES AND EXPENSES.*—The Secretary of the
8 Treasury may retain and use an amount not in ex-
9 cess of 25 percent of all additional interest, penalties,
10 additions to tax, and fines collected under this section
11 to be used for enforcement and collection activities of
12 the Internal Revenue Service. The Secretary shall
13 keep adequate records regarding amounts so retained
14 and used. The amount credited as paid by any tax-
15 payer shall be determined without regard to this
16 paragraph.

17 (c) *REPORT BY SECRETARY.*—The Secretary shall each
18 year conduct a study and report to Congress on the imple-
19 mentation of this section during the preceding year, includ-
20 ing statistics on the number of taxpayers affected by such
21 implementation and the amount of interest and applicable
22 penalties asserted, waived, and assessed during such pre-
23 ceding year.

24 (d) *EFFECTIVE DATE.*—The provisions of this section
25 shall apply to interest, penalties, additions to tax, and fines

1 *with respect to any taxable year if, as of the date of the*
2 *enactment of this Act, the assessment of any tax, penalty,*
3 *or interest with respect to such taxable year is not prevented*
4 *by the operation of any law or rule of law.*

5 **SEC. 5505. MODIFICATION OF INTERACTION BETWEEN SUB-**
6 **PART F AND PASSIVE FOREIGN INVESTMENT**
7 **COMPANY RULES.**

8 *(a) LIMITATION ON EXCEPTION FROM PFIC RULES*
9 *FOR UNITED STATES SHAREHOLDERS OF CONTROLLED*
10 *FOREIGN CORPORATIONS.—Paragraph (2) of section*
11 *1297(e) (relating to passive foreign investment company)*
12 *is amended by adding at the end the following flush sen-*
13 *tence:*

14 *“Such term shall not include any period if the earn-*
15 *ing of subpart F income by such corporation during*
16 *such period would result in only a remote likelihood*
17 *of an inclusion in gross income under section*
18 *951(a)(1)(A)(i).”.*

19 *(b) EFFECTIVE DATE.—The amendment made by this*
20 *section shall apply to taxable years of controlled foreign cor-*
21 *porations beginning after March 2, 2005, and to taxable*
22 *years of United States shareholders with or within which*
23 *such taxable years of controlled foreign corporations end.*

1 **SEC. 5506. DECLARATION BY CHIEF EXECUTIVE OFFICER**
2 **RELATING TO FEDERAL ANNUAL CORPORATE**
3 **INCOME TAX RETURN.**

4 (a) *IN GENERAL.*—*The Federal annual tax return of*
5 *a corporation with respect to income shall also include a*
6 *declaration signed by the chief executive officer of such cor-*
7 *poration (or other such officer of the corporation as the Sec-*
8 *retary of the Treasury may designate if the corporation does*
9 *not have a chief executive officer), under penalties of per-*
10 *jury, that the corporation has in place processes and proce-*
11 *dures that ensure that such return complies with the Inter-*
12 *nal Revenue Code of 1986 and that the chief executive officer*
13 *was provided reasonable assurance of the accuracy of all*
14 *material aspects of such return. The preceding sentence*
15 *shall not apply to any return of a regulated investment*
16 *company (within the meaning of section 851 of such Code).*

17 (b) *EFFECTIVE DATE.*—*This section shall apply to*
18 *Federal annual tax returns for taxable years ending after*
19 *the date of the enactment of this Act.*

20 **SEC. 5507. TREASURY REGULATIONS ON FOREIGN TAX**
21 **CREDIT.**

22 (a) *IN GENERAL.*—*Section 901 (relating to taxes of*
23 *foreign countries and of possessions of United States) is*
24 *amended by redesignating subsection (m) as subsection (n)*
25 *and by inserting after subsection (l) the following new sub-*
26 *section:*

1 “(m) *REGULATIONS.*—*The Secretary may prescribe*
2 *regulations disallowing a credit under subsection (a) for all*
3 *or a portion of any foreign tax, or allocating a foreign tax*
4 *among 2 or more persons, in cases where the foreign tax*
5 *is imposed on any person in respect of income of another*
6 *person or in other cases involving the inappropriate separa-*
7 *tion of the foreign tax from the related foreign income.”.*

8 (b) *EFFECTIVE DATE.*—*The amendments made by this*
9 *section shall apply to transactions entered into after the*
10 *date of the enactment of this Act.*

11 **SEC. 5508. WHISTLEBLOWER REFORMS.**

12 (a) *IN GENERAL.*—*Section 7623 (relating to expenses*
13 *of detection of underpayments and fraud, etc.) is*
14 *amended—*

15 (1) *by striking “The Secretary” and inserting*
16 *“(a) IN GENERAL.—The Secretary”,*

17 (2) *by striking “and” at the end of paragraph*
18 *(1) and inserting “or”,*

19 (3) *by striking “(other than interest)”, and*

20 (4) *by adding at the end the following new sub-*
21 *sections:*

22 (b) *AWARDS TO WHISTLEBLOWERS.*—

23 “(1) *IN GENERAL.*—*If the Secretary proceeds*
24 *with any administrative or judicial action described*
25 *in subsection (a) based on information brought to the*

1 *Secretary’s attention by an individual, such indi-*
2 *vidual shall, subject to paragraph (2), receive as an*
3 *award at least 15 percent but not more than 30 per-*
4 *cent of the collected proceeds (including penalties, in-*
5 *terest, additions to tax, and additional amounts) re-*
6 *sulting from the action (including any related ac-*
7 *tions) or from any settlement in response to such ac-*
8 *tion. The determination of the amount of such award*
9 *by the Whistleblower Office shall depend upon the ex-*
10 *tent to which the individual substantially contributed*
11 *to such action.*

12 “(2) *AWARD IN CASE OF LESS SUBSTANTIAL*
13 *CONTRIBUTION.—*

14 “(A) *IN GENERAL.—In the event the action*
15 *described in paragraph (1) is one which the*
16 *Whistleblower Office determines to be based prin-*
17 *cipally on disclosures of specific allegations*
18 *(other than information provided by the indi-*
19 *vidual described in paragraph (1)) resulting*
20 *from a judicial or administrative hearing, from*
21 *a governmental report, hearing, audit, or inves-*
22 *tigation, or from the news media, the Whistle-*
23 *blower Office may award such sums as it con-*
24 *siders appropriate, but in no case more than 10*
25 *percent of the collected proceeds (including pen-*

1 *alties, interest, additions to tax, and additional*
2 *amounts) resulting from the action (including*
3 *any related actions) or from any settlement in*
4 *response to such action, taking into account the*
5 *significance of the individual's information and*
6 *the role of such individual and any legal rep-*
7 *resentative of such individual in contributing to*
8 *such action.*

9 *“(B) NONAPPLICATION OF PARAGRAPH*
10 *WHERE INDIVIDUAL IS ORIGINAL SOURCE OF IN-*
11 *FORMATION.—Subparagraph (A) shall not apply*
12 *if the information resulting in the initiation of*
13 *the action described in paragraph (1) was origi-*
14 *nally provided by the individual described in*
15 *paragraph (1).*

16 *“(3) REDUCTION IN OR DENIAL OF AWARD.—If*
17 *the Whistleblower Office determines that the claim for*
18 *an award under paragraph (1) or (2) is brought by*
19 *an individual who planned and initiated the actions*
20 *that led to the underpayment of tax or actions de-*
21 *scribed in subsection (a)(2), then the Whistleblower*
22 *Office may appropriately reduce such award. If such*
23 *individual is convicted of criminal conduct arising*
24 *from the role described in the preceding sentence, the*
25 *Whistleblower Office shall deny any award.*

1 “(4) *APPEAL OF AWARD DETERMINATION.*—*Any*
2 *determination regarding an award under paragraph*
3 *(1), (2), or (3) shall be subject to the filing by the in-*
4 *dividual described in such paragraph of a petition for*
5 *review with the Tax Court under rules similar to the*
6 *rules under section 7463 (without regard to the*
7 *amount in dispute) and such review shall be subject*
8 *to the rules under section 7461(b)(1).*

9 “(5) *APPLICATION OF THIS SUBSECTION.*—*This*
10 *subsection shall apply with respect to any action—*

11 “(A) *against any taxpayer, but in the case*
12 *of any individual, only if such individual’s gross*
13 *income exceeds \$200,000 for any taxable year*
14 *subject to such action, and*

15 “(B) *if the tax, penalties, interest, additions*
16 *to tax, and additional amounts in dispute exceed*
17 *\$20,000.*

18 “(6) *ADDITIONAL RULES.*—

19 “(A) *NO CONTRACT NECESSARY.*—*No con-*
20 *tract with the Internal Revenue Service is nec-*
21 *essary for any individual to receive an award*
22 *under this subsection.*

23 “(B) *REPRESENTATION.*—*Any individual*
24 *described in paragraph (1) or (2) may be rep-*
25 *resented by counsel.*

1 “(C) AWARD NOT SUBJECT TO INDIVIDUAL
2 ALTERNATIVE MINIMUM TAX.—No award received
3 under this subsection shall be included in gross
4 income for purposes of determining alternative
5 minimum taxable income.

6 “(c) WHISTLEBLOWER OFFICE.—

7 “(1) IN GENERAL.—There is established in the
8 Internal Revenue Service an office to be known as the
9 ‘Whistleblower Office’ which—

10 “(A) shall at all times operate at the direc-
11 tion of the Commissioner and coordinate and
12 consult with other divisions in the Internal Rev-
13 enue Service as directed by the Commissioner,

14 “(B) shall analyze information received
15 from any individual described in subsection (b)
16 and either investigate the matter itself or assign
17 it to the appropriate Internal Revenue Service
18 office,

19 “(C) shall monitor any action taken with
20 respect to such matter,

21 “(D) shall inform such individual that it
22 has accepted the individual’s information for
23 further review,

1 “(E) may require such individual and any
2 legal representative of such individual to not dis-
3 close any information so provided,

4 “(F) in its sole discretion, may ask for ad-
5 ditional assistance from such individual or any
6 legal representative of such individual, and

7 “(G) shall determine the amount to be
8 awarded to such individual under subsection (b).

9 “(2) *FUNDING FOR OFFICE.*—There is authorized
10 to be appropriated \$10,000,000 for each fiscal year
11 for the Whistleblower Office. These funds shall be used
12 to maintain the Whistleblower Office and also to re-
13 imburse other Internal Revenue Service offices for re-
14 lated costs, such as costs of investigation and collec-
15 tion.

16 “(3) *REQUEST FOR ASSISTANCE.*—

17 “(A) *IN GENERAL.*—Any assistance re-
18 quested under paragraph (1)(F) shall be under
19 the direction and control of the Whistleblower Of-
20 fice or the office assigned to investigate the mat-
21 ter under subparagraph (A). To the extent the
22 disclosure of any returns or return information
23 to the individual or legal representative is re-
24 quired for the performance of such assistance,
25 such disclosure shall be pursuant to a contract

1 entered into between the Secretary and the re-
2 cipients of such disclosure subject to section
3 6103(n). No individual or legal representative
4 whose assistance is so requested may by reason
5 of such request represent himself or herself as an
6 employee of the Federal Government.

7 “(B) FUNDING OF ASSISTANCE.—From the
8 amounts available for expenditure under sub-
9 section (b), the Whistleblower Office may, with
10 the agreement of the individual described in sub-
11 section (b), reimburse the costs incurred by any
12 legal representative of such individual in pro-
13 viding assistance described in subparagraph (A).

14 “(d) REPORT BY SECRETARY.—The Secretary shall
15 each year conduct a study and report to Congress on the
16 use of this section, including—

17 “(1) an analysis of the use of this section during
18 the preceding year and the results of such use, and

19 “(2) any legislative or administrative rec-
20 ommendations regarding the provisions of this section
21 and its application.”.

22 “(b) EFFECTIVE DATE.—The amendments made by this
23 section shall apply to information provided on or after the
24 date of the enactment of this Act.

1 **SEC. 5509. DENIAL OF DEDUCTION FOR CERTAIN FINES,**
2 **PENALTIES, AND OTHER AMOUNTS.**

3 (a) *IN GENERAL.*—Subsection (f) of section 162 (relat-
4 *ing to trade or business expenses*) is amended to read as
5 *follows:*

6 “(f) *FINES, PENALTIES, AND OTHER AMOUNTS.*—

7 “(1) *IN GENERAL.*—Except as provided in para-
8 *graph (2), no deduction otherwise allowable shall be*
9 *allowed under this chapter for any amount paid or*
10 *incurred (whether by suit, agreement, or otherwise)*
11 *to, or at the direction of, a government or entity de-*
12 *scribed in paragraph (4) in relation to the violation*
13 *of any law or the investigation or inquiry by such*
14 *government or entity into the potential violation of*
15 *any law.*

16 “(2) *EXCEPTION FOR AMOUNTS CONSTITUTING*
17 *RESTITUTION.*—Paragraph (1) shall not apply to any
18 *amount which—*

19 “(A) *the taxpayer establishes constitutes res-*
20 *titution (including remediation of property) for*
21 *damage or harm caused by or which may be*
22 *caused by the violation of any law or the poten-*
23 *tial violation of any law, and*

24 “(B) *is identified as restitution in the court*
25 *order or settlement agreement.*

1 *Identification pursuant to subparagraph (B) alone*
2 *shall not satisfy the requirement under subparagraph*
3 *(A). This paragraph shall not apply to any amount*
4 *paid or incurred as reimbursement to the government*
5 *or entity for the costs of any investigation or litiga-*
6 *tion.*

7 *“(3) EXCEPTION FOR AMOUNTS PAID OR IN-*
8 *CURRED AS THE RESULT OF CERTAIN COURT OR-*
9 *DERS.—Paragraph (1) shall not apply to any*
10 *amount paid or incurred by order of a court in a suit*
11 *in which no government or entity described in para-*
12 *graph (4) is a party.*

13 *“(4) CERTAIN NONGOVERNMENTAL REGULATORY*
14 *ENTITIES.—An entity is described in this paragraph*
15 *if it is—*

16 *“(A) a nongovernmental entity which exer-*
17 *cises self-regulatory powers (including imposing*
18 *sanctions) in connection with a qualified board*
19 *or exchange (as defined in section 1256(g)(7)), or*

20 *“(B) to the extent provided in regulations,*
21 *a nongovernmental entity which exercises self-*
22 *regulatory powers (including imposing sanc-*
23 *tions) as part of performing an essential govern-*
24 *mental function.*

1 “(5) *EXCEPTION FOR TAXES DUE.*—Paragraph
2 (1) shall not apply to any amount paid or incurred
3 as taxes due.”.

4 (b) *EFFECTIVE DATE.*—The amendment made by this
5 section shall apply to amounts paid or incurred on or after
6 the date of the enactment of this Act, except that such
7 amendment shall not apply to amounts paid or incurred
8 under any binding order or agreement entered into before
9 such date. Such exception shall not apply to an order or
10 agreement requiring court approval unless the approval
11 was obtained before such date.

12 **SEC. 5510. FREEZE OF INTEREST SUSPENSION RULES WITH**
13 **RESPECT TO LISTED TRANSACTIONS.**

14 (a) *IN GENERAL.*—Paragraph (2) of section 903(d) of
15 the American Jobs Creation Act of 2005 is amended to read
16 as follows:

17 “(2) *EXCEPTION FOR REPORTABLE OR LISTED*
18 *TRANSACTIONS.*—

19 “(A) *IN GENERAL.*—The amendments made
20 by subsection (c) shall apply with respect to in-
21 terest accruing after October 3, 2004.

22 “(B) *SPECIAL RULE FOR CERTAIN LISTED*
23 *TRANSACTIONS.*—

24 “(i) *IN GENERAL.*—Except as provided
25 in clause (ii) or (iii), in the case of any

1 *listed transaction, the amendments made by*
2 *subsection (c) shall also apply with respect*
3 *to interest accruing on or before October 3,*
4 *2004.*

5 “(ii) *PARTICIPANTS IN SETTLEMENT*
6 *INITIATIVES.—Clause (i) shall not apply to*
7 *a listed transaction if, as of May 9, 2005—*

8 “(I) *the taxpayer is participating*
9 *in a published settlement initiative*
10 *which is offered by the Secretary of the*
11 *Treasury or his delegate to a group of*
12 *similarly situated taxpayers claiming*
13 *benefits from the listed transaction, or*

14 “(II) *the taxpayer has entered*
15 *into a settlement agreement pursuant*
16 *to such an initiative with respect to*
17 *the tax liability arising in connection*
18 *with the listed transaction.*

19 *Subclause (I) shall not apply to the tax-*
20 *payer if, after May 9, 2005, the taxpayer*
21 *withdraws from, or terminates, participa-*
22 *tion in the initiative or the Secretary or his*
23 *delegate determines that a settlement agree-*
24 *ment will not be reached pursuant to the*

1 *initiative within a reasonable period of*
2 *time.*

3 “(iii) *CLOSED TRANSACTIONS.*—*Clause*
4 *(i) shall not apply to a listed transaction if,*
5 *as of May 9, 2005—*

6 “(I) *the assessment of all Federal*
7 *income taxes for the taxable year in*
8 *which the tax liability to which the in-*
9 *terest relates arose is prevented by the*
10 *operation of any law or rule of law, or*

11 “(II) *a closing agreement under*
12 *section 7121 has been entered into with*
13 *respect to the tax liability arising in*
14 *connection with the listed trans-*
15 *action.”.*

16 (b) *EFFECTIVE DATE.*—*The amendment made by this*
17 *section shall take effect as if included in the provisions of*
18 *the American Jobs Creation Act of 2004 to which it relates.*

19 **SEC. 5511. MODIFICATIONS OF EFFECTIVE DATES OF LEAS-**
20 **ING PROVISIONS OF THE AMERICAN JOBS**
21 **CREATION ACT OF 2004.**

22 (a) *REPEAL OF EXCEPTION FOR QUALIFIED TRANS-*
23 *PORTATION PROPERTY.*—*Section 849(b) of the American*
24 *Jobs Creation Act of 2004 is amended by striking para-*

1 *graphs (1) and (2) and by redesignating paragraphs (3)*
2 *and (4) as paragraphs (1) and (2).*

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall take effect as if included in the enactment of*
5 *the American Jobs Creation Act of 2004.*

6 **SEC. 5512. IMPOSITION OF MARK-TO-MARKET TAX ON INDI-**
7 **VIDUALS WHO EXPATRIATE.**

8 (a) *IN GENERAL.*—*Subpart A of part II of subchapter*
9 *N of chapter 1 is amended by inserting after section 877*
10 *the following new section:*

11 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

12 “(a) *GENERAL RULES.*—*For purposes of this*
13 *subtitle—*

14 “(1) *MARK TO MARKET.*—*Except as provided in*
15 *subsections (d) and (f), all property of a covered expa-*
16 *triate to whom this section applies shall be treated as*
17 *sold on the day before the expatriation date for its*
18 *fair market value.*

19 “(2) *RECOGNITION OF GAIN OR LOSS.*—*In the*
20 *case of any sale under paragraph (1)—*

21 “(A) *notwithstanding any other provision of*
22 *this title, any gain arising from such sale shall*
23 *be taken into account for the taxable year of the*
24 *sale, and*

1 “(B) any loss arising from such sale shall
2 be taken into account for the taxable year of the
3 sale to the extent otherwise provided by this title,
4 except that section 1091 shall not apply to any
5 such loss.

6 *Proper adjustment shall be made in the amount of*
7 *any gain or loss subsequently realized for gain or loss*
8 *taken into account under the preceding sentence.*

9 “(3) *EXCLUSION FOR CERTAIN GAIN.*—

10 “(A) *IN GENERAL.*—*The amount which, but*
11 *for this paragraph, would be includible in the*
12 *gross income of any individual by reason of this*
13 *section shall be reduced (but not below zero) by*
14 *\$600,000. For purposes of this paragraph, allo-*
15 *cable expatriation gain taken into account under*
16 *subsection (f)(2) shall be treated in the same*
17 *manner as an amount required to be includible*
18 *in gross income.*

19 “(B) *COST-OF-LIVING ADJUSTMENT.*—

20 “(i) *IN GENERAL.*—*In the case of an*
21 *expatriation date occurring in any calendar*
22 *year after 2005, the \$600,000 amount under*
23 *subparagraph (A) shall be increased by an*
24 *amount equal to—*

1 “(I) such dollar amount, multi-
2 plied by

3 “(II) the cost-of-living adjustment
4 determined under section 1(f)(3) for
5 such calendar year, determined by sub-
6 stituting ‘calendar year 2004’ for ‘cal-
7 endar year 1992’ in subparagraph (B)
8 thereof.

9 “(ii) *ROUNDING RULES.*—If any
10 amount after adjustment under clause (i) is
11 not a multiple of \$1,000, such amount shall
12 be rounded to the next lower multiple of
13 \$1,000.

14 “(4) *ELECTION TO CONTINUE TO BE TAXED AS*
15 *UNITED STATES CITIZEN.*—

16 “(A) *IN GENERAL.*—If a covered expatriate
17 elects the application of this paragraph—

18 “(i) this section (other than this para-
19 graph and subsection (i)) shall not apply to
20 the expatriate, but

21 “(ii) in the case of property to which
22 this section would apply but for such elec-
23 tion, the expatriate shall be subject to tax
24 under this title in the same manner as if
25 the individual were a United States citizen.

1 “(B) *REQUIREMENTS.*—Subparagraph (A)
2 shall not apply to an individual unless the
3 individual—

4 “(i) provides security for payment of
5 tax in such form and manner, and in such
6 amount, as the Secretary may require,

7 “(ii) consents to the waiver of any
8 right of the individual under any treaty of
9 the United States which would preclude as-
10 sessment or collection of any tax which may
11 be imposed by reason of this paragraph,
12 and

13 “(iii) complies with such other require-
14 ments as the Secretary may prescribe.

15 “(C) *ELECTION.*—An election under sub-
16 paragraph (A) shall apply to all property to
17 which this section would apply but for the elec-
18 tion and, once made, shall be irrevocable. Such
19 election shall also apply to property the basis of
20 which is determined in whole or in part by ref-
21 erence to the property with respect to which the
22 election was made.

23 “(b) *ELECTION TO DEFER TAX.*—

24 “(1) *IN GENERAL.*—If the taxpayer elects the ap-
25 plication of this subsection with respect to any prop-

1 *erty treated as sold by reason of subsection (a), the*
2 *payment of the additional tax attributable to such*
3 *property shall be postponed until the due date of the*
4 *return for the taxable year in which such property is*
5 *disposed of (or, in the case of property disposed of in*
6 *a transaction in which gain is not recognized in*
7 *whole or in part, until such other date as the Sec-*
8 *retary may prescribe).*

9 “(2) *DETERMINATION OF TAX WITH RESPECT TO*
10 *PROPERTY.—For purposes of paragraph (1), the addi-*
11 *tional tax attributable to any property is an amount*
12 *which bears the same ratio to the additional tax im-*
13 *posed by this chapter for the taxable year solely by*
14 *reason of subsection (a) as the gain taken into ac-*
15 *count under subsection (a) with respect to such prop-*
16 *erty bears to the total gain taken into account under*
17 *subsection (a) with respect to all property to which*
18 *subsection (a) applies.*

19 “(3) *TERMINATION OF POSTPONEMENT.—No tax*
20 *may be postponed under this subsection later than the*
21 *due date for the return of tax imposed by this chapter*
22 *for the taxable year which includes the date of death*
23 *of the expatriate (or, if earlier, the time that the secu-*
24 *rity provided with respect to the property fails to*
25 *meet the requirements of paragraph (4), unless the*

1 *taxpayer corrects such failure within the time speci-*
2 *fied by the Secretary).*

3 “(4) *SECURITY.—*

4 “(A) *IN GENERAL.—No election may be*
5 *made under paragraph (1) with respect to any*
6 *property unless adequate security is provided to*
7 *the Secretary with respect to such property.*

8 “(B) *ADEQUATE SECURITY.—For purposes*
9 *of subparagraph (A), security with respect to*
10 *any property shall be treated as adequate secu-*
11 *rity if—*

12 “(i) *it is a bond in an amount equal*
13 *to the deferred tax amount under paragraph*
14 *(2) for the property, or*

15 “(ii) *the taxpayer otherwise establishes*
16 *to the satisfaction of the Secretary that the*
17 *security is adequate.*

18 “(5) *WAIVER OF CERTAIN RIGHTS.—No election*
19 *may be made under paragraph (1) unless the tax-*
20 *payer consents to the waiver of any right under any*
21 *treaty of the United States which would preclude as-*
22 *essment or collection of any tax imposed by reason*
23 *of this section.*

24 “(6) *ELECTIONS.—An election under paragraph*
25 *(1) shall only apply to property described in the elec-*

1 *tion and, once made, is irrevocable. An election may*
2 *be made under paragraph (1) with respect to an in-*
3 *terest in a trust with respect to which gain is re-*
4 *quired to be recognized under subsection (f)(1).*

5 *“(7) INTEREST.—For purposes of section 6601—*

6 *“(A) the last date for the payment of tax*
7 *shall be determined without regard to the election*
8 *under this subsection, and*

9 *“(B) section 6621(a)(2) shall be applied by*
10 *substituting ‘5 percentage points’ for ‘3 percent-*
11 *age points’ in subparagraph (B) thereof.*

12 *“(c) COVERED EXPATRIATE.—For purposes of this*
13 *section—*

14 *“(1) IN GENERAL.—Except as provided in para-*
15 *graph (2), the term ‘covered expatriate’ means an ex-*
16 *patriate.*

17 *“(2) EXCEPTIONS.—An individual shall not be*
18 *treated as a covered expatriate if—*

19 *“(A) the individual—*

20 *“(i) became at birth a citizen of the*
21 *United States and a citizen of another*
22 *country and, as of the expatriation date,*
23 *continues to be a citizen of, and is taxed as*
24 *a resident of, such other country, and*

1 “(i) has not been a resident of the
2 United States (as defined in section
3 7701(b)(1)(A)(ii)) during the 5 taxable
4 years ending with the taxable year during
5 which the expatriation date occurs, or

6 “(B)(i) the individual’s relinquishment of
7 United States citizenship occurs before such indi-
8 vidual attains age 18½, and

9 “(ii) the individual has been a resident of
10 the United States (as so defined) for not more
11 than 5 taxable years before the date of relin-
12 quishment.

13 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*
14 *SION PLANS.*—

15 “(1) *EXEMPT PROPERTY.*—*This section shall not*
16 *apply to the following:*

17 “(A) *UNITED STATES REAL PROPERTY IN-*
18 *TERESTS.*—*Any United States real property in-*
19 *terest (as defined in section 897(c)(1)), other*
20 *than stock of a United States real property hold-*
21 *ing corporation which does not, on the day before*
22 *the expatriation date, meet the requirements of*
23 *section 897(c)(2).*

24 “(B) *SPECIFIED PROPERTY.*—*Any property*
25 *or interest in property not described in subpara-*

1 *graph (A) which the Secretary specifies in regu-*
2 *lations.*

3 “(2) *SPECIAL RULES FOR CERTAIN RETIREMENT*
4 *PLANS.—*

5 “(A) *IN GENERAL.—If a covered expatriate*
6 *holds on the day before the expatriation date any*
7 *interest in a retirement plan to which this para-*
8 *graph applies—*

9 “(i) *such interest shall not be treated*
10 *as sold for purposes of subsection (a)(1), but*

11 “(ii) *an amount equal to the present*
12 *value of the expatriate’s nonforfeitable ac-*
13 *crued benefit shall be treated as having been*
14 *received by such individual on such date as*
15 *a distribution under the plan.*

16 “(B) *TREATMENT OF SUBSEQUENT DIS-*
17 *TRIBUTIONS.—In the case of any distribution on*
18 *or after the expatriation date to or on behalf of*
19 *the covered expatriate from a plan from which*
20 *the expatriate was treated as receiving a dis-*
21 *tribution under subparagraph (A), the amount*
22 *otherwise includible in gross income by reason of*
23 *the subsequent distribution shall be reduced by*
24 *the excess of the amount includible in gross in-*
25 *come under subparagraph (A) over any portion*

1 of such amount to which this subparagraph pre-
2 viously applied.

3 “(C) *TREATMENT OF SUBSEQUENT DIS-*
4 *TRIBUTIONS BY PLAN.*—For purposes of this title,
5 a retirement plan to which this paragraph ap-
6 plies, and any person acting on the plan’s behalf,
7 shall treat any subsequent distribution described
8 in subparagraph (B) in the same manner as
9 such distribution would be treated without re-
10 gard to this paragraph.

11 “(D) *APPLICABLE PLANS.*—This paragraph
12 shall apply to—

13 “(i) any qualified retirement plan (as
14 defined in section 4974(c)),

15 “(ii) an eligible deferred compensation
16 plan (as defined in section 457(b)) of an el-
17 igible employer described in section
18 457(e)(1)(A), and

19 “(iii) to the extent provided in regula-
20 tions, any foreign pension plan or similar
21 retirement arrangements or programs.

22 “(e) *DEFINITIONS.*—For purposes of this section—

23 “(1) *EXPATRIATE.*—The term ‘expatriate’
24 means—

1 “(A) any United States citizen who relin-
2 quishes citizenship, and

3 “(B) any long-term resident of the United
4 States who—

5 “(i) ceases to be a lawful permanent
6 resident of the United States (within the
7 meaning of section 7701(b)(6)), or

8 “(ii) commences to be treated as a resi-
9 dent of a foreign country under the provi-
10 sions of a tax treaty between the United
11 States and the foreign country and who
12 does not waive the benefits of such treaty
13 applicable to residents of the foreign coun-
14 try.

15 “(2) *EXPATRIATION DATE*.—The term ‘expatria-
16 tion date’ means—

17 “(A) the date an individual relinquishes
18 United States citizenship, or

19 “(B) in the case of a long-term resident of
20 the United States, the date of the event described
21 in clause (i) or (ii) of paragraph (1)(B).

22 “(3) *RELINQUISHMENT OF CITIZENSHIP*.—A cit-
23 izen shall be treated as relinquishing United States
24 citizenship on the earliest of—

1 “(A) the date the individual renounces such
2 individual’s United States nationality before a
3 diplomatic or consular officer of the United
4 States pursuant to paragraph (5) of section
5 349(a) of the Immigration and Nationality Act
6 (8 U.S.C. 1481(a)(5)),

7 “(B) the date the individual furnishes to the
8 United States Department of State a signed
9 statement of voluntary relinquishment of United
10 States nationality confirming the performance of
11 an act of expatriation specified in paragraph
12 (1), (2), (3), or (4) of section 349(a) of the Im-
13 migration and Nationality Act (8 U.S.C.
14 1481(a)(1)–(4)),

15 “(C) the date the United States Department
16 of State issues to the individual a certificate of
17 loss of nationality, or

18 “(D) the date a court of the United States
19 cancels a naturalized citizen’s certificate of natu-
20 ralization.

21 Subparagraph (A) or (B) shall not apply to any in-
22 dividual unless the renunciation or voluntary relin-
23 quishment is subsequently approved by the issuance to
24 the individual of a certificate of loss of nationality by
25 the United States Department of State.

1 “(4) *LONG-TERM RESIDENT.*—The term ‘long-
2 term resident’ has the meaning given to such term by
3 section 877(e)(2).

4 “(f) *SPECIAL RULES APPLICABLE TO BENEFICIARIES’*
5 *INTERESTS IN TRUST.*—

6 “(1) *IN GENERAL.*—Except as provided in para-
7 graph (2), if an individual is determined under para-
8 graph (3) to hold an interest in a trust on the day
9 before the expatriation date—

10 “(A) the individual shall not be treated as
11 having sold such interest,

12 “(B) such interest shall be treated as a sep-
13 arate share in the trust, and

14 “(C)(i) such separate share shall be treated
15 as a separate trust consisting of the assets allo-
16 cable to such share,

17 “(ii) the separate trust shall be treated as
18 having sold its assets on the day before the expa-
19 triation date for their fair market value and as
20 having distributed all of its assets to the indi-
21 vidual as of such time, and

22 “(iii) the individual shall be treated as hav-
23 ing recontributed the assets to the separate trust.

24 Subsection (a)(2) shall apply to any income, gain, or
25 loss of the individual arising from a distribution de-

1 *scribed in subparagraph (C)(ii). In determining the*
2 *amount of such distribution, proper adjustments shall*
3 *be made for liabilities of the trust allocable to an in-*
4 *dividual's share in the trust.*

5 *“(2) SPECIAL RULES FOR INTERESTS IN QUALI-*
6 *FIED TRUSTS.—*

7 *“(A) IN GENERAL.—If the trust interest de-*
8 *scribed in paragraph (1) is an interest in a*
9 *qualified trust—*

10 *“(i) paragraph (1) and subsection (a)*
11 *shall not apply, and*

12 *“(ii) in addition to any other tax im-*
13 *posed by this title, there is hereby imposed*
14 *on each distribution with respect to such in-*
15 *terest a tax in the amount determined*
16 *under subparagraph (B).*

17 *“(B) AMOUNT OF TAX.—The amount of tax*
18 *under subparagraph (A)(ii) shall be equal to the*
19 *lesser of—*

20 *“(i) the highest rate of tax imposed by*
21 *section 1(e) for the taxable year which in-*
22 *cludes the day before the expatriation date,*
23 *multiplied by the amount of the distribu-*
24 *tion, or*

1 “(ii) the balance in the deferred tax ac-
2 count immediately before the distribution
3 determined without regard to any increases
4 under subparagraph (C)(ii) after the 30th
5 day preceding the distribution.

6 “(C) DEFERRED TAX ACCOUNT.—For pur-
7 poses of subparagraph (B)(ii)—

8 “(i) OPENING BALANCE.—The opening
9 balance in a deferred tax account with re-
10 spect to any trust interest is an amount
11 equal to the tax which would have been im-
12 posed on the allocable expatriation gain
13 with respect to the trust interest if such
14 gain had been included in gross income
15 under subsection (a).

16 “(ii) INCREASE FOR INTEREST.—The
17 balance in the deferred tax account shall be
18 increased by the amount of interest deter-
19 mined (on the balance in the account at the
20 time the interest accrues), for periods after
21 the 90th day after the expatriation date, by
22 using the rates and method applicable
23 under section 6621 for underpayments of
24 tax for such periods, except that section
25 6621(a)(2) shall be applied by substituting

1 ‘5 percentage points’ for ‘3 percentage
2 points’ in subparagraph (B) thereof.

3 “(iii) *DECREASE FOR TAXES PRE-*
4 *VIOUSLY PAID.—The balance in the tax de-*
5 *ferred account shall be reduced—*

6 “(I) *by the amount of taxes im-*
7 *posed by subparagraph (A) on any dis-*
8 *tribution to the person holding the*
9 *trust interest, and*

10 “(II) *in the case of a person hold-*
11 *ing a nonvested interest, to the extent*
12 *provided in regulations, by the amount*
13 *of taxes imposed by subparagraph (A)*
14 *on distributions from the trust with re-*
15 *spect to nonvested interests not held by*
16 *such person.*

17 “(D) *ALLOCABLE EXPATRIATION GAIN.—For*
18 *purposes of this paragraph, the allocable expa-*
19 *triation gain with respect to any beneficiary’s*
20 *interest in a trust is the amount of gain which*
21 *would be allocable to such beneficiary’s vested*
22 *and nonvested interests in the trust if the bene-*
23 *ficiary held directly all assets allocable to such*
24 *interests.*

25 “(E) *TAX DEDUCTED AND WITHHELD.—*

1 “(i) *IN GENERAL.*—*The tax imposed by*
2 *subparagraph (A)(ii) shall be deducted and*
3 *withheld by the trustees from the distribu-*
4 *tion to which it relates.*

5 “(ii) *EXCEPTION WHERE FAILURE TO*
6 *WAIVE TREATY RIGHTS.*—*If an amount may*
7 *not be deducted and withheld under clause*
8 *(i) by reason of the distributee failing to*
9 *waive any treaty right with respect to such*
10 *distribution—*

11 “(I) *the tax imposed by subpara-*
12 *graph (A)(ii) shall be imposed on the*
13 *trust and each trustee shall be person-*
14 *ally liable for the amount of such tax,*
15 *and*

16 “(II) *any other beneficiary of the*
17 *trust shall be entitled to recover from*
18 *the distributee the amount of such tax*
19 *imposed on the other beneficiary.*

20 “(F) *DISPOSITION.*—*If a trust ceases to be*
21 *a qualified trust at any time, a covered expa-*
22 *triate disposes of an interest in a qualified trust,*
23 *or a covered expatriate holding an interest in a*
24 *qualified trust dies, then, in lieu of the tax im-*

1 posed by subparagraph (A)(ii), there is hereby
2 imposed a tax equal to the lesser of—

3 “(i) the tax determined under para-
4 graph (1) as if the day before the expatria-
5 tion date were the date of such cessation,
6 disposition, or death, whichever is applica-
7 ble, or

8 “(ii) the balance in the tax deferred ac-
9 count immediately before such date.

10 Such tax shall be imposed on the trust and each
11 trustee shall be personally liable for the amount
12 of such tax and any other beneficiary of the trust
13 shall be entitled to recover from the covered expa-
14 triate or the estate the amount of such tax im-
15 posed on the other beneficiary.

16 “(G) DEFINITIONS AND SPECIAL RULES.—

17 For purposes of this paragraph—

18 “(i) QUALIFIED TRUST.—The term
19 ‘qualified trust’ means a trust which is de-
20 scribed in section 7701(a)(30)(E).

21 “(ii) VESTED INTEREST.—The term
22 ‘vested interest’ means any interest which,
23 as of the day before the expatriation date, is
24 vested in the beneficiary.

1 “(iii) *NONVESTED INTEREST.*—*The*
2 *term ‘nonvested interest’ means, with re-*
3 *spect to any beneficiary, any interest in a*
4 *trust which is not a vested interest. Such*
5 *interest shall be determined by assuming the*
6 *maximum exercise of discretion in favor of*
7 *the beneficiary and the occurrence of all*
8 *contingencies in favor of the beneficiary.*

9 “(iv) *ADJUSTMENTS.*—*The Secretary*
10 *may provide for such adjustments to the*
11 *bases of assets in a trust or a deferred tax*
12 *account, and the timing of such adjust-*
13 *ments, in order to ensure that gain is taxed*
14 *only once.*

15 “(v) *COORDINATION WITH RETIREMENT*
16 *PLAN RULES.*—*This subsection shall not*
17 *apply to an interest in a trust which is*
18 *part of a retirement plan to which sub-*
19 *section (d)(2) applies.*

20 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
21 *EST IN TRUST.*—

22 “(A) *DETERMINATIONS UNDER PARAGRAPH*
23 *(1).*—*For purposes of paragraph (1), a bene-*
24 *ficiary’s interest in a trust shall be based upon*
25 *all relevant facts and circumstances, including*

1 *the terms of the trust instrument and any letter*
2 *of wishes or similar document, historical pat-*
3 *terns of trust distributions, and the existence of*
4 *and functions performed by a trust protector or*
5 *any similar adviser.*

6 “(B) *OTHER DETERMINATIONS.—For pur-*
7 *poses of this section—*

8 “(i) *CONSTRUCTIVE OWNERSHIP.—If a*
9 *beneficiary of a trust is a corporation, part-*
10 *nership, trust, or estate, the shareholders,*
11 *partners, or beneficiaries shall be deemed to*
12 *be the trust beneficiaries for purposes of this*
13 *section.*

14 “(ii) *TAXPAYER RETURN POSITION.—A*
15 *taxpayer shall clearly indicate on its in-*
16 *come tax return—*

17 “(I) *the methodology used to de-*
18 *termine that taxpayer’s trust interest*
19 *under this section, and*

20 “(II) *if the taxpayer knows (or*
21 *has reason to know) that any other*
22 *beneficiary of such trust is using a dif-*
23 *ferent methodology to determine such*
24 *beneficiary’s trust interest under this*
25 *section.*

1 “(g) *TERMINATION OF DEFERRALS, ETC.*—*In the case*
2 *of any covered expatriate, notwithstanding any other provi-*
3 *sion of this title—*

4 “(1) *any period during which recognition of in-*
5 *come or gain is deferred shall terminate on the day*
6 *before the expatriation date, and*

7 “(2) *any extension of time for payment of tax*
8 *shall cease to apply on the day before the expatriation*
9 *date and the unpaid portion of such tax shall be due*
10 *and payable at the time and in the manner pre-*
11 *scribed by the Secretary.*

12 “(h) *IMPOSITION OF TENTATIVE TAX.*—

13 “(1) *IN GENERAL.*—*If an individual is required*
14 *to include any amount in gross income under sub-*
15 *section (a) for any taxable year, there is hereby im-*
16 *posed, immediately before the expatriation date, a tax*
17 *in an amount equal to the amount of tax which*
18 *would be imposed if the taxable year were a short tax-*
19 *able year ending on the expatriation date.*

20 “(2) *DUE DATE.*—*The due date for any tax im-*
21 *posed by paragraph (1) shall be the 90th day after the*
22 *expatriation date.*

23 “(3) *TREATMENT OF TAX.*—*Any tax paid under*
24 *paragraph (1) shall be treated as a payment of the*

1 *tax imposed by this chapter for the taxable year to*
2 *which subsection (a) applies.*

3 “(4) *DEFERRAL OF TAX.*—*The provisions of sub-*
4 *section (b) shall apply to the tax imposed by this sub-*
5 *section to the extent attributable to gain includible in*
6 *gross income by reason of this section.*

7 “(i) *SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.*—

8 “(1) *IMPOSITION OF LIEN.*—

9 “(A) *IN GENERAL.*—*If a covered expatriate*
10 *makes an election under subsection (a)(4) or (b)*
11 *which results in the deferral of any tax imposed*
12 *by reason of subsection (a), the deferred amount*
13 *(including any interest, additional amount, ad-*
14 *dition to tax, assessable penalty, and costs at-*
15 *tributable to the deferred amount) shall be a lien*
16 *in favor of the United States on all property of*
17 *the expatriate located in the United States (with-*
18 *out regard to whether this section applies to the*
19 *property).*

20 “(B) *DEFERRED AMOUNT.*—*For purposes of*
21 *this subsection, the deferred amount is the*
22 *amount of the increase in the covered expatri-*
23 *ate’s income tax which, but for the election under*
24 *subsection (a)(4) or (b), would have occurred by*

1 *reason of this section for the taxable year includ-*
2 *ing the expatriation date.*

3 “(2) *PERIOD OF LIEN.*—*The lien imposed by this*
4 *subsection shall arise on the expatriation date and*
5 *continue until—*

6 “(A) *the liability for tax by reason of this*
7 *section is satisfied or has become unenforceable*
8 *by reason of lapse of time, or*

9 “(B) *it is established to the satisfaction of*
10 *the Secretary that no further tax liability may*
11 *arise by reason of this section.*

12 “(3) *CERTAIN RULES APPLY.*—*The rules set forth*
13 *in paragraphs (1), (3), and (4) of section 6324A(d)*
14 *shall apply with respect to the lien imposed by this*
15 *subsection as if it were a lien imposed by section*
16 *6324A.*

17 “(j) *REGULATIONS.*—*The Secretary shall prescribe*
18 *such regulations as may be necessary or appropriate to*
19 *carry out the purposes of this section.”.*

20 (b) *INCLUSION IN INCOME OF GIFTS AND BEQUESTS*
21 *RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS*
22 *FROM EXPATRIATES.*—*Section 102 (relating to gifts, etc.*
23 *not included in gross income) is amended by adding at the*
24 *end the following new subsection:*

1 “(d) *GIFTS AND INHERITANCES FROM COVERED EX-*
2 *PATRIATES.*—

3 “(1) *IN GENERAL.*—*Subsection (a) shall not ex-*
4 *clude from gross income the value of any property ac-*
5 *quired by gift, bequest, devise, or inheritance from a*
6 *covered expatriate after the expatriation date. For*
7 *purposes of this subsection, any term used in this sub-*
8 *section which is also used in section 877A shall have*
9 *the same meaning as when used in section 877A.*

10 “(2) *EXCEPTIONS FOR TRANSFERS OTHERWISE*
11 *SUBJECT TO ESTATE OR GIFT TAX.*—*Paragraph (1)*
12 *shall not apply to any property if either—*

13 “(A) *the gift, bequest, devise, or inheritance*
14 *is—*

15 “(i) *shown on a timely filed return of*
16 *tax imposed by chapter 12 as a taxable gift*
17 *by the covered expatriate, or*

18 “(ii) *included in the gross estate of the*
19 *covered expatriate for purposes of chapter*
20 *11 and shown on a timely filed return of*
21 *tax imposed by chapter 11 of the estate of*
22 *the covered expatriate, or*

23 “(B) *no such return was timely filed but no*
24 *such return would have been required to be filed*

1 *even if the covered expatriate were a citizen or*
2 *long-term resident of the United States.”.*

3 (c) *DEFINITION OF TERMINATION OF UNITED STATES*
4 *CITIZENSHIP.*—*Section 7701(a) is amended by adding at*
5 *the end the following new paragraph:*

6 “(49) *TERMINATION OF UNITED STATES CITIZEN-*
7 *SHIP.*—

8 “(A) *IN GENERAL.*—*An individual shall not*
9 *cease to be treated as a United States citizen be-*
10 *fore the date on which the individual’s citizen-*
11 *ship is treated as relinquished under section*
12 *877A(e)(3).*

13 “(B) *DUAL CITIZENS.*—*Under regulations*
14 *prescribed by the Secretary, subparagraph (A)*
15 *shall not apply to an individual who became at*
16 *birth a citizen of the United States and a citizen*
17 *of another country.”.*

18 (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*
19 *UNITED STATES.*—

20 (1) *IN GENERAL.*—*Section 212(a)(10)(E) of the*
21 *Immigration and Nationality Act (8 U.S.C.*
22 *1182(a)(10)(E)) is amended to read as follows:*

23 “(E) *FORMER CITIZENS NOT IN COMPLI-*
24 *ANCE WITH EXPATRIATION REVENUE PROVI-*
25 *SIONS.*—*Any alien who is a former citizen of the*

1 *United States who relinquishes United States*
2 *citizenship (within the meaning of section*
3 *877A(e)(3) of the Internal Revenue Code of 1986)*
4 *and who is not in compliance with section 877A*
5 *of such Code (relating to expatriation).”.*

6 (2) *AVAILABILITY OF INFORMATION.—*

7 (A) *IN GENERAL.—Section 6103(l) (relating*
8 *to disclosure of returns and return information*
9 *for purposes other than tax administration) is*
10 *amended by adding at the end the following new*
11 *paragraph:*

12 “(21) *DISCLOSURE TO DENY VISA OR ADMISSION*
13 *TO CERTAIN EXPATRIATES.—Upon written request of*
14 *the Attorney General or the Attorney General’s dele-*
15 *gate, the Secretary shall disclose whether an indi-*
16 *vidual is in compliance with section 877A (and if not*
17 *in compliance, any items of noncompliance) to offi-*
18 *cers and employees of the Federal agency responsible*
19 *for administering section 212(a)(10)(E) of the Immi-*
20 *gration and Nationality Act solely for the purpose of,*
21 *and to the extent necessary in, administering such*
22 *section 212(a)(10)(E).”.*

23 (B) *SAFEGUARDS.—Section 6103(p)(4) (re-*
24 *lating to safeguards) is amended by striking “or*

1 (20)” each place it appears and inserting “(20),
2 or (21)”.

3 (3) *EFFECTIVE DATES.*—*The amendments made*
4 *by this subsection shall apply to individuals who re-*
5 *linquish United States citizenship on or after the date*
6 *of the enactment of this Act.*

7 (e) *CONFORMING AMENDMENTS.*—

8 (1) *Section 877 is amended by adding at the end*
9 *the following new subsection:*

10 “(h) *APPLICATION.*—*This section shall not apply to an*
11 *expatriate (as defined in section 877A(e)) whose expatria-*
12 *tion date (as so defined) occurs on or after the date of the*
13 *enactment of the Safe, Accountable, Flexible, and Efficient*
14 *Transportation Equity Act of 2005.”.*

15 (2) *Section 2107 is amended by adding at the*
16 *end the following new subsection:*

17 “(f) *APPLICATION.*—*This section shall not apply to*
18 *any expatriate subject to section 877A.”.*

19 (3) *Section 2501(a)(3) is amended by adding at*
20 *the end the following new subparagraph:*

21 “(C) *APPLICATION.*—*This paragraph shall*
22 *not apply to any expatriate subject to section*
23 *877A.”.*

24 (f) *CLERICAL AMENDMENT.*—*The table of sections for*
25 *subpart A of part II of subchapter N of chapter 1 is amend-*

1 *ed by inserting after the item relating to section 877 the*
 2 *following new item:*

“Sec. 877A. Tax responsibilities of expatriation.”.

3 *(g) EFFECTIVE DATE.—*

4 *(1) IN GENERAL.—Except as provided in this*
 5 *subsection, the amendments made by this section shall*
 6 *apply to expatriates (within the meaning of section*
 7 *877A(e) of the Internal Revenue Code of 1986, as*
 8 *added by this section) whose expatriation date (as so*
 9 *defined) occurs on or after the date of the enactment*
 10 *of this Act.*

11 *(2) GIFTS AND BEQUESTS.—Section 102(d) of*
 12 *the Internal Revenue Code of 1986 (as added by sub-*
 13 *section (b)) shall apply to gifts and bequests received*
 14 *on or after the date of the enactment of this Act, from*
 15 *an individual or the estate of an individual whose ex-*
 16 *patriation date (as so defined) occurs after such date.*

17 *(3) DUE DATE FOR TENTATIVE TAX.—The due*
 18 *date under section 877A(h)(2) of the Internal Revenue*
 19 *Code of 1986, as added by this section, shall in no*
 20 *event occur before the 90th day after the date of the*
 21 *enactment of this Act.*

22 **SEC. 5513. DISALLOWANCE OF DEDUCTION FOR PUNITIVE**
 23 **DAMAGES.**

24 *(a) DISALLOWANCE OF DEDUCTION.—*

1 (1) *IN GENERAL.*—Section 162(g) (relating to
2 treble damage payments under the antitrust laws) is
3 amended—

4 (A) by redesignating paragraphs (1) and
5 (2) as subparagraphs (A) and (B), respectively,
6 (B) by striking “If” and inserting:

7 “(1) *TREBLE DAMAGES.*—If”, and

8 (C) by adding at the end the following new
9 paragraph:

10 “(2) *PUNITIVE DAMAGES.*—No deduction shall be
11 allowed under this chapter for any amount paid or
12 incurred for punitive damages in connection with
13 any judgment in, or settlement of, any action. This
14 paragraph shall not apply to punitive damages de-
15 scribed in section 104(c).”.

16 (2) *CONFORMING AMENDMENT.*—The heading for
17 section 162(g) is amended by inserting “*OR PUNITIVE*
18 *DAMAGES*” after “*LAWS*”.

19 (b) *INCLUSION IN INCOME OF PUNITIVE DAMAGES*
20 *PAID BY INSURER OR OTHERWISE.*—

21 (1) *IN GENERAL.*—Part II of subchapter B of
22 chapter 1 (relating to items specifically included in
23 gross income) is amended by adding at the end the
24 following new section:

1 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
 2 **ANCE OR OTHERWISE.**

3 *“Gross income shall include any amount paid to or*
 4 *on behalf of a taxpayer as insurance or otherwise by reason*
 5 *of the taxpayer’s liability (or agreement) to pay punitive*
 6 *damages.”.*

7 (2) *REPORTING REQUIREMENTS.—Section 6041*
 8 *(relating to information at source) is amended by*
 9 *adding at the end the following new subsection:*

10 *“(f) SECTION TO APPLY TO PUNITIVE DAMAGES COM-*
 11 *PENSATION.—This section shall apply to payments by a*
 12 *person to or on behalf of another person as insurance or*
 13 *otherwise by reason of the other person’s liability (or agree-*
 14 *ment) to pay punitive damages.”.*

15 (3) *CONFORMING AMENDMENT.—The table of sec-*
 16 *tions for part II of subchapter B of chapter 1 is*
 17 *amended by adding at the end the following new item:*

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

18 (c) *EFFECTIVE DATE.—The amendments made by this*
 19 *section shall apply to damages paid or incurred on or after*
 20 *the date of the enactment of this Act.*

21 **SEC. 5514. APPLICATION OF EARNINGS STRIPPING RULES**
 22 **TO PARTNERS WHICH ARE C CORPORATIONS.**

23 (a) *IN GENERAL.—Section 163(j) (relating to limita-*
 24 *tion on deduction for interest on certain indebtedness) is*
 25 *amended by redesignating paragraph (8) as paragraph (9)*

1 and by inserting after paragraph (7) the following new
2 paragraph:

3 “(8) *ALLOCATIONS TO CERTAIN CORPORATE*
4 *PARTNERS.—If a C corporation is a partner in a*
5 *partnership—*

6 “(A) *the corporation’s allocable share of in-*
7 *debtedness and interest income of the partnership*
8 *shall be taken into account in applying this sub-*
9 *section to the corporation, and*

10 “(B) *if a deduction is not disallowed under*
11 *this subsection with respect to any interest ex-*
12 *pense of the partnership, this subsection shall be*
13 *applied separately in determining whether a de-*
14 *duction is allowable to the corporation with re-*
15 *spect to the corporation’s allocable share of such*
16 *interest expense.”.*

17 (b) *EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to taxable years beginning on or after*
19 *the date of the enactment of this Act.*

20 **SEC. 5515. PROHIBITION ON DEFERRAL OF GAIN FROM THE**
21 **EXERCISE OF STOCK OPTIONS AND RE-**
22 **STRICTED STOCK GAINS THROUGH DE-**
23 **FERRED COMPENSATION ARRANGEMENTS.**

24 (a) *IN GENERAL.—Section 83 (relating to property*
25 *transferred in connection with performance of services) is*

1 *amending by adding at the end the following new sub-*
2 *section:*

3 “(i) *PROHIBITION ON ADDITIONAL DEFERRAL*
4 *THROUGH DEFERRED COMPENSATION ARRANGEMENTS.*—

5 *If a taxpayer exchanges—*

6 “(1) *an option to purchase employer securities—*

7 “(A) *to which subsection (a) applies, or*

8 “(B) *which is described in subsection (e)(3),*

9 *or*

10 “(2) *employer securities or any other property*

11 *based on employer securities transferred to the tax-*

12 *payer,*

13 *for a right to receive future payments, then, notwith-*

14 *standing any other provision of this title, there shall be in-*

15 *cluded in gross income for the taxable year of the exchange*

16 *an amount equal to the present value of such right (or such*

17 *other amount as the Secretary may by regulations specify).*

18 *For purposes of this subsection, the term ‘employer securi-*

19 *ties’ includes any security issued by the employer.”.*

20 (b) *CONTROLLED GROUP RULES.*—*Section 414(t)(2) is*

21 *amended by inserting “83(i),” after “79.”.*

22 (c) *EFFECTIVE DATE.*—*The amendments made by this*

23 *section shall apply to any exchange after the date of the*

24 *enactment of this Act.*

1 **SEC. 5516. LIMITATION OF EMPLOYER DEDUCTION FOR**
2 **CERTAIN ENTERTAINMENT EXPENSES.**

3 (a) *IN GENERAL.*—Paragraph (2) of section 274(e) (re-
4 lating to expenses treated as compensation) is amended to
5 read as follows:

6 “(2) *EXPENSES TREATED AS COMPENSATION.*—
7 *Expenses for goods, services, and facilities, to the ex-*
8 *tent that the expenses do not exceed the amount of the*
9 *expenses which are treated by the taxpayer, with re-*
10 *spect to the recipient of the entertainment, amuse-*
11 *ment, or recreation, as compensation to an employee*
12 *on the taxpayer’s return of tax under this chapter*
13 *and as wages to such employee for purposes of chapter*
14 *24 (relating to withholding of income tax at source on*
15 *wages).”.*

16 (b) *PERSONS NOT EMPLOYEES.*—Paragraph (9) of sec-
17 tion 274(e) is amended by striking “to the extent that the
18 expenses are includible in the gross income” and inserting
19 “to the extent that the expenses do not exceed the amount
20 of the expenses which are includible in the gross income”.

21 (c) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply to expenses incurred after the date of
23 the enactment of this Act.

1 **SEC. 5517. INCREASE IN PENALTY FOR BAD CHECKS AND**
2 **MONEY ORDERS.**

3 (a) *IN GENERAL.*—Section 6657 (relating to bad
4 checks) is amended—

5 (1) by striking “\$750” and inserting “\$1,250”,
6 and

7 (2) by striking “\$15” and inserting “\$25”.

8 (b) *EFFECTIVE DATE.*—The amendments made by this
9 section apply to checks or money orders received after the
10 date of the enactment of this Act.

11 **SEC. 5518. ELIMINATION OF DOUBLE DEDUCTION ON MIN-**
12 **ING EXPLORATION AND DEVELOPMENT**
13 **COSTS UNDER THE MINIMUM TAX.**

14 (a) *IN GENERAL.*—Section 57(a)(1) (relating to deple-
15 tion) is amended by striking “for the taxable year)” and
16 inserting “for the taxable year and determined without re-
17 gard to so much of the basis as is attributable to mining
18 exploration and development costs described in section 616
19 or 617 for which a deduction is allowable for any taxable
20 year under this part).”.

21 (b) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply to taxable years beginning after the date
23 of the enactment this Act.

1 **PART II—ECONOMIC SUBSTANCE DOCTRINE**

2 **SEC. 5521. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
 3 **TRINE.**

4 (a) *IN GENERAL.*—Section 7701 is amended by redес-
 5 ignating subsection (o) as subsection (p) and by inserting
 6 after subsection (n) the following new subsection:

7 “(o) *CLARIFICATION OF ECONOMIC SUBSTANCE DOC-*
 8 *TRINE; ETC.*—

9 “(1) *GENERAL RULES.*—

10 “(A) *IN GENERAL.*—*In any case in which a*
 11 *court determines that the economic substance*
 12 *doctrine is relevant for purposes of this title to*
 13 *a transaction (or series of transactions), such*
 14 *transaction (or series of transactions) shall have*
 15 *economic substance only if the requirements of*
 16 *this paragraph are met.*

17 “(B) *DEFINITION OF ECONOMIC SUB-*
 18 *STANCE.*—*For purposes of subparagraph (A)—*

19 “(i) *IN GENERAL.*—*A transaction has*
 20 *economic substance only if—*

21 “(I) *the transaction changes in a*
 22 *meaningful way (apart from Federal*
 23 *tax effects) the taxpayer’s economic po-*
 24 *sition, and*

25 “(II) *the taxpayer has a substan-*
 26 *tial nontax purpose for entering into*

1 *such transaction and the transaction is*
2 *a reasonable means of accomplishing*
3 *such purpose.*

4 *In applying subclause (II), a purpose of*
5 *achieving a financial accounting benefit*
6 *shall not be taken into account in deter-*
7 *mining whether a transaction has a sub-*
8 *stantial nontax purpose if the origin of such*
9 *financial accounting benefit is a reduction*
10 *of income tax.*

11 *“(ii) SPECIAL RULE WHERE TAXPAYER*
12 *RELIES ON PROFIT POTENTIAL.—A trans-*
13 *action shall not be treated as having eco-*
14 *nomics substance by reason of having a po-*
15 *tential for profit unless—*

16 *“(I) the present value of the rea-*
17 *sonably expected pre-tax profit from*
18 *the transaction is substantial in rela-*
19 *tion to the present value of the expected*
20 *net tax benefits that would be allowed*
21 *if the transaction were respected, and*

22 *“(II) the reasonably expected pre-*
23 *tax profit from the transaction exceeds*
24 *a risk-free rate of return.*

1 “(C) *TREATMENT OF FEES AND FOREIGN*
2 *TAXES.—Fees and other transaction expenses*
3 *and foreign taxes shall be taken into account as*
4 *expenses in determining pre-tax profit under*
5 *subparagraph (B)(i).*

6 “(2) *SPECIAL RULES FOR TRANSACTIONS WITH*
7 *TAX-INDIFFERENT PARTIES.—*

8 “(A) *SPECIAL RULES FOR FINANCING*
9 *TRANSACTIONS.—The form of a transaction*
10 *which is in substance the borrowing of money or*
11 *the acquisition of financial capital directly or*
12 *indirectly from a tax-indifferent party shall not*
13 *be respected if the present value of the deductions*
14 *to be claimed with respect to the transaction is*
15 *substantially in excess of the present value of the*
16 *anticipated economic returns of the person lend-*
17 *ing the money or providing the financial capital.*
18 *A public offering shall be treated as a borrowing,*
19 *or an acquisition of financial capital, from a*
20 *tax-indifferent party if it is reasonably expected*
21 *that at least 50 percent of the offering will be*
22 *placed with tax-indifferent parties.*

23 “(B) *ARTIFICIAL INCOME SHIFTING AND*
24 *BASIS ADJUSTMENTS.—The form of a trans-*

1 *action with a tax-indifferent party shall not be*
2 *respected if—*

3 *“(i) it results in an allocation of in-*
4 *come or gain to the tax-indifferent party in*
5 *excess of such party’s economic income or*
6 *gain, or*

7 *“(ii) it results in a basis adjustment or*
8 *shifting of basis on account of overstating*
9 *the income or gain of the tax-indifferent*
10 *party.*

11 *“(3) DEFINITIONS AND SPECIAL RULES.—For*
12 *purposes of this subsection—*

13 *“(A) ECONOMIC SUBSTANCE DOCTRINE.—*
14 *The term ‘economic substance doctrine’ means*
15 *the common law doctrine under which tax bene-*
16 *fits under subtitle A with respect to a trans-*
17 *action are not allowable if the transaction does*
18 *not have economic substance or lacks a business*
19 *purpose.*

20 *“(B) TAX-INDIFFERENT PARTY.—The term*
21 *‘tax-indifferent party’ means any person or enti-*
22 *ty not subject to tax imposed by subtitle A. A*
23 *person shall be treated as a tax-indifferent party*
24 *with respect to a transaction if the items taken*
25 *into account with respect to the transaction have*

1 *no substantial impact on such person's liability*
2 *under subtitle A.*

3 “(C) *EXCEPTION FOR PERSONAL TRANS-*
4 *ACTIONS OF INDIVIDUALS.—In the case of an in-*
5 *dividual, this subsection shall apply only to*
6 *transactions entered into in connection with a*
7 *trade or business or an activity engaged in for*
8 *the production of income.*

9 “(D) *TREATMENT OF LESSORS.—In apply-*
10 *ing paragraph (1)(B)(ii) to the lessor of tangible*
11 *property subject to a lease—*

12 “(i) *the expected net tax benefits with*
13 *respect to the leased property shall not in-*
14 *clude the benefits of—*

15 “(I) *depreciation,*

16 “(II) *any tax credit, or*

17 “(III) *any other deduction as pro-*
18 *vided in guidance by the Secretary,*
19 *and*

20 “(ii) *subclause (II) of paragraph*
21 *(1)(B)(ii) shall be disregarded in deter-*
22 *mining whether any of such benefits are al-*
23 *lowable.*

24 “(4) *OTHER COMMON LAW DOCTRINES NOT AF-*
25 *FECTED.—Except as specifically provided in this sub-*

1 *section, the provisions of this subsection shall not be*
2 *construed as altering or supplanting any other rule of*
3 *law, and the requirements of this subsection shall be*
4 *construed as being in addition to any such other rule*
5 *of law.*

6 *“(5) REGULATIONS.—The Secretary shall pre-*
7 *scribe such regulations as may be necessary or appro-*
8 *priate to carry out the purposes of this subsection.*
9 *Such regulations may include exemptions from the*
10 *application of this subsection.”.*

11 *(b) EFFECTIVE DATE.—The amendments made by this*
12 *section shall apply to transactions entered into after the*
13 *date of the enactment of this Act.*

14 **SEC. 5522. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
15 **UTABLE TO TRANSACTIONS LACKING ECO-**
16 **NOMIC SUBSTANCE, ETC.**

17 *(a) IN GENERAL.—Subchapter A of chapter 68 is*
18 *amended by inserting after section 6662A the following new*
19 *section:*

20 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
21 **UTABLE TO TRANSACTIONS LACKING ECO-**
22 **NOMIC SUBSTANCE, ETC.**

23 *“(a) IMPOSITION OF PENALTY.—If a taxpayer has an*
24 *noneconomic substance transaction understatement for any*

1 taxable year, there shall be added to the tax an amount
2 equal to 40 percent of the amount of such understatement.

3 “(b) *REDUCTION OF PENALTY FOR DISCLOSED TRANS-*
4 *ACTIONS.*—Subsection (a) shall be applied by substituting
5 ‘20 percent’ for ‘40 percent’ with respect to the portion of
6 any noneconomic substance transaction understatement
7 with respect to which the relevant facts affecting the tax
8 treatment of the item are adequately disclosed in the return
9 or a statement attached to the return.

10 “(c) *NONECONOMIC SUBSTANCE TRANSACTION UNDER-*
11 *STATEMENT.*—For purposes of this section—

12 “(1) *IN GENERAL.*—The term ‘noneconomic sub-
13 stance transaction understatement’ means any
14 amount which would be an understatement under sec-
15 tion 6662A(b)(1) if section 6662A were applied by
16 taking into account items attributable to noneconomic
17 substance transactions rather than items to which sec-
18 tion 6662A would apply without regard to this para-
19 graph.

20 “(2) *NONECONOMIC SUBSTANCE TRANSACTION.*—
21 The term ‘noneconomic substance transaction’ means
22 any transaction if—

23 “(A) there is a lack of economic substance
24 (within the meaning of section 7701(o)(1)) for
25 the transaction giving rise to the claimed benefit

1 *or the transaction was not respected under sec-*
2 *tion 7701(o)(2), or*

3 “(B) *the transaction fails to meet the re-*
4 *quirements of any similar rule of law.*

5 “(d) *RULES APPLICABLE TO COMPROMISE OF PEN-*
6 *ALTY.—*

7 “(1) *IN GENERAL.—If the 1st letter of proposed*
8 *deficiency which allows the taxpayer an opportunity*
9 *for administrative review in the Internal Revenue*
10 *Service Office of Appeals has been sent with respect*
11 *to a penalty to which this section applies, only the*
12 *Commissioner of Internal Revenue may compromise*
13 *all or any portion of such penalty.*

14 “(2) *APPLICABLE RULES.—The rules of para-*
15 *graphs (2) and (3) of section 6707A(d) shall apply for*
16 *purposes of paragraph (1).*

17 “(e) *COORDINATION WITH OTHER PENALTIES.—Ex-*
18 *cept as otherwise provided in this part, the penalty imposed*
19 *by this section shall be in addition to any other penalty*
20 *imposed by this title.*

21 “(f) *CROSS REFERENCES.—*

“(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

“(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).”.

1 (b) *COORDINATION WITH OTHER UNDERSTATEMENTS*

2 *AND PENALTIES.—*

3 (1) *The second sentence of section 6662(d)(2)(A)*
 4 *is amended by inserting “and without regard to items*
 5 *with respect to which a penalty is imposed by section*
 6 *6662B” before the period at the end.*

7 (2) *Subsection (e) of section 6662A is amended—*

8 (A) *in paragraph (1), by inserting “and*
 9 *noneconomic substance transaction understate-*
 10 *ments” after “reportable transaction understate-*
 11 *ments” both places it appears,*

12 (B) *in paragraph (2)(A), by inserting “and*
 13 *a noneconomic substance transaction understate-*
 14 *ment” after “reportable transaction understate-*
 15 *ment”,*

16 (C) *in paragraph (2)(B), by inserting*
 17 *“6662B or” before “6663”,*

18 (D) *in paragraph (2)(C)(i), by inserting*
 19 *“or section 6662B” before the period at the end,*

20 (E) *in paragraph (2)(C)(ii), by inserting*
 21 *“and section 6662B” after “This section”,*

1 (F) in paragraph (3), by inserting “or non-
2 economic substance transaction understatement”
3 after “reportable transaction understatement”,
4 and

5 (G) by adding at the end the following new
6 paragraph:

7 “(4) NONECONOMIC SUBSTANCE TRANSACTION
8 UNDERSTATEMENT.—For purposes of this subsection,
9 the term ‘noneconomic substance transaction under-
10 statement’ has the meaning given such term by sec-
11 tion 6662B(c).”.

12 (3) Subsection (e) of section 6707A is amended—

13 (A) by striking “or” at the end of subpara-
14 graph (B), and

15 (B) by striking subparagraph (C) and in-
16 serting the following new subparagraphs:

17 “(C) is required to pay a penalty under sec-
18 tion 6662B with respect to any noneconomic
19 substance transaction, or

20 “(D) is required to pay a penalty under
21 section 6662(h) with respect to any transaction
22 and would (but for section 6662A(e)(2)(C)) have
23 been subject to penalty under section 6662A at a
24 rate prescribed under section 6662A(c) or under
25 section 6662B,”.

1 (c) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *part II of subchapter A of chapter 68 is amended by insert-*
 3 *ing after the item relating to section 6662A the following*
 4 *new item:*

 “*Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.*”.

5 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to transactions entered into after the*
 7 *date of the enactment of this Act.*

8 **SEC. 5523. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
 9 **DERPAYMENTS ATTRIBUTABLE TO NON-**
 10 **ECONOMIC SUBSTANCE TRANSACTIONS.**

11 (a) *IN GENERAL.*—*Section 163(m) (relating to interest*
 12 *on unpaid taxes attributable to nondisclosed reportable*
 13 *transactions) is amended—*

14 (1) *by striking “attributable” and all that fol-*
 15 *lows and inserting the following: “attributable to—*

16 “*(1) the portion of any reportable transaction*
 17 *understatement (as defined in section 6662A(b)) with*
 18 *respect to which the requirement of section*
 19 *6664(d)(2)(A) is not met, or*

20 “*(2) any noneconomic substance transaction un-*
 21 *derstatement (as defined in section 6662B(c)).*”, and

22 (2) *by inserting “AND NONECONOMIC SUBSTANCE*
 23 *TRANSACTIONS” in the heading thereof after “TRANS-*
 24 *ACTIONS”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to transactions after the date of the en-*
3 *actment of this Act in taxable years ending after such date.*

4 **PART III—IMPROVEMENTS IN EFFICIENCY AND**
5 **SAFEGUARDS IN INTERNAL REVENUE SERV-**
6 **ICE COLLECTION**

7 **SEC. 5531. WAIVER OF USER FEE FOR INSTALLMENT AGREE-**
8 **MENTS USING AUTOMATED WITHDRAWALS.**

9 (a) *IN GENERAL.*—*Section 6159 (relating to agree-*
10 *ments for payment of tax liability in installments) is*
11 *amended by redesignating subsection (e) as subsection (f)*
12 *and by inserting after subsection (d) the following:*

13 “(e) *WAIVER OF USER FEES FOR INSTALLMENT*
14 *AGREEMENTS USING AUTOMATED WITHDRAWALS.*—*In the*
15 *case of a taxpayer who enters into an installment agreement*
16 *in which automated installment payments are agreed to,*
17 *the Secretary shall waive the fee (if any) for entering into*
18 *the installment agreement.”.*

19 (b) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to agreements entered into on or after*
21 *the date which is 180 days after the date of the enactment*
22 *of this Act.*

23 **SEC. 5532. TERMINATION OF INSTALLMENT AGREEMENTS.**

24 (a) *IN GENERAL.*—*Section 6159(b)(4) (relating to fail-*
25 *ure to pay an installment or any other tax liability when*

1 *due or to provide requested financial information) is*
2 *amended by striking “or” at the end of subparagraph (B),*
3 *by redesignating subparagraph (C) as subparagraph (E),*
4 *and by inserting after subparagraph (B) the following:*

5 *“(C) to make a Federal tax deposit under*
6 *section 6302 at the time such deposit is required*
7 *to be made,*

8 *“(D) to file a return of tax imposed under*
9 *this title by its due date (including extensions),*
10 *or”.*

11 ***(b) CONFORMING AMENDMENT.***—*The heading for sec-*
12 *tion 6159(b)(4) is amended by striking “FAILURE TO PAY*
13 *AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE*
14 *OR TO PROVIDE REQUESTED FINANCIAL INFORMATION” and*
15 *inserting “FAILURE TO MAKE PAYMENTS OR DEPOSITS OR*
16 *FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FI-*
17 *NANCIAL INFORMATION”.*

18 ***(c) EFFECTIVE DATE.***—*The amendments made by this*
19 *section shall apply to failures occurring on or after the date*
20 *of the enactment of this Act.*

21 **SEC. 5533. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-**
22 **IN-COMPROMISE.**

23 ***(a) IN GENERAL.***—*Section 7122(b) (relating to record)*
24 *is amended by striking “Whenever a compromise” and all*
25 *that follows through “his delegate” and inserting “If the*

1 *Secretary determines that an opinion of the General Coun-*
 2 *sel for the Department of the Treasury, or the Counsel's del-*
 3 *egate, is required with respect to a compromise, there shall*
 4 *be placed on file in the office of the Secretary such opinion”.*

5 (b) *CONFORMING AMENDMENTS.*—Section 7122(b) is
 6 *amended by striking the second and third sentences.*

7 (c) *EFFECTIVE DATE.*—The amendments made by this
 8 *section shall apply to offers-in-compromise submitted or*
 9 *pending on or after the date of the enactment of this Act.*

10 **SEC. 5534. PARTIAL PAYMENTS REQUIRED WITH SUBMIS-**
 11 **SION OF OFFERS-IN-COMPROMISE.**

12 (a) *IN GENERAL.*—Section 7122 (relating to com-
 13 *promises), as amended by this Act, is amended by redesign-*
 14 *ating subsections (c), (d), and (e) as subsections (d), (e),*
 15 *and (f), respectively, and by inserting after subsection (b)*
 16 *the following new subsection:*

17 “(c) *RULES FOR SUBMISSION OF OFFERS-IN-COM-*
 18 *PROMISE.*—

19 “(1) *PARTIAL PAYMENT REQUIRED WITH SUB-*
 20 *MISSION.*—

21 “(A) *LUMP-SUM OFFERS.*—

22 “(i) *IN GENERAL.*—The submission of
 23 *any lump-sum offer-in-compromise shall be*
 24 *accompanied by the payment of 20 percent*
 25 *of amount of such offer.*

1 “(i) *LUMP-SUM OFFER-IN-COM-*
2 *PROMISE.—For purposes of this section, the*
3 *term ‘lump-sum offer-in-compromise’ means*
4 *any offer of payments made in 5 or fewer*
5 *installments.*

6 “(B) *PERIODIC PAYMENT OFFERS.—The*
7 *submission of any periodic payment offer-in-*
8 *compromise shall be accompanied by the pay-*
9 *ment of the amount of the first proposed install-*
10 *ment and each proposed installment due during*
11 *the period such offer is being evaluated for ac-*
12 *ceptance and has not been rejected by the Sec-*
13 *retary. Any failure to make a payment required*
14 *under the preceding sentence shall be deemed a*
15 *withdrawal of the offer-in-compromise.*

16 “(2) *RULES OF APPLICATION.—*

17 “(A) *USE OF PAYMENT.—The application of*
18 *any payment made under this subsection to the*
19 *assessed tax or other amounts imposed under this*
20 *title with respect to such tax may be specified by*
21 *the taxpayer.*

22 “(B) *NO USER FEE IMPOSED.—Any user fee*
23 *which would otherwise be imposed under this sec-*
24 *tion shall not be imposed on any offer-in-com-*

1 *promise accompanied by a payment required*
2 *under this subsection.”.*

3 ***(b) ADDITIONAL RULES RELATING TO TREATMENT OF***
4 ***OFFERS.—***

5 ***(1) UNPROCESSABLE OFFER IF PAYMENT RE-***
6 ***QUIREMENTS ARE NOT MET.—Paragraph (3) of sec-***
7 ***tion 7122(d) (relating to standards for evaluation of***
8 ***offers), as redesignated by subsection (a), is amended***
9 ***by striking “; and” at the end of subparagraph (A)***
10 ***and inserting a comma, by striking the period at the***
11 ***end of subparagraph (B) and inserting “, and”, and***
12 ***by adding at the end the following new subparagraph:***

13 ***“(C) any offer-in-compromise which does***
14 ***not meet the requirements of subsection (c) shall***
15 ***be returned to the taxpayer as unprocessable.”.***

16 ***(2) DEEMED ACCEPTANCE OF OFFER NOT RE-***
17 ***JECTED WITHIN CERTAIN PERIOD.—Section 7122, as***
18 ***amended by subsection (a), is amended by adding at***
19 ***the end the following new subsection:***

20 ***“(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED***
21 ***WITHIN CERTAIN PERIOD.—Any offer-in-compromise sub-***
22 ***mitted under this section shall be deemed to be accepted by***
23 ***the Secretary if such offer is not rejected by the Secretary***
24 ***before the date which is 24 months after the date of the sub-***
25 ***mission of such offer (12 months for offers-in-compromise***

1 *submitted after the date which is 5 years after the date of*
2 *the enactment of this subsection). For purposes of the pre-*
3 *ceding sentence, any period during which any tax liability*
4 *which is the subject of such offer-in-compromise is in dis-*
5 *pute in any judicial proceeding shall not be taken in to*
6 *account in determining the expiration of the 24-month pe-*
7 *riod (or 12-month period, if applicable).”.*

8 (c) *EFFECTIVE DATE.*—*The amendments made by this*
9 *section shall apply to offers-in-compromise submitted on*
10 *and after the date which is 60 days after the date of the*
11 *enactment of this Act.*

12 **SEC. 5535. JOINT TASK FORCE ON OFFERS-IN-COMPROMISE.**

13 (a) *IN GENERAL.*—*The Secretary of the Treasury shall*
14 *establish a joint task force—*

15 (1) *to review the Internal Revenue Service’s de-*
16 *terminations with respect to offers-in-compromise, in-*
17 *cluding offers which raise equitable, public policy, or*
18 *economic hardship grounds for compromise of a tax*
19 *liability under section 7122 of the Internal Revenue*
20 *Code of 1986,*

21 (2) *to review the extent to which the Internal*
22 *Revenue Service has used its authority to resolve long-*
23 *standing cases by forgoing penalties and interest*
24 *which have accumulated as a result of delay in deter-*
25 *mining the taxpayer’s liability,*

1 (3) to provide recommendations as to whether the
2 Internal Revenue Service's evaluation of offers-in-
3 compromise should include—

4 (A) the taxpayer's compliance history,

5 (B) errors by the Internal Revenue Service
6 with respect to the underlying tax, and

7 (C) wrongful acts by a third party which
8 gave rise to the liability, and

9 (4) to annually report to the Committee on Fi-
10 nance of the Senate and the Committee on Ways and
11 Means of the House of Representatives (beginning in
12 2006) regarding such review and recommendations.

13 (b) *MEMBERS OF JOINT TASK FORCE.*—The member-
14 ship of the joint task force under subsection (a) shall consist
15 of 1 representative each from the Department of the Treas-
16 ury, the Internal Revenue Service Oversight Board, the Of-
17 fice of the Chief Counsel for the Internal Revenue Service,
18 the Office of the Taxpayer Advocate, the Office of Appeals,
19 and the division of the Internal Revenue Service charged
20 with operating the offer-in-compromise program.

21 (c) *REPORT OF NATIONAL TAXPAYER ADVOCATE.*—

22 (1) *IN GENERAL.*—Clause (ii) of section
23 7803(c)(2)(B) (relating to annual reports) is amended
24 by striking “and” at the end of subclause (X), by re-
25 designating subclause (XI) as subclause (XII), and by

1 *inserting after subclause (X) the following new sub-*
2 *clause:*

3 “(XI) include a list of the factors
4 taxpayers have raised to support their
5 claims for offers-in-compromise relief,
6 the number of such offers submitted,
7 accepted, and rejected, the number of
8 such offers appealed, the period during
9 which review of such offers have re-
10 mained pending, and the efforts the In-
11 ternal Revenue Service has made to
12 correctly identify such offers, including
13 the training of employees in identi-
14 fying and evaluating such offers.”.

15 (2) *EFFECTIVE DATE.*—*The amendment made by*
16 *paragraph (1) shall apply to reports in calendar year*
17 *2006 and thereafter.*

1 ***Subtitle F—Additional Revenue***
2 ***Provisions***

3 ***PART I—GENERAL PROVISIONS***

4 ***SEC. 5601. SUSPENSION OF TRANSFERS FROM HIGHWAY***
5 ***TRUST FUND FOR CERTAIN REPAYMENTS***
6 ***AND CREDITS.***

7 (a) *IN GENERAL.*—Section 9503(c)(2)(A) (relating to
8 *transfers from Highway Trust Fund for certain repayments*
9 *and credits*) is amended—

10 (1) *by striking “July 1, 2006” in clause (i) and*
11 *inserting “July 1, 2012”,*

12 (2) *by striking “October 1, 2005” in the matter*
13 *following clause (i)(III) and inserting “April 1, 2005,*
14 *or for periods ending after September 30, 2009, and*
15 *before October 1, 2011”, and*

16 (3) *by striking “October 1, 2005” in clause (ii)*
17 *and inserting “April 1, 2005, or used after September*
18 *30, 2009, and before October 1, 2011”.*

19 (b) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to amounts paid for which no transfer*
21 *has been made before April 1, 2005.*

22 ***SEC. 5602. TEMPORARY DEDICATION OF GAS GUZZLER TAX***
23 ***TO HIGHWAY TRUST FUND.***

24 (a) *IN GENERAL.*—Section 9503(b)(1) (relating to
25 *transfer to Highway Trust Fund of amounts equivalent to*

1 *certain taxes), as amended by this Act, is amended by redese-*
 2 *ignating subparagraphs (C), (D), and (E) as subpara-*
 3 *graphs (D), (E), and (F), respectively, and by inserting*
 4 *after subparagraph (B) the following new subparagraph:*

5 “(C) section 4064 (relating to gas guzzler
 6 tax),”.

7 (b) *TEMPORARY PERIOD FOR DEDICATION.*—Section
 8 *9503(b)(4) (relating to certain taxes not transferred to*
 9 *Highway Trust Fund) is amended by redesignating sub-*
 10 *paragraphs (B), (C), and (D) as subparagraphs (C), (D),*
 11 *and (E), respectively, and by inserting after subparagraph*
 12 *(A) the following new subparagraph:*

13 “(B) section 4064 with respect to taxes im-
 14 posed after September 30, 2009,”.

15 (c) *EFFECTIVE DATE.*—The amendments made by this
 16 *section shall apply to taxes imposed on and after July 1,*
 17 *2005.*

18 **PART II—PROVISIONS TO COMBAT FUEL FRAUD**

19 **SEC. 5611. TREATMENT OF KEROSENE FOR USE IN AVIA-**
 20 **TION.**

21 (a) *ALL KEROSENE TAXED AT HIGHEST RATE.*—

22 (1) *IN GENERAL.*—Section 4081(a)(2)(A) (relat-
 23 ing to rates of tax) is amended by adding “and” at
 24 the end of clause (ii), by striking “, and” at the end

1 of clause (iii) and inserting a period, and by striking
2 clause (iv).

3 (2) *EXCEPTION FOR USE IN AVIATION.*—Sub-
4 paragraph (C) of section 4081(a)(2), as amended by
5 this Act, is amended to read as follows:

6 “(C) *TAXES IMPOSED ON FUEL USED IN*
7 *AVIATION.*—In the case of kerosene which is re-
8 moved from any refinery or terminal directly
9 into the fuel tank of an aircraft for use in avia-
10 tion, the rate of tax under subparagraph (A)(iii)
11 shall be—

12 “(i) in the case of use for commercial
13 aviation by a person registered for such use
14 under section 4101, 4.3 cents per gallon,
15 and

16 “(ii) in the case of use for aviation not
17 described in clause (i), 21.8 cents per gal-
18 lon.”.

19 (3) *CONFORMING AMENDMENTS.*—

20 (A) Sections 4081(a)(3)(A) and 4082(b) are
21 amended by striking “aviation-grade” each place
22 it appears.

23 (B) Section 4081(a)(4) is amended by strik-
24 ing “paragraph (2)(C)” and inserting “para-
25 graph (2)(C)(i)”.

1 (C) *The heading for paragraph (4) of sec-*
2 *tion 4081(a) is amended by striking “AVIATION-*
3 *GRADE”.*

4 (D) *Section 4081(d)(2), as amended by this*
5 *Act, is amended by striking so much as precedes*
6 *subparagraph (A) and inserting the following:*

7 “(2) *AVIATION FUELS.—The rates of tax speci-*
8 *fied in subsections (a)(2)(A)(i) and (a)(2)(C)(i)*
9 *shall be 4.3 cents per gallon—”.*

10 (E) *Subsection (e) of section 4082 is*
11 *amended—*

12 (i) *by striking “aviation-grade”,*

13 (ii) *by striking “section*
14 *4081(a)(2)(A)(iv)” and inserting “section*
15 *4081(a)(2)(A)(iii)”, and*

16 (iii) *by striking “AVIATION-GRADE*
17 *KEROSENE” in the heading thereof and in-*
18 *serting “KEROSENE REMOVED INTO AN*
19 *AIRCRAFT”.*

20 (b) *REDUCED RATE FOR USE OF CERTAIN LIQUIDS*
21 *IN AVIATION.—*

22 (1) *IN GENERAL.—Subsection (c) of section 4041*
23 *(relating to imposition of tax) is amended—*

1 (A) by striking “aviation-grade kerosene” in
2 paragraph (1) and inserting “any liquid for use
3 as a fuel other than aviation gasoline”,

4 (B) by striking “aviation-grade kerosene”
5 in paragraph (2) and inserting “liquid for use
6 as a fuel other than aviation gasoline”,

7 (C) by striking paragraph (3) and inserting
8 the following new paragraph:

9 “(3) *RATE OF TAX.*—The rate of tax imposed by
10 this subsection shall be 21.8 cents per gallon (4.3
11 cents per gallon with respect to any sale or use for
12 commercial aviation).”, and

13 (D) by striking “AVIATION-GRADE KER-
14 OSENE” in the heading thereof and inserting
15 “CERTAIN LIQUIDS USED AS A FUEL IN AVIA-
16 TION”.

17 (2) *PARTIAL REFUND OF FULL RATE.*—

18 (A) *IN GENERAL.*—Paragraph (2) of section
19 6427(l) (relating to nontaxable uses of diesel fuel,
20 kerosene and aviation fuel) is amended to read
21 as follows:

22 “(2) *NONTAXABLE USE.*—For purposes of this
23 subsection, the term ‘nontaxable use’ means any use
24 which is exempt from the tax imposed by section

1 4041(a)(1) other than by reason of a prior imposition
2 of tax.”.

3 (B) *REFUNDS FOR NONCOMMERCIAL AVIA-*
4 *TION.—Section 6427(l) (relating to nontaxable*
5 *uses of diesel fuel, kerosene and aviation fuel) is*
6 *amended by redesignating paragraph (5) as*
7 *paragraph (6) and by inserting after paragraph*
8 *(4) the following new paragraph:*

9 “(5) *REFUNDS FOR KEROSENE USED IN NON-*
10 *COMMERCIAL AVIATION.—*

11 “(A) *IN GENERAL.—In the case of kerosene*
12 *used in aviation not described in paragraph*
13 *(4)(A) (other than any use which is exempt from*
14 *the tax imposed by section 4041(c) other than by*
15 *reason of a prior imposition of tax), paragraph*
16 *(1) shall not apply to so much of the tax imposed*
17 *by section 4081 as is attributable to—*

18 “(i) *the Leaking Underground Storage*
19 *Tank Trust Fund financing rate imposed*
20 *by such section, and*

21 “(ii) *so much of the rate of tax speci-*
22 *fied in section 4081(a)(2)(A)(iii) as does*
23 *not exceed the rate specified in section*
24 *4081(a)(2)(C)(ii).*

1 “(B) *PAYMENT TO ULTIMATE, REGISTERED*
2 *VENDOR.—The amount which would be paid*
3 *under paragraph (1) with respect to any ker-*
4 *osene shall be paid to the ultimate vendor of such*
5 *kerosene, if such vendor—*

6 “(i) *is registered under section 4101,*
7 *and*

8 “(ii) *meets the requirements of sub-*
9 *paragraph (A), (B), or (D) of section*
10 *6416(a)(1).”.*

11 (3) *CONFORMING AMENDMENTS.—*

12 (A) *Section 4041(a)(1)(B) is amended by*
13 *striking the last sentence.*

14 (B) *The heading for subsection (l) of section*
15 *6427 is amended by striking “, KEROSENE AND*
16 *AVIATION FUEL” and inserting “AND KER-*
17 *OSENE”.*

18 (C) *Section 4082(d)(2)(B) is amended by*
19 *striking “section 6427(l)(5)(B)” and inserting*
20 *“section 6427(l)(6)(B)”.*

21 (D) *Section 6427(i)(4)(A) is amended—*

22 (i) *by striking “paragraph (4)(B) or*
23 *(5)” both places it appears and inserting*
24 *“paragraph (4)(B), (5), or (6)”, and*

1 (ii) by striking “subsection (b)(4) and
2 subsection (l)(5)” in the last sentence and
3 inserting “subsections (b)(4), (l)(5), and
4 (l)(6)”.

5 (E) Paragraph (4) of section 6427(l) is
6 amended—

7 (i) by striking “aviation-grade” in
8 subparagraph (A),

9 (ii) by striking “section
10 4081(a)(2)(A)(iv)” and inserting “section
11 4081(a)(2)(iii)”,

12 (iii) by striking “aviation-grade ker-
13 osene” in subparagraph (B) and inserting
14 “kerosene used in commercial aviation as
15 described in subparagraph (A)”, and

16 (iv) by striking “AVIATION-GRADE KER-
17 ROSENE” in the heading thereof and insert-
18 ing “KEROSENE USED IN COMMERCIAL
19 AVIATION”.

20 (F) Section 6427(l)(6)(B), as redesignated
21 by paragraph (2)(B), is amended by striking
22 “aviation-grade kerosene” and inserting “ker-
23 osene used in aviation”.

1 (c) *TRANSFERS FROM HIGHWAY TRUST FUND OF*
2 *TAXES ON FUELS USED IN AVIATION TO AIRPORT AND AIR-*
3 *WAY TRUST FUND.*—

4 (1) *IN GENERAL.*—Section 9503(c) (relating to
5 *expenditures from Highway Trust Fund*), as amended
6 *by this Act*, is amended by adding at the end the fol-
7 *lowing new paragraph:*

8 “(7) *TRANSFERS FROM THE TRUST FUND FOR*
9 *CERTAIN AVIATION FUEL TAXES.*—The Secretary shall
10 *pay from time to time from the Highway Trust Fund*
11 *into the Airport and Airway Trust Fund amounts (as*
12 *determined by the Secretary) equivalent to the taxes*
13 *received on or after October 1, 2005, and before Octo-*
14 *ber 1, 2011, under sections 4041 and 4081 with re-*
15 *spect to fuels used in a nontaxable use (as described*
16 *in section 6427(l)(2)(B)) to the extent such amounts*
17 *exceed the amounts paid with respect to such use*
18 *under paragraphs (4) and (5) of section 6427(l).”.*

19 (2) *CONFORMING AMENDMENTS.*—

20 (A) Section 9502(a) is amended by striking
21 *“appropriated or credited to the Airport and*
22 *Airway Trust Fund as provided in this section*
23 *or section 9602(b)”* and inserting *“appropriated,*
24 *credited, or paid into the Airport and Airway*

1 *Trust Fund as provided in this section, section*
2 *9503(c)(7), or section 9602(b)”.*

3 *(B) Section 9502(b)(1) is amended—*

4 *(i) by striking “subsections (c) and (e)*
5 *of section 4041” in subparagraph (A) and*
6 *inserting “section 4041(c)”, and*

7 *(ii) by striking “and aviation-grade*
8 *kerosene” in subparagraph (C) and insert-*
9 *ing “and kerosene to the extent attributable*
10 *to the rate specified in section*
11 *4081(a)(2)(C)”.*

12 *(C) Section 9503(b) is amended by striking*
13 *paragraph (3).*

14 *(d) EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to fuels or liquids removed, entered, or*
16 *sold after September 30, 2005.*

17 **SEC. 5612. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS**
18 **WITH RESPECT TO FARMING.**

19 *(a) IN GENERAL.—Subparagraph (A) of section*
20 *6427(l)(6) (relating to registered vendors to administer*
21 *claims for refund of diesel fuel or kerosene sold to farmers*
22 *and State and local governments), as redesignated by sec-*
23 *tion 5611, is amended to read as follows:*

1 “(A) *IN GENERAL.*—Paragraph (1) shall
2 *not apply to diesel fuel or kerosene used by a*
3 *State or local government.*”.

4 (b) *CONFORMING AMENDMENT.*—The heading of para-
5 graph (6) of section 6427(l), as so redesignated, is amended
6 by striking “*FARMERS AND*”.

7 (c) *EFFECTIVE DATE.*—The amendments made by this
8 section shall apply to sales after September 30, 2005.

9 **SEC. 5613. REFUNDS OF EXCISE TAXES ON EXEMPT SALES**
10 **OF FUEL BY CREDIT CARD.**

11 (a) *GASOLINE.*—

12 (1) *IN GENERAL.*—Paragraph (4) of section
13 6416(a) (relating to condition to allowance) is
14 amended—

15 (A) by inserting “except as provided in sub-
16 paragraph (B),” after “For purposes of this sub-
17 section,” in subparagraph (A),

18 (B) by redesignating subparagraph (B) as
19 subparagraph (C) and by inserting after sub-
20 paragraph (A) the following new subparagraph:

21 “(B) *CREDIT CARD ISSUER.*—For purposes
22 of this subsection, if the sale of gasoline described
23 in subparagraph (A) (determined without regard
24 to the registration status of the ultimate vendor)
25 is made by means of a credit card issued to the

1 ultimate purchaser, paragraph (1) shall not
2 apply and the person extending the credit to the
3 ultimate purchaser shall be treated as the person
4 (and the only person) who paid the tax, but only
5 if such person—

6 “(i) is registered under section 4101,

7 and

8 “(ii) has established, under regulations
9 prescribed by the Secretary, that such
10 person—

11 “(I) has not collected the amount
12 of the tax from the person who pur-
13 chased such article, or

14 “(II) has obtained the written
15 consent from the ultimate purchaser to
16 the allowance of the credit or refund,
17 and

18 “(iii) has so established that such
19 person—

20 “(I) has repaid or agreed to repay
21 the amount of the tax to the ultimate
22 vendor,

23 “(II) has obtained the written
24 consent of the ultimate vendor to the
25 allowance of the credit or refund, or

1 “(III) has otherwise made ar-
2 rangements which directly or indi-
3 rectly assure the ultimate vendor of re-
4 imbursement of such tax.”,

5 (C) by striking “subparagraph (A)” in sub-
6 paragraph (C), as redesignated by paragraph
7 (2), and inserting “subparagraph (A) or (B)”,

8 (D) by inserting “or credit card issuer”
9 after “vendor” in subparagraph (C), as so reded-
10 ignated, and

11 (E) by inserting “OR CREDIT CARD ISSUER”
12 after “VENDOR” in the heading thereof.

13 (2) CONFORMING AMENDMENT.—Section
14 6416(b)(2) is amended by adding at the end the fol-
15 lowing new sentence: “Subparagraphs (C) and (D)
16 shall not apply in the case of any tax imposed on
17 gasoline under section 4081 if the requirements of
18 subsection (a)(4) are not met.”

19 (b) DIESEL FUEL OR KEROSENE.—Paragraph (6) of
20 section 6427(l) (relating to nontaxable uses of diesel fuel
21 and kerosene), as redesignated by section 5611, is
22 amended—

23 (1) by striking “The amount” in subparagraph
24 (C) and inserting “Except as provided in subpara-
25 graph (D), the amount”, and

1 (2) *by adding at the end the following new sub-*
2 *paragraph:*

3 “(D) *CREDIT CARD ISSUER.*—*For purposes*
4 *of this paragraph, if the sale of any fuel de-*
5 *scribed in subparagraph (A) (determined without*
6 *regard to the registration status of the ultimate*
7 *vendor) is made by means of a credit card issued*
8 *to the ultimate purchaser, the Secretary shall*
9 *pay to the person extending the credit to the ulti-*
10 *mate purchaser the amount which would have*
11 *been paid under paragraph (1) (but for subpara-*
12 *graph (A) or (B)), but only if such person meets*
13 *the requirements of clauses (i), (ii), and (iii) of*
14 *section 6416(a)(4)(B).”.*

15 (c) *CONFORMING PENALTY AMENDMENTS.*—

16 (1) *Section 6206 (relating to special rules appli-*
17 *cable to excessive claims under sections 6420, 6421,*
18 *and 6427) is amended—*

19 (A) *by striking “Any portion” in the first*
20 *sentence and inserting “Any portion of a refund*
21 *made under section 6416(a)(4) and any por-*
22 *tion”,*

23 (B) *by striking “payments under sections*
24 *6420” in the first sentence and inserting “re-*

1 *funds under section 6416(a)(4) and payments*
 2 *under sections 6420”,*

3 *(C) by striking “section 6420” in the second*
 4 *sentence and inserting “section 6416(a)(4),*
 5 *6420”, and*

6 *(D) by striking “**SECTIONS 6420, 6421,***
 7 ***AND 6427” in the heading thereof and inserting***
 8 ***“CERTAIN SECTIONS”.***

9 *(2) Section 6675(a) is amended by inserting*
 10 *“section 6416(a)(4) (relating to certain sales of gaso-*
 11 *line),” after “made under”.*

12 *(3) Section 6675(b)(1) is amended by inserting*
 13 *“6416(a)(4),” after “under section”.*

14 *(4) The item relating to section 6206 in the table*
 15 *of sections for subchapter A of chapter 63 is amended*
 16 *by striking “sections 6420, 6421, and 6427” and in-*
 17 *serting “certain sections”.*

18 *(d) EFFECTIVE DATE.—The amendments made by this*
 19 *section shall apply to sales after December 31, 2005.*

20 **SEC. 5614. ADDITIONAL REQUIREMENT FOR EXEMPT PUR-**
 21 **CHASES.**

22 *(a) STATE AND LOCAL GOVERNMENTS.—*

23 *(1) Subparagraph (C) of section 6416(b)(2) (re-*
 24 *lating to specified uses and resales) is amended to*
 25 *read as follows:*

1 “(C) sold to a State or local government for
2 the exclusive use of a State or local government
3 (as defined in section 4221(d)(4) and certified as
4 such by the State) or sold to a qualified volun-
5 teer fire department (as defined in section
6 150(e)(2) and certified as such by the State) for
7 its exclusive use;”.

8 (2) Section 4041(g)(2) (relating to other exemp-
9 tions) is amended by striking “or the District of Co-
10 lumbia” and inserting “the District of Columbia, or
11 a qualified volunteer fire department (as defined in
12 section 150(e)(2)) (and certified as such by the State
13 or the District of Columbia)”.

14 (b) *NONPROFIT EDUCATIONAL ORGANIZATIONS.*—

15 (1) Section 6416(b)(2)(D) is amended by insert-
16 ing “(as defined in section 4221(d)(5) and certified to
17 be in good standing by the State in which such orga-
18 nization is providing educational services)” after “or-
19 ganization”.

20 (2) Section 4041(g)(4) is amended—

21 (A) by inserting “(certified to be in good
22 standing by the State in which such organiza-
23 tion is providing educational services)” after
24 “organization” the first place it appears, and

1 (B) by striking “use by a” and inserting
2 “use by such a”.

3 (c) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall apply to sales after December 31, 2005.*

5 **SEC. 5615. REREGISTRATION IN EVENT OF CHANGE IN OWN-**
6 **ERSHIP.**

7 (a) *IN GENERAL.*—*Section 4101(a) (relating to reg-*
8 *istration) is amended by adding at the end the following*
9 *new paragraph:*

10 “(4) *REREGISTRATION IN EVENT OF CHANGE IN*
11 *OWNERSHIP.*—*Under regulations prescribed by the*
12 *Secretary, a person (other than a corporation the*
13 *stock of which is regularly traded on an established*
14 *securities market) shall be required to reregister under*
15 *this section if after a transaction (or series of related*
16 *transactions) more than 50 percent of ownership in-*
17 *terests in, or assets of, such person are held by persons*
18 *other than persons (or persons related thereto) who*
19 *held more than 50 percent of such interests or assets*
20 *before the transaction (or series of related trans-*
21 *actions).”.*

22 (b) *CONFORMING AMENDMENTS.*—

23 (1) *CIVIL PENALTY.*—*Section 6719 (relating to*
24 *failure to register) is amended—*

1 (A) by inserting “or reregister” after “reg-
2 ister” each place it appears,

3 (B) by inserting “OR REREGISTER” after
4 “REGISTER” in the heading for subsection (a),
5 and

6 (C) by inserting “**OR REREGISTER**” after
7 “**REGISTER**” in the heading thereof.

8 (2) *CRIMINAL PENALTY.*—Section 7232 (relating
9 to failure to register under section 4101, false rep-
10 resentations of registration status, etc.) is amended—

11 (A) by inserting “or reregister” after “reg-
12 ister”,

13 (B) by inserting “or reregistration” after
14 “registration”, and

15 (C) by inserting “**OR REREGISTER**” after
16 “**REGISTER**” in the heading thereof.

17 (3) *CLERICAL AMENDMENTS.*—The item relating
18 to section 6719 in the table of sections for part I of
19 subchapter B of chapter 68 and the item relating to
20 section 7232 in the table of sections for part II of sub-
21 chapter A of chapter 75 are each amended by insert-
22 ing “or reregister” after “register”.

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 section shall apply to actions, or failures to act, after the
25 date of the enactment of this Act.

1 **SEC. 5616. RECONCILIATION OF ON-LOADED CARGO TO EN-**
2 **TERED CARGO.**

3 (a) *IN GENERAL.*—Subsection (a) of section 343 of the
4 *Trade Act of 2002* is amended by inserting at the end the
5 *following new paragraph:*

6 “(4) *TRANSMISSION OF DATA.*—Pursuant to
7 *paragraph (2)*, not later than 1 year after the date
8 *of enactment of this paragraph*, the Secretary of
9 *Homeland Security*, after consultation with the Sec-
10 *retary of the Treasury*, shall establish an electronic
11 *data interchange system through which the United*
12 *States Customs and Border Protection shall transmit*
13 *to the Internal Revenue Service information per-*
14 *taining to cargoes of any taxable fuel (as defined in*
15 *section 4083 of the Internal Revenue Code of 1986)*
16 *that the United States Customs and Border Protec-*
17 *tion has obtained electronically under its regulations*
18 *adopted in accordance with paragraph (1).* For this
19 *purpose*, not later than 1 year after the date of enact-
20 *ment of this paragraph*, all filers of required cargo in-
21 *formation for such taxable fuels (as so defined) must*
22 *provide such information to the United States Cus-*
23 *toms and Border Protection through such electronic*
24 *data interchange system.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall take effect on the date of the enactment of this*
3 *Act.*

4 **SEC. 5617. REGISTRATION OF DEEP-DRAFT VESSELS.**

5 *In applying section 4101 of the Internal Revenue Code*
6 *of 1986 on and after the date of the enactment of this Act,*
7 *the Secretary of the Treasury shall require the registration*
8 *under such section of every operator of a vessel described*
9 *in section 4042(c)(1) of such Code.*

10 **SEC. 5618. TAXATION OF GASOLINE BLENDSTOCKS AND**
11 **KEROSENE.**

12 *With respect to fuel entered or removed after September*
13 *30, 2005, the Secretary of the Treasury shall, in applying*
14 *section 4083 of the Internal Revenue Code of 1986—*

15 (1) *prohibit the nonbulk entry or removal of any*
16 *gasoline blend stock without the imposition of tax*
17 *under section 4081 of such Code, and*

18 (2) *include mineral spirits in the definition of*
19 *kerosene.*

20 **SEC. 5619. NONAPPLICATION OF EXPORT EXEMPTION TO**
21 **DELIVERY OF FUEL TO MOTOR VEHICLES RE-**
22 **MOVED FROM UNITED STATES.**

23 (a) *IN GENERAL.*—*Section 4221(d)(2) (defining ex-*
24 *port) is amended by adding at the end the following new*
25 *sentence: “Such term does not include the delivery of a tax-*

1 *able fuel (as defined in section 4083(a)(1)) into a fuel tank*
2 *of a motor vehicle which is shipped or driven out of the*
3 *United States.”.*

4 (b) *CONFORMING AMENDMENTS.—*

5 (1) *Section 4041(g) (relating to other exemp-*
6 *tions) is amended by adding at the end the following*
7 *new sentence: “Paragraph (3) shall not apply to the*
8 *sale of a liquid for delivery into a fuel tank of a*
9 *motor vehicle which is shipped or driven out of the*
10 *United States.”.*

11 (2) *Clause (iv) of section 4081(a)(1)(A) (relating*
12 *to tax on removal, entry, or sale) is amended by in-*
13 *serting “or at a duty-free sales enterprise (as defined*
14 *in section 555(b)(8) of the Tariff Act of 1930)” after*
15 *“section 4101”.*

16 (c) *EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply to sales or deliveries made after the date*
18 *of the enactment of this Act.*

19 **SEC. 5620. PENALTY WITH RESPECT TO CERTAIN ADULTER-**
20 **ATED FUELS.**

21 (a) *IN GENERAL.—Part I of subchapter B of chapter*
22 *68 (relating to assessable penalties) is amended by adding*
23 *at the end the following new section:*

1 **“SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADUL-**
2 **TERATED FUELS.**

3 “(a) *IN GENERAL.*—Any person who knowingly trans-
4 fers for resale, sells for resale, or holds out for resale any
5 liquid for use in a diesel-powered highway vehicle or a die-
6 sel-powered train which does not meet applicable EPA regu-
7 lations (as defined in section 45H(c)(3)), shall pay a pen-
8 alty of \$10,000 for each such transfer, sale, or holding out
9 for resale, in addition to the tax on such liquid (if any).

10 “(b) *PENALTY IN THE CASE OF RETAILERS.*—Any per-
11 son who knowingly holds out for sale (other than for resale)
12 any liquid described in subsection (a), shall pay a penalty
13 of \$10,000 for each such holding out for sale, in addition
14 to the tax on such liquid (if any).”.

15 “(b) *DEDICATION OF REVENUE.*—Paragraph (5) of sec-
16 tion 9503(b) (relating to certain penalties) is amended by
17 inserting “6720A,” after “6719,”.

18 “(c) *CLERICAL AMENDMENT.*—The table of sections for
19 part I of subchapter B of chapter 68 is amended by adding
20 at the end the following new item:

“Sec. 6720A. Penalty with respect to certain adulterated fuels.”.

21 “(d) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to any transfer, sale, or holding out for
23 sale or resale occurring after the date of the enactment of
24 this Act.

1 **TITLE VI—PUBLIC**
2 **TRANSPORTATION**

3 **SEC. 6001. SHORT TITLE.**

4 *This title may be cited as the “Federal Public Trans-*
5 *portation Act of 2005”.*

6 **SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES**
7 **CODE; UPDATED TERMINOLOGY.**

8 *(a) AMENDMENTS TO TITLE 49.—Except as otherwise*
9 *specifically provided, whenever in this title an amendment*
10 *or repeal is expressed in terms of an amendment to, or re-*
11 *peal of, a section or other provision of law, the reference*
12 *shall be considered to be made to a section or other provi-*
13 *sion of title 49, United States Code.*

14 *(b) UPDATED TERMINOLOGY.—Except for sections*
15 *5301(f), 5302(a)(7), and 5315, chapter 53, including the*
16 *chapter analysis, is amended by striking “mass transpor-*
17 *tation” each place it appears and inserting “public trans-*
18 *portation”.*

19 **SEC. 6003. POLICIES, FINDINGS, AND PURPOSES.**

20 *(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC*
21 *TRANSPORTATION SYSTEMS.—Section 5301(a) is amended*
22 *to read as follows:*

23 *“(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC*
24 *TRANSPORTATION SYSTEMS.—It is in the economic interest*
25 *of the United States to foster the development and revital-*

1 *ization of public transportation systems, which are coordi-*
2 *nated with other modes of transportation, that maximize*
3 *the efficient, secure, and safe mobility of individuals and*
4 *minimize environmental impacts.”.*

5 (b) *GENERAL FINDINGS.*—Section 5301(b)(1) is
6 amended—

7 (1) by striking “70 percent” and inserting “two-
8 thirds”; and

9 (2) by striking “urban areas” and inserting “ur-
10 banized areas”.

11 (c) *PRESERVING THE ENVIRONMENT.*—Section 5301(e)
12 is amended—

13 (1) by striking “an urban” and inserting “a”;
14 and

15 (2) by striking “under sections 5309 and 5310 of
16 this title”.

17 (d) *GENERAL PURPOSES.*—Section 5301(f) is
18 amended—

19 (1) in paragraph (1)—

20 (A) by striking “improved mass” and in-
21 serting “improved public”; and

22 (B) by striking “public and private mass
23 transportation companies” and inserting “public
24 transportation companies and private companies
25 engaged in public transportation”;

1 (2) *in paragraph (2)—*

2 (A) *by striking “urban mass” and inserting*
3 *“public”; and*

4 (B) *by striking “public and private mass*
5 *transportation companies” and inserting “public*
6 *transportation companies and private companies*
7 *engaged in public transportation”;*

8 (3) *in paragraph (3)—*

9 (A) *by striking “urban mass” and inserting*
10 *“public”; and*

11 (B) *by striking “public or private mass*
12 *transportation companies” and inserting “public*
13 *transportation companies or private companies*
14 *engaged in public transportation”; and*

15 (4) *in paragraph (5), by striking “urban mass”*
16 *and inserting “public”.*

17 **SEC. 6004. DEFINITIONS.**

18 *Section 5302(a) is amended—*

19 (1) *in paragraph (1)—*

20 (A) *in subparagraph (G)(i), by inserting*
21 *“including the intercity bus and intercity rail*
22 *portions of such facility or mall,” after “trans-*
23 *portation mall,”;*

24 (B) *in subparagraph (G)(ii), by inserting “,*
25 *except for the intercity bus portion of intermodal*

1 *facilities or malls,” after “commercial revenue-*
2 *producing facility”;*

3 *(C) in subparagraph (H)—*

4 *(i) by striking “and” after “innova-*
5 *tive” and inserting “or”; and*

6 *(ii) by striking “or” after the semi-*
7 *colon at the end;*

8 *(D) in subparagraph (I), by striking the pe-*
9 *riod at the end and inserting a semicolon; and*

10 *(E) by adding at the end the following:*

11 *“(J) crime prevention and security,*
12 *including—*

13 *“(i) projects to refine and develop secu-*
14 *rity and emergency response plans; or*

15 *“(ii) projects to detect chemical or bio-*
16 *logical agents in public transportation;*

17 *“(K) conducting emergency response drills*
18 *with public transportation agencies and local*
19 *first response agencies or security training for*
20 *public transportation employees, except for ex-*
21 *penses relating to operations; or*

22 *“(L) establishing a debt service reserve,*
23 *made up of deposits with a bondholder’s trustee,*
24 *to ensure the timely payment of principal and*

1 *interest on bonds issued by a grant recipient to*
2 *finance an eligible project under this chapter.”;*

3 *(2) by redesignating paragraphs (8) through (17)*
4 *as paragraphs (9) through (18), respectively;*

5 *(3) by striking paragraph (7) and inserting the*
6 *following:*

7 “(7) *MASS TRANSPORTATION.*—*The term ‘mass*
8 *transportation’ means public transportation.*

9 “(8) *MOBILITY MANAGEMENT.*—*The term ‘mobil-*
10 *ity management’ means a short-range planning or*
11 *management activity or project that does not include*
12 *operating public transportation services and—*

13 *“(A) improves coordination among public*
14 *transportation providers, including private com-*
15 *panies engaged in public transportation;*

16 *“(B) addresses customer needs by tailoring*
17 *public transportation services to specific market*
18 *niches; or*

19 *“(C) manages public transportation de-*
20 *mand.”;*

21 *(4) by amending paragraph (11), as redesi-*
22 *gnated, to read as follows:*

23 “(11) *PUBLIC TRANSPORTATION.*—*The term*
24 *‘public transportation’ means transportation by a*
25 *conveyance that provides local regular and continuing*

1 *general or special transportation to the public, but*
 2 *does not include school bus, charter bus, intercity bus*
 3 *or passenger rail, or sightseeing transportation.”;*

4 *(5) in subparagraphs (A) and (E) of paragraph*
 5 *(16), as redesignated, by striking “and” each place it*
 6 *appears and inserting “or”; and*

7 *(6) by amending paragraph (18), as redesign-*
 8 *ated, to read as follows:*

9 *“(18) URBANIZED AREA.—The term ‘urbanized*
 10 *area’ means an area encompassing a population of*
 11 *not less than 50,000 people that has been defined and*
 12 *designated in the most recent decennial census as an*
 13 *‘urbanized area’ by the Secretary of Commerce.”.*

14 **SEC. 6005. METROPOLITAN TRANSPORTATION PLANNING.**

15 *Section 5303 is amended to read as follows:*

16 **“§ 5303. Metropolitan transportation planning**

17 *“(a) DEFINITIONS.—As used in this section and in sec-*
 18 *tion 5304, the following definitions shall apply:*

19 *“(1) CONSULTATION.—A ‘consultation’ occurs*
 20 *when 1 party—*

21 *“(A) confers with another identified party*
 22 *in accordance with an established process;*

23 *“(B) prior to taking action, considers the*
 24 *views of the other identified party; and*

1 “(C) periodically informs that party about
2 action taken.

3 “(2) METROPOLITAN PLANNING AREA.—The term
4 ‘metropolitan planning area’ means the geographic
5 area determined by agreement between the metropoli-
6 tan planning organization and the Governor under
7 subsection (d).

8 “(3) METROPOLITAN PLANNING ORGANIZA-
9 TION.—The term ‘metropolitan planning organiza-
10 tion’ means the Policy Board of the organization des-
11 ignated under subsection (c).

12 “(4) NONMETROPOLITAN AREA.—The term ‘non-
13 metropolitan area’ means any geographic area out-
14 side all designated metropolitan planning areas.

15 “(5) NONMETROPOLITAN LOCAL OFFICIAL.—The
16 term ‘nonmetropolitan local official’ means any elect-
17 ed or appointed official of general purpose local gov-
18 ernment located in a nonmetropolitan area who is re-
19 sponsible for transportation services for such local
20 government.

21 “(b) GENERAL REQUIREMENTS.—

22 “(1) DEVELOPMENT OF PLANS AND PROGRAMS.—
23 To accomplish the objectives described in section
24 5301(a), each metropolitan planning organization, in
25 cooperation with the State and public transportation

1 operators, shall develop transportation plans and pro-
2 grams for metropolitan planning areas of the State in
3 which it is located.

4 “(2) CONTENTS.—The plans and programs devel-
5 oped under paragraph (1) for each metropolitan plan-
6 ning area shall provide for the development and inte-
7 grated management and operation of transportation
8 systems and facilities (including pedestrian walkways
9 and bicycle transportation facilities) that will func-
10 tion as an intermodal transportation system for the
11 metropolitan planning area and as an integral part
12 of an intermodal transportation system for the State
13 and the United States.

14 “(3) PROCESS OF DEVELOPMENT.—The process
15 for developing the plans and programs shall provide
16 for consideration of all modes of transportation and
17 shall be continuing, cooperative, and comprehensive to
18 the degree appropriate, based on the complexity of the
19 transportation problems to be addressed.

20 “(4) PLANNING AND PROJECT DEVELOPMENT.—
21 The metropolitan planning organization, the State
22 Department of Transportation, and the appropriate
23 public transportation provider shall agree upon the
24 approaches that will be used to evaluate alternatives
25 and identify transportation improvements that ad-

1 *dress the most complex problems and pressing trans-*
2 *portation needs in the metropolitan area.*

3 “(c) *DESIGNATION OF METROPOLITAN PLANNING OR-*
4 *GANIZATIONS.—*

5 “(1) *IN GENERAL.—To carry out the transpor-*
6 *tation planning process under this section, a metro-*
7 *politan planning organization shall be designated for*
8 *each urbanized area—*

9 “(A) *by agreement between the Governor*
10 *and units of general purpose local government*
11 *that combined represent not less than 75 percent*
12 *of the affected population (including the incor-*
13 *porated city or cities named by the Bureau of*
14 *the Census in designating the urbanized area); or*

15 “(B) *in accordance with procedures estab-*
16 *lished by applicable State or local law.*

17 “(2) *STRUCTURE.—Each metropolitan planning*
18 *organization designated under paragraph (1) that*
19 *serves an area identified as a transportation manage-*
20 *ment area shall consist of—*

21 “(A) *local elected officials;*

22 “(B) *officials of public agencies that admin-*
23 *ister or operate major modes of transportation in*
24 *the metropolitan area; and*

25 “(C) *appropriate State officials.*

1 “(3) *LIMITATION ON STATUTORY CONSTRUC-*
2 *TION.—Nothing in this subsection shall be construed*
3 *to interfere with the authority, under any State law*
4 *in effect on December 18, 1991, of a public agency*
5 *with multimodal transportation responsibilities—*

6 “(A) *to develop plans and programs for*
7 *adoption by a metropolitan planning organiza-*
8 *tion; and*

9 “(B) *to develop long-range capital plans,*
10 *coordinate transit services and projects, and*
11 *carry out other activities pursuant to State law.*

12 “(4) *CONTINUING DESIGNATION.—The designa-*
13 *tion of a metropolitan planning organization under*
14 *this subsection or any other provision of law shall re-*
15 *main in effect until the metropolitan planning orga-*
16 *nization is redesignated under paragraph (5).*

17 “(5) *REDESIGNATION PROCEDURES.—A metro-*
18 *politan planning organization may be redesignated*
19 *by agreement between the Governor and units of gen-*
20 *eral purpose local government that combined rep-*
21 *resent not less than 75 percent of the existing plan-*
22 *ning area population (including the incorporated city*
23 *or cities named by the Bureau of the Census in desig-*
24 *nating the urbanized area) as appropriate to carry*
25 *out this section.*

1 “(6) *DESIGNATION OF MORE THAN 1 METROPOLI-*
2 *TAN PLANNING ORGANIZATION.*—*More than 1 metro-*
3 *politan planning organization may be designated*
4 *within an existing metropolitan planning area only*
5 *if the Governor and the existing metropolitan plan-*
6 *ning organization determine that the size and com-*
7 *plexity of the existing metropolitan planning area*
8 *make designation of more than 1 metropolitan plan-*
9 *ning organization for the area appropriate.*

10 “(d) *METROPOLITAN PLANNING AREA BOUNDARIES.*—

11 “(1) *IN GENERAL.*—*For the purposes of this sec-*
12 *tion, the boundaries of a metropolitan planning area*
13 *shall be determined by agreement between the metro-*
14 *politan planning organization and the Governor.*

15 “(2) *INCLUDED AREA.*—*Each metropolitan plan-*
16 *ning area—*

17 “(A) *shall encompass at least the existing*
18 *urbanized area and the contiguous area expected*
19 *to become urbanized within a 20-year forecast*
20 *period for the transportation plan; and*

21 “(B) *may encompass the entire metropoli-*
22 *tan statistical area or consolidated metropolitan*
23 *statistical area, as defined by the Office of Man-*
24 *agement and Budget.*

1 “(3) *IDENTIFICATION OF NEW URBANIZED AREAS*
2 *WITHIN EXISTING PLANNING AREA BOUNDARIES.*—*The*
3 *designation by the Bureau of the Census of new ur-*
4 *banized areas within an existing metropolitan plan-*
5 *ning area shall not require the redesignation of the*
6 *existing metropolitan planning organization.*

7 “(4) *EXISTING METROPOLITAN PLANNING AREAS*
8 *IN NONATTAINMENT.*—*Notwithstanding paragraph*
9 *(2), in the case of an urbanized area designated as a*
10 *nonattainment area for ozone or carbon monoxide*
11 *under the Clean Air Act (42 U.S.C. 7401 et seq.), the*
12 *boundaries of the metropolitan planning area in ex-*
13 *istence as of the date of enactment of the Federal Pub-*
14 *lic Transportation Act of 2005 shall be retained, ex-*
15 *cept that the boundaries may be adjusted by agree-*
16 *ment of the Governor and affected metropolitan plan-*
17 *ning organizations in accordance with paragraph (5).*

18 “(5) *NEW METROPOLITAN PLANNING AREAS IN*
19 *NONATTAINMENT.*—*If an urbanized area is designated*
20 *after the date of enactment of this paragraph in a*
21 *nonattainment area for ozone or carbon monoxide, the*
22 *boundaries of the metropolitan planning area—*

23 “(A) *shall be established in accordance with*
24 *subsection (c)(1);*

1 “(B) shall encompass the areas described in
2 paragraph (2)(A);

3 “(C) may encompass the areas described in
4 paragraph (2)(B); and

5 “(D) may address any nonattainment iden-
6 tified under the Clean Air Act (42 U.S.C. 7401
7 et seq.) for ozone or carbon monoxide.

8 “(e) COORDINATION IN MULTISTATE AREAS.—

9 “(1) IN GENERAL.—The Secretary shall encour-
10 age each Governor with responsibility for a portion of
11 a multistate metropolitan area and the appropriate
12 metropolitan planning organizations to provide co-
13 ordinated transportation planning for the entire met-
14 ropolitan area.

15 “(2) INTERSTATE COMPACTS.—States are
16 authorized—

17 “(A) to enter into agreements or compacts
18 with other States, which agreements or compacts
19 are not in conflict with any law of the United
20 States, for cooperative efforts and mutual assist-
21 ance in support of activities authorized under
22 this section as the activities pertain to interstate
23 areas and localities within the States; and

1 “(B) to establish such agencies, joint or oth-
2 erwise, as the States may determine desirable for
3 making the agreements and compacts effective.

4 “(3) LAKE TAHOE REGION.—

5 “(A) DEFINITION.—In this paragraph, the
6 term ‘Lake Tahoe region’ has the meaning given
7 the term ‘region’ in subdivision (a) of article II
8 of the Tahoe Regional Planning Compact, as set
9 forth in the first section of Public Law 96–551
10 (94 Stat. 3234).

11 “(B) TRANSPORTATION PLANNING PROC-
12 ESS.—The Secretary shall—

13 “(i) establish with the Federal land
14 management agencies that have jurisdiction
15 over land in the Lake Tahoe region a trans-
16 portation planning process for the region;
17 and

18 “(ii) coordinate the transportation
19 planning process with the planning process
20 required of State and local governments
21 under this section and section 5304.

22 “(C) INTERSTATE COMPACT.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii) and notwithstanding subsection (c), to
25 carry out the transportation planning proc-

1 *ess required by this section, California and*
2 *Nevada may designate a metropolitan plan-*
3 *ning organization for the Lake Tahoe re-*
4 *gion, by agreement between the Governor of*
5 *the State of California, the Governor of the*
6 *State of Nevada, and units of general pur-*
7 *pose local government that combined rep-*
8 *resent not less than 75 percent of the af-*
9 *ected population (including the incor-*
10 *porated city or cities named by the Bureau*
11 *of the Census in designating the urbanized*
12 *area), or in accordance with procedures es-*
13 *tablished by applicable State or local law.*

14 *“(ii) INVOLVEMENT OF FEDERAL LAND*
15 *MANAGEMENT AGENCIES.—*

16 *“(I) REPRESENTATION.—The pol-*
17 *icy board of a metropolitan planning*
18 *organization designated under clause*
19 *(i) shall include a representative of*
20 *each Federal land management agency*
21 *that has jurisdiction over land in the*
22 *Lake Tahoe region.*

23 *“(II) FUNDING.—In addition to*
24 *funds made available to the metropoli-*
25 *tan planning organization under other*

1 provisions of title 23 and this chapter,
2 not more than 1 percent of the funds
3 allocated under section 202 of title 23
4 may be used to carry out the transpor-
5 tation planning process for the Lake
6 Tahoe region under this subparagraph.

7 “(D) *ACTIVITIES.*—Highway projects in-
8 cluded in transportation plans developed under
9 this paragraph—

10 “(i) shall be selected for funding in a
11 manner that facilitates the participation of
12 the Federal land management agencies that
13 have jurisdiction over land in the Lake
14 Tahoe region; and

15 “(ii) may, in accordance with chapter
16 2 of title 23, be funded using funds allocated
17 under section 202 of title 23.

18 “(f) *COORDINATION OF METROPOLITAN PLANNING OR-*
19 *GANIZATIONS.*—

20 “(1) *NONATTAINMENT AREAS.*—If more than 1
21 metropolitan planning organization has authority
22 within a metropolitan area or an area which is des-
23 ignated as a nonattainment area for ozone or carbon
24 monoxide under the Clean Air Act (42 U.S.C. 7401
25 et seq.), each metropolitan planning organization

1 *shall consult with the other metropolitan planning or-*
2 *ganizations designated for such area and the State in*
3 *the coordination of plans required by this section.*

4 “(2) *TRANSPORTATION IMPROVEMENTS LOCATED*
5 *IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a*
6 *transportation improvement funded from the highway*
7 *trust fund is located within the boundaries of more*
8 *than 1 metropolitan planning area, the metropolitan*
9 *planning organizations shall coordinate plans regard-*
10 *ing the transportation improvement.*

11 “(3) *INTERREGIONAL AND INTERSTATE PROJECT*
12 *IMPACTS.—Planning for National Highway System,*
13 *commuter rail projects, or other projects with substan-*
14 *tial impacts outside a single metropolitan planning*
15 *area or State shall be coordinated directly with the*
16 *affected, contiguous, metropolitan planning organiza-*
17 *tions and States.*

18 “(4) *COORDINATION WITH OTHER PLANNING*
19 *PROCESSES.—*

20 “(A) *IN GENERAL.—The Secretary shall en-*
21 *courage each metropolitan planning organiza-*
22 *tion to coordinate its planning process, to the*
23 *maximum extent practicable, with those officials*
24 *responsible for other types of planning activities*
25 *that are affected by transportation, including*

1 *State and local land use planning, economic de-*
2 *velopment, environmental protection, airport op-*
3 *erations, housing, and freight.*

4 “(B) *OTHER CONSIDERATIONS.*—*The metro-*
5 *politan planning process shall develop transpor-*
6 *tation plans with due consideration of, and in*
7 *coordination with, other related planning activi-*
8 *ties within the metropolitan area. This should*
9 *include the design and delivery of transportation*
10 *services within the metropolitan area that are*
11 *provided by—*

12 “(i) *recipients of assistance under this*
13 *chapter;*

14 “(ii) *governmental agencies and non-*
15 *profit organizations (including representa-*
16 *tives of the agencies and organizations) that*
17 *receive Federal assistance from a source*
18 *other than the Department of Transpor-*
19 *tation to provide nonemergency transpor-*
20 *tation services; and*

21 “(iii) *recipients of assistance under*
22 *section 204 of title 23.*

23 “(g) *SCOPE OF PLANNING PROCESS.*—

24 “(1) *IN GENERAL.*—*The goals and objectives de-*
25 *veloped through the metropolitan planning process for*

1 *a metropolitan planning area under this section shall*
2 *address, in relation to the performance of the metro-*
3 *politan area transportation systems—*

4 *“(A) supporting the economic vitality of the*
5 *metropolitan area, especially by enabling global*
6 *competitiveness, productivity, and efficiency, in-*
7 *cluding through services provided by public and*
8 *private operators;*

9 *“(B) increasing the safety of the transpor-*
10 *tation system for motorized and nonmotorized*
11 *users;*

12 *“(C) increasing the security of the transpor-*
13 *tation system for motorized and nonmotorized*
14 *users;*

15 *“(D) increasing the accessibility and mobil-*
16 *ity of people and for freight, including through*
17 *services provided by public and private opera-*
18 *tors;*

19 *“(E) protecting and enhancing the environ-*
20 *ment (including the protection of habitat, water*
21 *quality, and agricultural and forest land, while*
22 *minimizing invasive species), promoting energy*
23 *conservation, and promoting consistency between*
24 *transportation improvements and State and*
25 *local land use planning and economic develop-*

1 *ment patterns (including minimizing adverse*
2 *health effects from mobile source air pollution*
3 *and promoting the linkage of the transportation*
4 *and development goals of the metropolitan area);*

5 *“(F) enhancing the integration and*
6 *connectivity of the transportation system, across*
7 *and between modes, for people and freight, in-*
8 *cluding through services provided by public and*
9 *private operators;*

10 *“(G) promoting efficient system manage-*
11 *ment and operation; and*

12 *“(H) emphasizing the preservation and effi-*
13 *cient use of the existing transportation system,*
14 *including services provided by public and pri-*
15 *ivate operators.*

16 *“(2) SELECTION OF FACTORS.—After soliciting*
17 *and considering any relevant public comments, the*
18 *metropolitan planning organization shall determine*
19 *which of the factors described in paragraph (1) are*
20 *most appropriate to consider.*

21 *“(3) FAILURE TO CONSIDER FACTORS.—The fail-*
22 *ure to consider any factor specified in paragraph (1)*
23 *shall not be reviewable by any court under title 23,*
24 *this title, subchapter II of chapter 5 of title 5, or*
25 *chapter 7 of title 5 in any matter affecting a trans-*

1 *portation plan, a transportation improvement plan, a*
2 *project or strategy, or the certification of a planning*
3 *process.*

4 “(h) *DEVELOPMENT OF TRANSPORTATION PLAN.—*

5 “(1) *IN GENERAL.—*

6 “(A) *REQUIREMENT.—Each metropolitan*
7 *planning organization shall develop a transpor-*
8 *tation plan for its metropolitan planning area*
9 *in accordance with this subsection, and update*
10 *such plan—*

11 “(i) *not less frequently than once every*
12 *4 years in areas designated as nonattain-*
13 *ment, as defined in section 107(d) of the*
14 *Clean Air Act (42 U.S.C. 7407(d)), and in*
15 *areas that were nonattainment that have*
16 *been redesignated as attainment, in accord-*
17 *ance with paragraph (3) of such section,*
18 *with a maintenance plan under section*
19 *175A of the Clean Air Act (42 U.S.C.*
20 *7505a); or*

21 “(ii) *not less frequently than once*
22 *every 5 years in areas designated as attain-*
23 *ment, as defined in section 107(d) of the*
24 *Clean Air Act.*

1 “(B) *COORDINATION FACTORS.*—*In devel-*
2 *oping the transportation plan under this section,*
3 *each metropolitan planning organization shall*
4 *consider the factors described in subsection (f)*
5 *over a 20-year forecast period.*

6 “(C) *FINANCIAL ESTIMATES.*—*For the pur-*
7 *pose of developing the transportation plan, the*
8 *metropolitan planning organization, transit op-*
9 *erator, and State shall cooperatively develop esti-*
10 *mates of funds that will be available to support*
11 *plan implementation.*

12 “(2) *MITIGATION ACTIVITIES.*—

13 “(A) *IN GENERAL.*—*A transportation plan*
14 *under this subsection shall include a discussion*
15 *of—*

16 “(i) *types of potential habitat,*
17 *hydrological, and environmental mitigation*
18 *activities that may assist in compensating*
19 *for loss of habitat, wetland, and other envi-*
20 *ronmental functions; and*

21 “(ii) *potential areas to carry out these*
22 *activities, including a discussion of areas*
23 *that may have the greatest potential to re-*
24 *store and maintain the habitat types and*

1 *hydrological or environmental functions af-*
2 *ected by the plan.*

3 “(B) *CONSULTATION.*—*The discussion de-*
4 *scribed in subparagraph (A) shall be developed*
5 *in consultation with Federal and State tribal*
6 *wildlife, land management, and regulatory agen-*
7 *cies.*

8 “(3) *CONTENTS.*—*A transportation plan under*
9 *this subsection shall be in a form that the Secretary*
10 *determines to be appropriate and shall contain—*

11 “(A) *an identification of transportation fa-*
12 *cilities, including major roadways, transit,*
13 *multimodal and intermodal facilities, intermodal*
14 *connectors, and other relevant facilities identified*
15 *by the metropolitan planning organization,*
16 *which should function as an integrated metro-*
17 *politan transportation system, emphasizing those*
18 *facilities that serve important national and re-*
19 *gional transportation functions;*

20 “(B) *a financial plan that—*

21 “(i) *demonstrates how the adopted*
22 *transportation plan can be implemented;*

23 “(ii) *indicates resources from public*
24 *and private sources that are reasonably ex-*

1 pected to be made available to carry out the
2 plan;

3 “(iii) recommends any additional fi-
4 nancing strategies for needed projects and
5 programs; and

6 “(iv) may include, for illustrative pur-
7 poses, additional projects that would be in-
8 cluded in the adopted transportation plan if
9 approved by the Secretary and reasonable
10 additional resources beyond those identified
11 in the financial plan were available;

12 “(C) operational and management strate-
13 gies to improve the performance of existing
14 transportation facilities to relieve vehicular con-
15 gestion and maximize the safety and mobility of
16 people and goods;

17 “(D) capital investment and other strategies
18 to preserve the existing metropolitan transpor-
19 tation infrastructure and provide for multimodal
20 capacity increases based on regional priorities
21 and needs; and

22 “(E) proposed transportation and transit
23 enhancement activities.

24 “(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*
10 *involve—*

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 “(5) *COORDINATION WITH CLEAN AIR ACT AGEN-*
22 *CIES.*—*In metropolitan areas in nonattainment for*
23 *ozone or carbon monoxide under the Clean Air Act*
24 *(42 U.S.C. 7401 et seq.), the metropolitan planning*
25 *organization shall coordinate the development of a*

1 *transportation plan with the process for development*
2 *of the transportation control measures of the State*
3 *implementation plan required by the Clean Air Act.*

4 “(6) *APPROVAL OF THE TRANSPORTATION*
5 *PLAN.—Each transportation plan prepared by a met-*
6 *ropolitan planning organization shall be—*

7 “(A) *approved by the metropolitan plan-*
8 *ning organization; and*

9 “(B) *submitted to the Governor for informa-*
10 *tion purposes at such time and in such manner*
11 *as the Secretary may reasonably require.*

12 “(i) *PARTICIPATION BY INTERESTED PARTIES.—*

13 “(1) *DEVELOPMENT OF PARTICIPATION PLAN.—*
14 *Not less frequently than every 4 years, each metropoli-*
15 *tan planning organization shall develop and adopt a*
16 *plan for participation in the process for developing*
17 *the metropolitan transportation plan and programs*
18 *by—*

19 “(A) *citizens;*

20 “(B) *affected public agencies;*

21 “(C) *representatives of public transpor-*
22 *tation employees;*

23 “(D) *freight shippers;*

24 “(E) *providers of freight transportation*
25 *services;*

1 “(F) private providers of transportation;

2 “(G) representatives of users of public tran-
3 sit;

4 “(H) representatives of users of pedestrian
5 walkways and bicycle transportation facilities;
6 and

7 “(I) other interested parties.

8 “(2) CONTENTS OF PARTICIPATION PLAN.—The
9 participation plan—

10 “(A) shall be developed in a manner the
11 Secretary determines to be appropriate;

12 “(B) shall be developed in consultation with
13 all interested parties; and

14 “(C) shall provide that all interested parties
15 have reasonable opportunities to comment on—

16 “(i) the process for developing the
17 transportation plan; and

18 “(ii) the contents of the transportation
19 plan.

20 “(3) METHODS.—The participation plan shall
21 provide that the metropolitan planning organization
22 shall, to the maximum extent practicable—

23 “(A) hold any public meetings at convenient
24 and accessible locations and times;

1 “(B) employ visualization techniques to de-
2 scribe plans; and

3 “(C) make public information available in
4 electronically accessible format and means, such
5 as the World Wide Web.

6 “(4) CERTIFICATION.—Before the metropolitan
7 planning organizations approve a transportation
8 plan or program, each metropolitan planning organi-
9 zation shall certify that it has complied with the re-
10 quirements of the participation plan it has adopted.

11 “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

12 “(1) DEVELOPMENT AND UPDATE.—

13 “(A) IN GENERAL.—In cooperation with the
14 State and affected operators of public transpor-
15 tation, a metropolitan planning organization
16 designated for a metropolitan planning area
17 shall develop a transportation improvement pro-
18 gram for the area.

19 “(B) PARTICIPATION.—In developing the
20 transportation improvement program, the metro-
21 politan planning organization, in cooperation
22 with the Governor and any affected operator of
23 public transportation, shall provide an oppor-
24 tunity for participation by interested parties in

1 *the development of the program, in accordance*
2 *with subsection (i).*

3 “(C) *UPDATES.*—*The transportation im-*
4 *provement program shall be updated not less*
5 *than once every 4 years and shall be approved*
6 *by the metropolitan planning organization and*
7 *the Governor.*

8 “(D) *FUNDING ESTIMATE.*—*In developing*
9 *the transportation improvement program, the*
10 *metropolitan planning organization, operators of*
11 *public transportation, and the State shall coop-*
12 *eratively develop estimates of funds that are rea-*
13 *sonably expected to be available to support pro-*
14 *gram implementation.*

15 “(E) *PROJECT ADVANCEMENT.*—*Projects*
16 *listed in the transportation improvement pro-*
17 *gram may be selected for advancement consistent*
18 *with the project selection requirements.*

19 “(F) *MAJOR AMENDMENTS.*—*Major amend-*
20 *ments to the list described in subparagraph (E),*
21 *including the addition, deletion, or concept and*
22 *scope change of a regionally significant project,*
23 *may not be advanced without—*

24 “(i) *appropriate public involvement;*

25 “(ii) *financial planning;*

1 “(iii) transportation conformity anal-
2 yses; and

3 “(iv) a finding by the Federal High-
4 way Administration and Federal Transit
5 Administration that the amended plan was
6 produced in a manner consistent with this
7 section.

8 “(2) INCLUDED PROJECTS.—

9 “(A) PROJECTS UNDER CHAPTER 1 OF
10 TITLE 23 AND THIS CHAPTER.—A transportation
11 improvement program developed under this sec-
12 tion for a metropolitan area shall include the
13 projects and strategies within the metropolitan
14 area that are proposed for funding under chapter
15 1 of title 23 and this chapter.

16 “(B) PROJECTS UNDER CHAPTER 2 OF
17 TITLE 23.—

18 “(i) REGIONALLY SIGNIFICANT
19 PROJECTS.—Regionally significant projects
20 proposed for funding under chapter 2 of
21 title 23 shall be identified individually in
22 the metropolitan transportation improve-
23 ment program.

24 “(ii) OTHER PROJECTS.—Projects pro-
25 posed for funding under chapter 2 of title

1 23 that are not regionally significant shall
2 be grouped in 1 line item or identified indi-
3 vidually in the metropolitan transportation
4 improvement program.

5 “(3) SELECTION OF PROJECTS.—

6 “(A) IN GENERAL.—Except as otherwise
7 provided under subsection (k)(4), the selection of
8 federally funded projects in metropolitan plan-
9 ning areas shall be carried out, from the ap-
10 proved transportation plan—

11 “(i) by the State, in the case of projects
12 under chapter 1 of title 23 or section 5308,
13 5310, 5311, or 5317 of this title;

14 “(ii) by the designated recipient, in the
15 case of projects under section 5307; and

16 “(iii) in cooperation with the metro-
17 politan planning organization.

18 “(B) MODIFICATIONS TO PROJECT PRI-
19 ORITY.—Notwithstanding any other provision of
20 law, a project may be advanced from the trans-
21 portation improvement program in place of an-
22 other project in the same transportation im-
23 provement program without the approval of the
24 Secretary.

25 “(4) PUBLICATION REQUIREMENTS.—

1 “(A) *PUBLICATION OF TRANSPORTATION IM-*
2 *PROVEMENT PROGRAM.*—*A transportation im-*
3 *provement program involving Federal participa-*
4 *tion shall be published or otherwise made readily*
5 *available by the metropolitan planning organiza-*
6 *tion for public review, including, to the max-*
7 *imum extent practicable, in electronically acces-*
8 *sible formats and means, such as the World Wide*
9 *Web.*

10 “(B) *PUBLICATION OF ANNUAL LISTINGS OF*
11 *PROJECTS.*—*An annual listing of projects, in-*
12 *cluding investments in pedestrian walkways and*
13 *bicycle transportation facilities, for which Fed-*
14 *eral funds have been obligated in the preceding*
15 *4 years shall be published or otherwise made*
16 *available for public review by the cooperative ef-*
17 *fort of the State, transit operator, and the metro-*
18 *politan planning organization. This listing shall*
19 *be consistent with the funding categories identi-*
20 *fied in the transportation improvement program.*

21 “(C) *RULEMAKING.*—*Not later than 120*
22 *days after the date of enactment of the Federal*
23 *Public Transportation Act of 2005, the Secretary*
24 *shall issue regulations specifying—*

1 “(i) the types of data to be included in
2 the list described in subparagraph (B),
3 including—

4 “(I) the name, type, purpose, and
5 geocoded location of each project;

6 “(II) the Federal, State, and local
7 identification numbers assigned to each
8 project;

9 “(III) amounts obligated and ex-
10 pended on each project, sorted by fund-
11 ing source and transportation mode,
12 and the date on which each obligation
13 was made; and

14 “(IV) the status of each project;
15 and

16 “(ii) the media through which the list
17 described in subparagraph (B) will be made
18 available to the public, including written
19 and visual components for each of the
20 projects listed.

21 “(k) *TRANSPORTATION MANAGEMENT AREAS.*—

22 “(1) *REQUIRED IDENTIFICATION.*—The Secretary
23 shall identify each urbanized area with a population
24 of more than 200,000 individuals as a transportation
25 management area.

1 “(2) *TRANSPORTATION PLANS AND PROGRAMS.*—
2 *Transportation plans and programs for a metropoli-*
3 *tan planning area serving a transportation manage-*
4 *ment area shall be based on a continuing and com-*
5 *prehensive transportation planning process carried*
6 *out by the metropolitan planning organization in co-*
7 *operation with the State and transit operators.*

8 “(3) *CONGESTION MANAGEMENT SYSTEM.*—

9 “(A) *IN GENERAL.*—*The transportation*
10 *planning process under this section shall address*
11 *congestion management through a process that*
12 *provides for effective management and operation,*
13 *based on a cooperatively developed and imple-*
14 *mented metropolitan-wide strategy, of new and*
15 *existing transportation facilities eligible for*
16 *funding under title 23 and this chapter through*
17 *the use of travel demand reduction and oper-*
18 *ational management strategies.*

19 “(B) *PHASE-IN SCHEDULE.*—*The Secretary*
20 *shall establish a phase-in schedule that provides*
21 *for full compliance with the requirements of this*
22 *section not later than 1 year after the identifica-*
23 *tion of transportation management areas under*
24 *paragraph (1).*

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 (except*
5 *for projects carried out on the National Highway*
6 *System and projects carried out under the bridge*
7 *program or the interstate maintenance program)*
8 *or under this chapter shall be selected for imple-*
9 *mentation from the approved transportation im-*
10 *provement program by the metropolitan plan-*
11 *ning organization designated for the area in con-*
12 *sultation with the State and any affected public*
13 *transit operator.*

14 “(B) *NATIONAL HIGHWAY SYSTEM*
15 *PROJECTS.*—*Projects on the National Highway*
16 *System carried out within the boundaries of a*
17 *metropolitan planning area serving a transpor-*
18 *tation management area and projects carried out*
19 *within such boundaries under the bridge pro-*
20 *gram or the interstate maintenance program*
21 *under title 23 shall be selected for implementa-*
22 *tion from the approved transportation improve-*
23 *ment program by the State in cooperation with*
24 *the metropolitan planning organization des-*
25 *ignated for the area.*

1 “(5) *CERTIFICATION.*—

2 “(A) *IN GENERAL.*—*The Secretary shall—*

3 “(i) *ensure that the metropolitan plan-*
4 *ning process of a metropolitan planning or-*
5 *ganization serving a transportation man-*
6 *agement area is being carried out in ac-*
7 *cordance with Federal law; and*

8 “(ii) *subject to subparagraph (B), cer-*
9 *tify, not less frequently than once every 4*
10 *years in nonattainment and maintenance*
11 *areas (as defined under the Clean Air Act)*
12 *and not less frequently than once every 5*
13 *years in attainment areas (as defined under*
14 *such Act), that the requirements of this*
15 *paragraph are met with respect to the met-*
16 *ropolitan planning process.*

17 “(B) *REQUIREMENTS FOR CERTIFI-*
18 *CATION.*—*The Secretary may make the certifi-*
19 *cation under subparagraph (A) if—*

20 “(i) *the transportation planning proc-*
21 *ess complies with the requirements of this*
22 *section and all other applicable Federal*
23 *law; and*

24 “(ii) *a transportation plan and a*
25 *transportation improvement program for*

1 the metropolitan planning area have been
2 approved by the metropolitan planning or-
3 ganization and the Governor.

4 “(C) *PENALTY FOR FAILING TO CERTIFY.*—

5 “(i) *WITHHOLDING PROJECT FUNDS.*—

6 If the metropolitan planning process of a
7 metropolitan planning organization serving
8 a transportation management area is not
9 certified, the Secretary may withhold any
10 funds otherwise available to the metropoli-
11 tan planning area for projects funded under
12 title 23 and this chapter.

13 “(ii) *RESTORATION OF WITHHELD*

14 *FUNDS.*—Any funds withheld under clause
15 (i) shall be restored to the metropolitan
16 planning area when the metropolitan plan-
17 ning process is certified by the Secretary.

18 “(D) *REVIEW OF CERTIFICATION.*—In mak-

19 ing a certification under this paragraph, the
20 Secretary shall provide for public involvement
21 appropriate to the metropolitan area under re-
22 view.

23 “(l) *ABBREVIATED PLANS FOR CERTAIN AREAS.*—

24 “(1) *IN GENERAL.*—Subject to paragraph (2), in

25 the case of a metropolitan area not designated as a

1 *transportation management area under this section,*
2 *the Secretary may provide for the development of an*
3 *abbreviated transportation plan and transportation*
4 *improvement program for the metropolitan planning*
5 *area that the Secretary determines is appropriate to*
6 *achieve the purposes of this section, after considering*
7 *the complexity of transportation problems in the area.*

8 “(2) *NONATTAINMENT AREAS.*—*The Secretary*
9 *may not permit abbreviated plans for a metropolitan*
10 *area that is in nonattainment for ozone or carbon*
11 *monoxide under the Clean Air Act (42 U.S.C. 7401*
12 *et seq.).*

13 “(m) *ADDITIONAL REQUIREMENTS FOR CERTAIN NON-*
14 *ATTAINMENT AREAS.*—

15 “(1) *IN GENERAL.*—*Notwithstanding any other*
16 *provisions of title 23 or this chapter, Federal funds*
17 *may not be advanced for transportation management*
18 *areas classified as nonattainment for ozone or carbon*
19 *monoxide pursuant to the Clean Air Act (42 U.S.C.*
20 *7401 et seq.) for any highway project that will result*
21 *in a significant increase in carrying capacity for sin-*
22 *gle-occupant vehicles unless the project is addressed*
23 *through a congestion management process.*

24 “(2) *APPLICABILITY.*—*This subsection applies to*
25 *any nonattainment area within the metropolitan*

1 *planning area boundaries determined under sub-*
 2 *section (d).*

3 “(n) *LIMITATION ON STATUTORY CONSTRUCTION.*—
 4 *Nothing in this section shall be construed to confer on a*
 5 *metropolitan planning organization the authority to im-*
 6 *pose legal requirements on any transportation facility, pro-*
 7 *vider, or project that is not eligible under title 23 or this*
 8 *chapter.*

9 “(o) *AVAILABILITY OF FUNDS.*—*Funds set aside under*
 10 *section 104(f) of title 23 or section 5308 of this title shall*
 11 *be available to carry out this section.*

12 “(p) *CONTINUATION OF CURRENT REVIEW PRAC-*
 13 *TICE.*—*Any decision by the Secretary concerning a plan or*
 14 *program described in this section shall not be considered*
 15 *to be a Federal action subject to review under the National*
 16 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
 17 *seq.).”.*

18 **SEC. 6006. STATEWIDE TRANSPORTATION PLANNING.**

19 *Section 5304 is amended to read as follows:*

20 **“§ 5304. Statewide transportation planning**

21 “(a) *GENERAL REQUIREMENTS.*—

22 “(1) *DEVELOPMENT OF PLANS AND PROGRAMS.*—
 23 *To support the policies described in section 5301(a),*
 24 *each State shall develop a statewide transportation*
 25 *plan (referred to in this section as a “Plan”) and a*

1 *statewide transportation improvement program (re-*
2 *ferred to in this section as a “Program”)* for all areas
3 *of the State subject to section 5303.*

4 “(2) *CONTENTS.—The Plan and the Program de-*
5 *veloped for each State shall provide for the develop-*
6 *ment and integrated management and operation of*
7 *transportation systems and facilities (including pe-*
8 *destrian walkways and bicycle transportation facili-*
9 *ties) that will function as an intermodal transpor-*
10 *tation system for the State and an integral part of*
11 *an intermodal transportation system for the United*
12 *States.*

13 “(3) *PROCESS OF DEVELOPMENT.—The process*
14 *for developing the Plan and the Program shall—*

15 “(A) *provide for the consideration of all*
16 *modes of transportation and the policies de-*
17 *scribed in section 5301(a); and*

18 “(B) *be continuing, cooperative, and com-*
19 *prehensive to the degree appropriate, based on*
20 *the complexity of the transportation problems to*
21 *be addressed.*

22 “(b) *COORDINATION WITH METROPOLITAN PLANNING;*
23 *STATE IMPLEMENTATION PLAN.—Each State shall—*

24 “(1) *coordinate planning under this section*
25 *with—*

1 “(A) the transportation planning activities
2 under section 5303 for metropolitan areas of the
3 State; and

4 “(B) other related statewide planning ac-
5 tivities, including trade and economic develop-
6 ment and related multistate planning efforts;
7 and

8 “(2) develop the transportation portion of the
9 State implementation plan, as required by the Clean
10 Air Act (42 U.S.C. 7401 et seq.).

11 “(c) *INTERSTATE AGREEMENTS.*—States may enter
12 into agreements or compacts with other States for coopera-
13 tive efforts and mutual assistance in support of activities
14 authorized under this section related to interstate areas and
15 localities in the States and establishing authorities the
16 States consider desirable for making the agreements and
17 compacts effective.

18 “(d) *SCOPE OF PLANNING PROCESS.*—

19 “(1) *IN GENERAL.*—Each State shall carry out a
20 statewide transportation planning process that pro-
21 vides for the 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, nonmetropolitan areas,
25 and metropolitan areas, especially by enabling

1 *global competitiveness, productivity, and effi-*
2 *ciency;*

3 “(B) *increase the safety of the transpor-*
4 *tation system for motorized and nonmotorized*
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 *(including the protection of habitat, water qual-*
13 *ity, and agricultural and forest land, while*
14 *minimizing invasive species), promote energy*
15 *conservation, promote consistency between trans-*
16 *portation improvements and State and local*
17 *land use planning and economic development*
18 *patterns, and improve the quality of life (includ-*
19 *ing minimizing adverse health effects from mo-*
20 *bile source air pollution and promoting the link-*
21 *age of the transportation and development goals*
22 *of the State);*

23 “(F) *enhance the integration and*
24 *connectivity of the transportation system, across*

1 *and between modes throughout the State, for peo-*
2 *ple and freight;*

3 “(G) *promote efficient system management*
4 *and operation; and*

5 “(H) *emphasize the preservation and effi-*
6 *cient use of the existing transportation system.*

7 “(2) *SELECTION OF PROJECTS AND STRATE-*
8 *GIES.—After soliciting and considering any relevant*
9 *public comments, the State shall determine which of*
10 *the projects and strategies described in paragraph (1)*
11 *are most appropriate.*

12 “(3) *MITIGATION ACTIVITIES.—*

13 “(A) *IN GENERAL.—A transportation plan*
14 *under this subsection shall include a discussion*
15 *of—*

16 “(i) *types of potential habitat,*
17 *hydrological, and environmental mitigation*
18 *activities that may assist in compensating*
19 *for loss of habitat, wetland, and other envi-*
20 *ronmental functions; and*

21 “(ii) *potential areas to carry out these*
22 *activities, including a discussion of areas*
23 *that may have the greatest potential to re-*
24 *store and maintain the habitat types and*

1 *hydrological or environmental functions af-*
2 *ected by the plan.*

3 “(B) *CONSULTATION.*—*The discussion de-*
4 *scribed in subparagraph (A) shall be developed*
5 *in consultation with Federal and State tribal*
6 *wildlife, land management, and regulatory agen-*
7 *cies.*

8 “(4) *FAILURE TO CONSIDER FACTORS.*—*The fail-*
9 *ure to consider any factor described in paragraph (1)*
10 *shall not be reviewable by any court under title 23,*
11 *this title, subchapter II of chapter 5 of title 5, or*
12 *chapter 7 of title 5 in any matter affecting a Plan,*
13 *a Program, a project or strategy, or the certification*
14 *of a planning process.*

15 “(e) *ADDITIONAL REQUIREMENTS.*—*In carrying out*
16 *planning under this section, each State shall consider—*

17 “(1) *with respect to nonmetropolitan areas, the*
18 *concerns of affected local officials with responsibility*
19 *for transportation;*

20 “(2) *the concerns of Indian tribal governments*
21 *and Federal land management agencies that have ju-*
22 *risdiction over land within the boundaries of the*
23 *State; and*

24 “(3) *coordination of Plans, Programs, and plan-*
25 *ning activities with related planning activities being*

1 *carried out outside of metropolitan planning areas*
2 *and between States.*

3 “(f) *STATEWIDE TRANSPORTATION PLAN.*—

4 “(1) *DEVELOPMENT.*—*Each State shall develop a*
5 *Plan, with a minimum 20-year forecast period for all*
6 *areas of the State, that provides for the development*
7 *and implementation of the intermodal transportation*
8 *system of the State.*

9 “(2) *CONSULTATION WITH GOVERNMENTS.*—

10 “(A) *METROPOLITAN PLANNING AREAS.*—

11 *The Plan shall be developed for each metropoli-*
12 *tan planning area in the State in cooperation*
13 *with the metropolitan planning organization*
14 *designated for the metropolitan planning area*
15 *under section 5303.*

16 “(B) *NONMETROPOLITAN AREAS.*—*With re-*

17 *spect to nonmetropolitan areas, the statewide*
18 *transportation plan shall be developed in con-*
19 *sultation with affected nonmetropolitan officials*
20 *with responsibility for transportation. The con-*
21 *sultation process shall not require the review or*
22 *approval of the Secretary.*

23 “(C) *INDIAN TRIBAL AREAS.*—*With respect*

24 *to each area of the State under the jurisdiction*
25 *of an Indian tribal government, the Plan shall*

1 *be developed in consultation with the tribal gov-*
2 *ernment and the Secretary of the Interior.*

3 “(D) CONSULTATION, COMPARISON, AND
4 CONSIDERATION.—

5 “(i) IN GENERAL.—*The Plan shall be*
6 *developed, as appropriate, in consultation*
7 *with State and local agencies responsible*
8 *for—*

9 “(I) *land use management;*

10 “(II) *natural resources;*

11 “(III) *environmental protection;*

12 “(IV) *conservation; and*

13 “(V) *historic preservation.*

14 “(ii) COMPARISON AND CONSIDER-
15 ATION.—*Consultation under clause (i) shall*
16 *involve—*

17 “(I) *comparison of transportation*
18 *plans to State conservation plans or*
19 *maps, if available;*

20 “(II) *comparison of transpor-*
21 *tation plans to inventories of natural*
22 *or historic resources, if available; or*

23 “(III) *consideration of areas*
24 *where wildlife crossing structures may*

1 *be needed to ensure connectivity be-*
2 *tween wildlife habitat linkage areas.*

3 “(3) *PARTICIPATION BY INTERESTED PARTIES.*—

4 *In developing the Plan, the State shall—*

5 “(A) *provide citizens, affected public agen-*
6 *cies, representatives of public transportation em-*
7 *ployees, freight shippers, private providers of*
8 *transportation, representatives of users of public*
9 *transportation, representatives of users of pedes-*
10 *trian walkways and bicycle transportation fa-*
11 *cilities, providers of freight transportation serv-*
12 *ices, and other interested parties with a reason-*
13 *able opportunity to comment on the proposed*
14 *Plan; and*

15 “(B) *to the maximum extent 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 “(4) *MITIGATION ACTIVITIES.*—

24 “(A) *IN GENERAL.*—*A Plan shall include a*
25 *discussion of—*

1 “(i) types of potential habitat,
2 hydrological, and environmental mitigation
3 activities that may assist in compensating
4 for loss of habitat, wetlands, and other envi-
5 ronmental functions; and

6 “(ii) potential areas to carry out these
7 activities, including a discussion of areas
8 that may have the greatest potential to re-
9 store and maintain the habitat types and
10 hydrological or environmental functions af-
11 fected by the plan.

12 “(B) CONSULTATION.—The discussion de-
13 scribed in subparagraph (A) shall be developed
14 in consultation with Federal and State tribal
15 wildlife, land management, and regulatory agen-
16 cies.

17 “(5) TRANSPORTATION STRATEGIES.—A Plan
18 shall identify transportation strategies necessary to
19 efficiently serve the mobility needs of people.

20 “(6) FINANCIAL PLAN.—The Plan may include a
21 financial plan that—

22 “(A) demonstrates how the adopted Plan
23 can be implemented;

1 “(B) indicates resources from public and
2 private sources that are reasonably expected to be
3 made available to carry out the Plan;

4 “(C) recommends any additional financing
5 strategies for needed projects and programs; and

6 “(D) may include, for illustrative purposes,
7 additional projects that would be included in the
8 adopted Plan if reasonable additional resources
9 beyond those identified in the financial plan
10 were available.

11 “(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select
12 any project from the illustrative list of additional
13 projects described in paragraph (6)(D).
14

15 “(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies,
16 investments, procedures, and other measures to ensure
17 the preservation and most efficient use of the existing
18 transportation system.
19

20 “(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall
21 be published or otherwise made available, including,
22 to the maximum extent practicable, in electronically
23 accessible formats and means, such as the World Wide
24 Web.
25

1 “(g) *STATEWIDE TRANSPORTATION IMPROVEMENT*
2 *PROGRAM.*—

3 “(1) *DEVELOPMENT.*—*Each State shall develop a*
4 *Program for all areas of the State.*

5 “(2) *CONSULTATION WITH GOVERNMENTS.*—

6 “(A) *METROPOLITAN PLANNING AREAS.*—
7 *With respect to each metropolitan planning area*
8 *in the State, the Program shall be developed in*
9 *cooperation with the metropolitan planning or-*
10 *ganization designated for the metropolitan plan-*
11 *ning area under section 5303.*

12 “(B) *NONMETROPOLITAN AREAS.*—*With re-*
13 *spect to each nonmetropolitan area in the State,*
14 *the Program shall be developed in consultation*
15 *with affected nonmetropolitan local officials with*
16 *responsibility for transportation. The consulta-*
17 *tion process shall not require the review or ap-*
18 *proval of the Secretary.*

19 “(C) *INDIAN TRIBAL AREAS.*—*With respect*
20 *to each area of the State under the jurisdiction*
21 *of an Indian tribal government, the Program*
22 *shall be developed in consultation with the tribal*
23 *government and the Secretary of the Interior.*

24 “(3) *PARTICIPATION BY INTERESTED PARTIES.*—
25 *In developing the Program, the State shall provide*

1 *citizens, affected public agencies, representatives of*
2 *public transportation employees, freight shippers, pri-*
3 *ivate providers of transportation, providers of freight*
4 *transportation services, representatives of users of*
5 *public transit, representatives of users of pedestrian*
6 *walkways and bicycle transportation facilities, and*
7 *other interested parties with a reasonable opportunity*
8 *to comment on the proposed Program.*

9 “(4) *INCLUDED PROJECTS.*—

10 “(A) *IN GENERAL.*—*A Program developed*
11 *under this subsection for a State shall include*
12 *federally supported surface transportation ex-*
13 *penditures within the boundaries of the State.*

14 “(B) *LISTING OF PROJECTS.*—

15 “(i) *IN GENERAL.*—*The Program shall*
16 *cover a minimum of 4 years, identify*
17 *projects by year, be fiscally constrained by*
18 *year, and be updated not less than once*
19 *every 4 years.*

20 “(ii) *PUBLICATION.*—*An annual list-*
21 *ing of projects for which funds have been ob-*
22 *ligated in the preceding 4 years in each*
23 *metropolitan planning area shall be pub-*
24 *lished or otherwise made available by the*
25 *cooperative effort of the State, transit oper-*

1 *ator, and the metropolitan planning organi-*
2 *zation for public review. The listing shall be*
3 *consistent with the funding categories iden-*
4 *tified in each metropolitan transportation*
5 *improvement program.*

6 *“(C) INDIVIDUAL IDENTIFICATION.—*

7 *“(i) REGIONALLY SIGNIFICANT*
8 *PROJECTS.—Regionally significant projects*
9 *proposed for funding under chapter 2 of*
10 *title 23 shall be identified individually in*
11 *the transportation improvement program.*

12 *“(ii) OTHER PROJECTS.—Projects pro-*
13 *posed for funding under chapter 2 of title*
14 *23 that are not determined to be regionally*
15 *significant shall be grouped in 1 line item*
16 *or identified individually.*

17 *“(D) CONSISTENCY WITH STATEWIDE*
18 *TRANSPORTATION PLAN.—Each project included*
19 *in the list described in subparagraph (B) shall*
20 *be—*

21 *“(i) consistent with the Plan developed*
22 *under this section for the State;*

23 *“(ii) identical to the project or phase of*
24 *the project as described in each year of the*

1 *approved metropolitan transportation im-*
2 *provement program; and*

3 “(iii) *in conformance with the applica-*
4 *ble State air quality implementation plan*
5 *developed under the Clean Air Act (42*
6 *U.S.C. 7401 et seq.), if the project is carried*
7 *out in an area designated as nonattainment*
8 *for ozone or carbon monoxide under that*
9 *Act.*

10 “(E) *REQUIREMENT OF ANTICIPATED FULL*
11 *FUNDING.—The Program shall not include a*
12 *project, or an identified phase of a project, unless*
13 *full funding can reasonably be anticipated to be*
14 *available for the project within the time period*
15 *contemplated for completion of the project.*

16 “(F) *FINANCIAL PLAN.—The Program may*
17 *include a financial plan that—*

18 “(i) *demonstrates how the approved*
19 *Program can be implemented;*

20 “(ii) *indicates resources from public*
21 *and private sources that are reasonably ex-*
22 *pected to be made available to carry out the*
23 *Program;*

1 “(iii) recommends any additional fi-
2 nancing strategies for needed projects and
3 programs; and

4 “(iv) may include, for illustrative pur-
5 poses, additional projects that would be in-
6 cluded in the adopted transportation plan if
7 reasonable additional resources beyond those
8 identified in the financial plan were avail-
9 able.

10 “(G) *SELECTION OF PROJECTS FROM ILLUS-*
11 *TRATIVE LIST.—*

12 “(i) *NO REQUIRED SELECTION.—Not-*
13 *withstanding subparagraph (F), a State*
14 *shall not be required to select any project*
15 *from the illustrative list of additional*
16 *projects described in subparagraph (F)(iv).*

17 “(ii) *REQUIRED APPROVAL BY THE*
18 *SECRETARY.—A State shall not include any*
19 *project from the illustrative list of addi-*
20 *tional projects described in subparagraph*
21 *(F)(iv) in an approved Program without*
22 *the approval of the Secretary.*

23 “(H) *PRIORITIES.—The Program shall re-*
24 *fect the priorities for programming and expend-*
25 *itures of funds, including transportation and*

1 *transit enhancement activities, required by title*
2 *23 and this chapter, and transportation control*
3 *measures included in the State's air quality im-*
4 *plementation plan.*

5 “(5) *PROJECT SELECTION FOR AREAS WITH*
6 *FEWER THAN 50,000 INDIVIDUALS.—*

7 “(A) *IN GENERAL.—Each State, in coopera-*
8 *tion with the affected nonmetropolitan local offi-*
9 *cial with responsibility for transportation, shall*
10 *select projects to be carried out in areas with*
11 *fewer than 50,000 individuals from the approved*
12 *Program (excluding projects carried out under*
13 *the National Highway System, the bridge pro-*
14 *gram, or the interstate maintenance program*
15 *under title 23 or sections 5310 and 5311 of this*
16 *title).*

17 “(B) *CERTAIN PROGRAMS.—Each State, in*
18 *consultation with the affected nonmetropolitan*
19 *local officials with responsibility for transpor-*
20 *tation, shall select, from the approved Program,*
21 *projects to be carried out in areas with fewer*
22 *than 50,000 individuals under the National*
23 *Highway System, the bridge program, or the*
24 *Interstate maintenance program under title 23*
25 *or under sections 5310 and 5311 of this title.*

1 “(6) *STATEWIDE TRANSPORTATION IMPROVE-*
2 *MENT PROGRAM APPROVAL.—A Program developed*
3 *under this subsection shall be reviewed and based on*
4 *a current planning finding approved by the Secretary*
5 *not less frequently than once every 4 years.*

6 “(7) *PLANNING FINDING.—Not less frequently*
7 *than once every 4 years, the Secretary shall determine*
8 *whether the transportation planning process through*
9 *which Plans and Programs are developed are con-*
10 *sistent with this section and section 5303.*

11 “(8) *MODIFICATIONS TO PROJECT PRIORITY.—*
12 *Notwithstanding any other provision of law, a project*
13 *included in the approved Program may be advanced*
14 *in place of another project in the program without the*
15 *approval of the Secretary.*

16 “(h) *FUNDING.—Funds set aside pursuant to section*
17 *104(i) of title 23 and section 5308 of this title shall be avail-*
18 *able to carry out this section.*

19 “(i) *TREATMENT OF CERTAIN STATE LAWS AS CON-*
20 *GESTION MANAGEMENT SYSTEMS.—For purposes of this*
21 *section and section 5303, State laws, rules, or regulations*
22 *pertaining to congestion management systems or programs*
23 *may constitute the congestion management system under*
24 *section 5303(i)(3) if the Secretary determines that the State*

1 *laws, rules, or regulations are consistent with, and fulfill*
 2 *the intent of, the purposes of section 5303.*

3 “(j) *CONTINUATION OF CURRENT REVIEW PRAC-*
 4 *TICE.—Any decision by the Secretary under this section,*
 5 *regarding a metropolitan or statewide transportation plan*
 6 *or the Program, shall not be considered to be a Federal ac-*
 7 *tion subject to review under the National Environmental*
 8 *Policy Act of 1969 (42 U.S.C. 4321 et seq.).”*

9 **SEC. 6007. TRANSPORTATION MANAGEMENT AREAS.**

10 *Section 5305 is repealed.*

11 **SEC. 6008. PRIVATE ENTERPRISE PARTICIPATION.**

12 *Section 5306 is amended—*

13 *(1) in subsection (a)—*

14 *(A) by striking “5305 of this title” and in-*
 15 *serting “5308”; and*

16 *(B) by inserting “, as determined by local*
 17 *policies, criteria, and decision making,” after*
 18 *“feasible”;*

19 *(2) in subsection (b) by striking “5303–5305 of*
 20 *this title” and inserting “5303, 5304, and 5308”; and*

21 *(3) by adding at the end the following:*

22 *“(c) REGULATIONS.—Not later than 1 year after the*
 23 *date of enactment of the Federal Public Transportation Act*
 24 *of 2005, the Secretary shall issue regulations describing how*

1 *the requirements under this chapter relating to subsection*
2 *(a) shall be enforced.”.*

3 **SEC. 6009. URBANIZED AREA FORMULA GRANTS.**

4 *(a) TECHNICAL AMENDMENTS.—Section 5307 is*
5 *amended—*

6 *(1) by striking subsections (h), (j) and (k); and*

7 *(2) by redesignating subsections (i), (l), (m), and*
8 *(n) as subsections (h), (i), (j), and (k), respectively.*

9 *(b) DEFINITIONS.—Section 5307(a) is amended—*

10 *(1) by amending paragraph (2)(A) to read as*
11 *follows:*

12 *“(A) an entity designated, in accordance*
13 *with the planning process under sections 5303,*
14 *5304, and 5306, by the chief executive officer of*
15 *a State, responsible local officials, and publicly*
16 *owned operators of public transportation, to re-*
17 *ceive and apportion amounts under section 5336*
18 *that are attributable to transportation manage-*
19 *ment areas designated under section 5303; or”;*
20 *and*

21 *(2) by adding at the end the following:*

22 *“(3) SUBRECIPIENT.—The term ‘subrecipient’*
23 *means a State or local governmental authority, a*
24 *nonprofit organization, or a private operator of pub-*
25 *lic transportation service that may receive a Federal*

1 *transit program grant indirectly through a recipient,*
2 *rather than directly from the Federal Government.”.*

3 (c) *GENERAL AUTHORITY.*—Section 5307(b) is
4 *amended—*

5 (1) *by amending paragraph (1) to read as fol-*
6 *lows:*

7 “(1) *IN GENERAL.*—*The Secretary of Transpor-*
8 *tation may award grants under this section for—*

9 “(A) *capital projects, including associated*
10 *capital maintenance items;*

11 “(B) *planning, including mobility manage-*
12 *ment;*

13 “(C) *transit enhancements;*

14 “(D) *operating costs of equipment and fa-*
15 *ilities for use in public transportation in an ur-*
16 *banized area with a population of less than*
17 *200,000; and*

18 “(E) *operating costs of equipment and fa-*
19 *ilities for use in public transportation in a por-*
20 *tion or portions of an urbanized area with a*
21 *population of at least 200,000, but not more*
22 *than 225,000, if—*

23 “(i) *the urbanized area includes parts*
24 *of more than 1 State;*

1 “(ii) the portion of the urbanized area
2 includes only 1 State;

3 “(iii) the population of the portion of
4 the urbanized area is less than 30,000; and

5 “(iv) the grants will not be used to
6 provide public transportation outside of the
7 portion of the urbanized area.”;

8 (2) by amending paragraph (2) to read as fol-
9 lows:

10 “(2) *SPECIAL RULE FOR FISCAL YEARS 2005*
11 *THROUGH 2007.*—

12 “(A) *INCREASED FLEXIBILITY.*—*The Sec-*
13 *retary may award grants under this section,*
14 *from funds made available to carry out this sec-*
15 *tion for each of the fiscal years 2005 through*
16 *2007, to finance the operating cost of equipment*
17 *and facilities for use in mass transportation in*
18 *an urbanized area with a population of at least*
19 *200,000, as determined by the 2000 decennial*
20 *census of population if—*

21 “(i) the urbanized area had a popu-
22 lation of less than 200,000, as determined
23 by the 1990 decennial census of population;

24 “(ii) a portion of the urbanized area
25 was a separate urbanized area with a popu-

1 *lation of less than 200,000, as determined*
2 *by the 1990 decennial census of population;*

3 *“(iii) the area was not designated as*
4 *an urbanized area, as determined by the*
5 *1990 decennial census of population; or*

6 *“(iv) a portion of the area was not des-*
7 *ignated as an urbanized area, as deter-*
8 *mined by the 1990 decennial census, and re-*
9 *ceived assistance under section 5311 in fis-*
10 *cal year 2002.*

11 *“(B) MAXIMUM AMOUNTS IN FISCAL YEAR*
12 *2005.—In fiscal year 2005—*

13 *“(i) amounts made available to any*
14 *urbanized area under clause (i) or (ii) of*
15 *subparagraph (A) shall be not more than*
16 *the amount apportioned in fiscal year 2002*
17 *to the urbanized area with a population of*
18 *less than 200,000, as determined in the*
19 *1990 decennial census of population;*

20 *“(ii) amounts made available to any*
21 *urbanized area under subparagraph (A)(iii)*
22 *shall be not more than the amount appor-*
23 *tioned to the urbanized area under this sec-*
24 *tion for fiscal year 2003; and*

1 “(iii) each portion of any area not des-
2 ignated as an urbanized area, as deter-
3 mined by the 1990 decennial census, and el-
4 igible to receive funds under subparagraph
5 (A)(iv), shall receive an amount of funds to
6 carry out this section that is not less than
7 the amount the portion of the area received
8 under section 5311 for fiscal year 2002.

9 “(C) *MAXIMUM AMOUNTS IN FISCAL YEAR*
10 2006.—*In fiscal year 2006—*

11 “(i) amounts made available to any
12 urbanized area under clause (i) or (ii) of
13 subparagraph (A) shall be not more than 50
14 percent of the amount apportioned in fiscal
15 year 2002 to the urbanized area with a
16 population of less than 200,000, as deter-
17 mined in the 1990 decennial census of pop-
18 ulation;

19 “(ii) amounts made available to any
20 urbanized area under subparagraph (A)(iii)
21 shall be not more than 50 percent of the
22 amount apportioned to the urbanized area
23 under this section for fiscal year 2003; and

24 “(iii) each portion of any area not des-
25 ignated as an urbanized area, as deter-

1 *mined by the 1990 decennial census, and el-*
2 *igible to receive funds under subparagraph*
3 *(A)(iv), shall receive an amount of funds to*
4 *carry out this section that is not less 50*
5 *percent of the amount the portion of the*
6 *area received under section 5311 for fiscal*
7 *year 2002.*

8 *“(D) MAXIMUM AMOUNTS IN FISCAL YEAR*
9 *2007.—In fiscal year 2007—*

10 *“(i) amounts made available to any*
11 *urbanized area under clause (i) or (ii) of*
12 *subparagraph (A) shall be not more than 25*
13 *percent of the amount apportioned in fiscal*
14 *year 2002 to the urbanized area with a*
15 *population of less than 200,000, as deter-*
16 *mined in the 1990 decennial census of pop-*
17 *ulation;*

18 *“(ii) amounts made available to any*
19 *urbanized area under subparagraph (A)(iii)*
20 *shall be not more than 25 percent of the*
21 *amount apportioned to the urbanized area*
22 *under this section for fiscal year 2003; and*

23 *“(iii) each portion of any area not des-*
24 *ignated as an urbanized area, as deter-*
25 *mined by the 1990 decennial census, and el-*

1 *igible to receive funds under subparagraph*
2 *(A)(iv), shall receive an amount of funds to*
3 *carry out this section that is not less than*
4 *25 percent of the amount the portion of the*
5 *area received under section 5311 in fiscal*
6 *year 2002.”; and*

7 *(3) by striking paragraph (4).*

8 *(d) GRANT RECIPIENT REQUIREMENTS.—Section*
9 *5307(d)(1) is amended—*

10 *(1) in subparagraph (A), by inserting “, includ-*
11 *ing safety and security aspects of the program” after*
12 *“program”;*

13 *(2) in subparagraph (E), by striking “section”*
14 *and all that follows and inserting “section, the recipi-*
15 *ent will comply with sections 5323 and 5325”;*

16 *(3) in subparagraph (H), by striking “sections*
17 *5301(a) and (d), 5303–5306, and 5310(a)–(d) of this*
18 *title” and inserting “subsections (a) and (d) of section*
19 *5301 and sections 5303 through 5306”;*

20 *(4) in subparagraph (I) by striking “and” at the*
21 *end;*

22 *(5) in subparagraph (J), by striking the period*
23 *at the end and inserting “; and”;* and

24 *(6) by adding at the end the following:*

1 “(K) if located in an urbanized area with
2 a population of at least 200,000, will expend not
3 less than 1 percent of the amount the recipient
4 receives each fiscal year under this section for
5 transit enhancement activities described in sec-
6 tion 5302(a)(15).”.

7 (e) *GOVERNMENT’S SHARE OF COSTS.*—Section
8 5307(e) is amended—

9 (1) by striking the first sentence and inserting
10 the following:

11 “(1) *CAPITAL PROJECTS.*—A grant for a capital
12 project under this section shall cover 80 percent of the
13 net project cost.”;

14 (2) by striking “A grant for operating expenses”
15 and inserting the following:

16 “(2) *OPERATING EXPENSES.*—A grant for oper-
17 ating expenses”;

18 (3) by striking the fourth sentence and inserting
19 the following:

20 “(3) *REMAINING COSTS.*—The remainder of the
21 net project cost shall be provided in cash from non-
22 Federal sources or revenues derived from the sale of
23 advertising and concessions and amounts received
24 under a service agreement with a State or local social

1 *service agency or a private social service organiza-*
2 *tion.”; and*

3 *(4) by adding at the end the following: “The pro-*
4 *hibitions on the use of funds for matching require-*
5 *ments under section 403(a)(5)(C)(vii) of the Social*
6 *Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not*
7 *apply to the remainder.”.*

8 *(f) UNDERTAKING PROJECTS IN ADVANCE.—Section*
9 *5307(g) is amended by striking paragraph (4).*

10 *(g) RELATIONSHIP TO OTHER LAWS.—Section*
11 *5307(k), as redesignated, is amended to read as follows:*

12 *“(k) RELATIONSHIP TO OTHER LAWS.—*

13 *“(1) APPLICABLE PROVISIONS.—Sections 5301,*
14 *5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323,*
15 *5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335*
16 *apply to this section and to any grant made under*
17 *this section.*

18 *“(2) INAPPLICABLE PROVISIONS.—*

19 *“(A) IN GENERAL.—Except as provided*
20 *under this section, no other provision of this*
21 *chapter applies to this section or to a grant*
22 *made under this section.*

23 *“(B) TITLE 5.—The provision of assistance*
24 *under this chapter shall not be construed as*
25 *bringing within the application of chapter 15 of*

1 *title 5, any nonsupervisory employee of a public*
2 *transportation system (or any other agency or*
3 *entity performing related functions) to which*
4 *such chapter is otherwise inapplicable.”.*

5 *(h) CONTRACTED PARATRANSIT PILOT.—*

6 (1) *IN GENERAL.—Notwithstanding section*
7 *5302(a)(1)(I) of title 49, United States Code, for fis-*
8 *cal years 2005 through 2009, a recipient of assistance*
9 *under section 5307 of title 49, United States Code, in*
10 *an urbanized area with a population of 558,329 ac-*
11 *ording to the 2000 decennial census of population*
12 *may use not more than 20 percent of such recipient’s*
13 *annual formula apportionment under section 5307 of*
14 *title 49, United States Code, for the provision of non-*
15 *fixed route paratransit services in accordance with*
16 *section 223 of the Americans with Disabilities Act (42*
17 *U.S.C. 12143), but only if the grant recipient is in*
18 *compliance with applicable requirements of that Act,*
19 *including both fixed route and demand responsive*
20 *service and the service is acquired by contract.*

21 (2) *REPORT.—Not later than January 1, 2009,*
22 *the Secretary shall submit to the Committee on*
23 *Transportation and Infrastructure of the House of*
24 *Representatives and the Committee on Banking,*
25 *Housing, and Urban Affairs of the Senate, a report*

1 *on the implementation of this section and any rec-*
2 *ommendations of the Secretary regarding the applica-*
3 *tion of this section.*

4 **SEC. 6010. PLANNING PROGRAMS.**

5 *(a) IN GENERAL.—Section 5308 is amended to read*
6 *as follows:*

7 **“§ 5308. Planning programs**

8 *“(a) GRANTS AUTHORIZED.—Under criteria estab-*
9 *lished by the Secretary, the Secretary may award grants*
10 *to States, authorities of the States, metropolitan planning*
11 *organizations, and local governmental authorities, make*
12 *agreements with other departments, agencies, or instrumen-*
13 *talities of the Government, or enter into contracts with pri-*
14 *vate nonprofit or for-profit entities to—*

15 *“(1) develop transportation plans and programs;*

16 *“(2) plan, engineer, design, and evaluate a pub-*
17 *lic transportation project; or*

18 *“(3) conduct technical studies relating to public*
19 *transportation, including—*

20 *“(A) studies related to management, plan-*
21 *ning, operations, capital requirements, and eco-*
22 *nommic feasibility;*

23 *“(B) evaluations of previously financed*
24 *projects;*

1 “(C) peer reviews and exchanges of technical
2 data, information, assistance, and related activi-
3 ties in support of planning and environmental
4 analyses among metropolitan planning organiza-
5 tions and other transportation planners; and

6 “(D) other similar and related activities
7 preliminary to, and in preparation for, con-
8 structing, acquiring, or improving the operation
9 of facilities and equipment.

10 “(b) *PURPOSE.*—To the extent practicable, the Sec-
11 retary shall ensure that amounts appropriated pursuant to
12 section 5338 to carry out this section and sections 5303,
13 5304, and 5306 are used to support balanced and com-
14 prehensive transportation planning that considers the rela-
15 tionships among land use and all transportation modes,
16 without regard to the programmatic source of the planning
17 amounts.

18 “(c) *METROPOLITAN PLANNING PROGRAM.*—

19 “(1) *ALLOCATIONS TO STATES.*—

20 “(A) *IN GENERAL.*—The Secretary shall al-
21 locate 80 percent of the amount made available
22 under subsection (g)(3)(A) to States to carry out
23 sections 5303 and 5306 in a ratio equal to the
24 population in urbanized areas in each State, di-
25 vided by the total population in urbanized areas

1 *in all States, as shown by the latest available de-*
2 *cennial census of population.*

3 “(B) *MINIMUM ALLOCATION.*—*Each State*
4 *shall receive not less than 0.5 percent of the total*
5 *amount allocated under this paragraph.*

6 “(2) *AVAILABILITY OF FUNDS.*—*A State receiv-*
7 *ing an allocation under paragraph (1) shall promptly*
8 *distribute such funds to metropolitan planning orga-*
9 *nizations in the State under a formula—*

10 “(A) *developed by the State in cooperation*
11 *with the metropolitan planning organizations;*

12 “(B) *approved by the Secretary of Trans-*
13 *portation;*

14 “(C) *that considers population in urbanized*
15 *areas; and*

16 “(D) *that provides an appropriate distribu-*
17 *tion for urbanized areas to carry out the cooper-*
18 *ative processes described in this section.*

19 “(3) *SUPPLEMENTAL ALLOCATIONS.*—

20 “(A) *IN GENERAL.*—*The Secretary shall al-*
21 *locate 20 percent of the amount made available*
22 *under subsection (g)(3)(A) to States to supple-*
23 *ment allocations made under paragraph (1) for*
24 *metropolitan planning organizations.*

1 “(B) *ALLOCATION FORMULA.*—Amounts
2 under this paragraph shall be allocated under a
3 formula that reflects the additional cost of car-
4 rying out planning, programming, and project
5 selection responsibilities in complex metropolitan
6 planning areas under sections 5303, 5304, and
7 5306.

8 “(d) *STATE PLANNING AND RESEARCH PROGRAM.*—

9 “(1) *IN GENERAL.*—The Secretary shall allocate
10 amounts made available pursuant to subsection
11 (g)(3)(B) to States for grants and contracts to carry
12 out sections 5304, 5306, 5315, and 5322 so that each
13 State receives an amount equal to the ratio of the
14 population in urbanized areas in that State, divided
15 by the total population in urbanized areas in all
16 States, as shown by the latest available decennial cen-
17 sus.

18 “(2) *MINIMUM ALLOCATION.*—Each State shall
19 receive not less than 0.5 percent of the amount allo-
20 cated under this subsection.

21 “(3) *REALLOCATION.*—A State may authorize
22 part of the amount made available under this sub-
23 section to be used to supplement amounts available
24 under subsection (c).

25 “(e) *PLANNING CAPACITY BUILDING PROGRAM.*—

1 “(1) *ESTABLISHMENT.*—*The Secretary shall es-*
2 *tablish a Planning Capacity Building Program (re-*
3 *ferred to in this subsection as the “Program”)* to sup-
4 *port and fund innovative practices and enhancements*
5 *in transportation planning.*

6 “(2) *PURPOSE.*—*The purpose of the Program*
7 *shall be to promote activities that support and*
8 *strengthen the planning processes required under this*
9 *section and sections 5303 and 5304.*

10 “(3) *ADMINISTRATION.*—*The Program shall be*
11 *administered by the Federal Transit Administration*
12 *in cooperation with the Federal Highway Adminis-*
13 *tration.*

14 “(4) *USE OF FUNDS.*—

15 “(A) *IN GENERAL.*—*Appropriations author-*
16 *ized under subsection (g)(1) to carry out this*
17 *subsection may be used—*

18 “(i) *to provide incentive grants to*
19 *States, metropolitan planning organiza-*
20 *tions, and public transportation operators;*
21 *and*

22 “(ii) *to conduct research, disseminate*
23 *information, and provide technical assist-*
24 *ance.*

1 “(B) *GRANTS, CONTRACTS, COOPERATIVE*
2 *AGREEMENTS.*—*In carrying out the activities de-*
3 *scribed in subparagraph (A), the Secretary*
4 *may—*

5 “(i) *expend appropriated funds di-*
6 *rectly; or*

7 “(ii) *award grants to, or enter into*
8 *contracts, cooperative agreements, and other*
9 *transactions with, a Federal agency, State*
10 *agency, local governmental authority, asso-*
11 *ciation, nonprofit or for-profit entity, or in-*
12 *stitution of higher education.*

13 “(f) *GOVERNMENT’S SHARE OF COSTS.*—*Amounts*
14 *made available to carry out subsections (c), (d), and (e)*
15 *may not exceed 80 percent of the costs of the activity unless*
16 *the Secretary of Transportation determines that it is in the*
17 *interest of the Government not to require State or local*
18 *matching funds.*

19 “(g) *ALLOCATION OF FUNDS.*—*Of the amounts made*
20 *available under section 5338(b)(2)(B) for fiscal year 2006*
21 *and each fiscal year thereafter to carry out this section—*

22 “(1) *\$5,000,000 shall be allocated for the Plan-*
23 *ning Capacity Building Program established under*
24 *subsection (e);*

1 “(2) \$20,000,000 shall be allocated for grants
2 under subsection (a)(2) for alternatives analyses re-
3 quired by section 5309(e)(2)(A); and

4 “(3) of the remaining amount—

5 “(A) 82.72 percent shall be allocated for the
6 metropolitan planning program described in
7 subsection (d); and

8 “(B) 17.28 percent shall be allocated to
9 carry out subsection (b).

10 “(h) *REALLOCATIONS.*—Any amount allocated under
11 *this section that has not been used 3 years after the end*
12 *of the fiscal year in which the amount was allocated shall*
13 *be reallocated among the States.”.*

14 (b) *CONFORMING AMENDMENT.*—The item relating to
15 *section 5308 in the table of sections for chapter 53 is amend-*
16 *ed to read as follows:*

 “5308. *Planning programs.*”.

17 **SEC. 6011. CAPITAL INVESTMENT PROGRAM.**

18 (a) *SECTION HEADING.*—The section heading of sec-
19 *tion 5309 is amended to read as follows:*

20 **“§ 5309. Capital investment grants”.**

21 (b) *GENERAL AUTHORITY.*—Section 5309(a) is
22 *amended—*

23 (1) *in paragraph (1)—*

1 (A) by striking “(1) The Secretary of
2 Transportation may make grants and loans”
3 and inserting the following:

4 “(1) GRANTS AUTHORIZED.—The Secretary may
5 award grants”;

6 (B) in subparagraph (A), by striking “al-
7 ternatives analysis related to the development of
8 systems,”;

9 (C) by striking subparagraphs (B), (C),
10 (D), and (G);

11 (D) by redesignating subparagraphs (E),
12 (F), and (H) as subparagraphs (B), (C), and
13 (D), respectively;

14 (E) in subparagraph (C), as redesignated,
15 by striking the semicolon at the end and insert-
16 ing “, including programs of bus and bus-related
17 projects for assistance to subrecipients which are
18 public agencies, private companies engaged in
19 public transportation, or private nonprofit orga-
20 nizations; and”;

21 (F) in subparagraph (D), as redesignated—

22 (i) by striking “to support fixed guide-
23 way systems”; and

24 (ii) by striking “dedicated bus and
25 high occupancy vehicle”;

1 (2) *by amending paragraph (2) to read as fol-*
2 *lows:*

3 “(2) *GRANTEE REQUIREMENTS.—*

4 “(A) *GRANTEE IN URBANIZED AREA.—The*
5 *Secretary shall require that any grants awarded*
6 *under this section to a recipient or subrecipient*
7 *located in an urbanized area shall be subject to*
8 *all terms, conditions, requirements, and provi-*
9 *sions that the Secretary determines to be nec-*
10 *essary or appropriate for the purposes of this*
11 *section, including requirements for the disposi-*
12 *tion of net increases in the value of real property*
13 *resulting from the project assisted under this sec-*
14 *tion.*

15 “(B) *GRANTEE NOT IN URBANIZED AREA.—*
16 *The Secretary shall require that any grants*
17 *awarded under this section to a recipient or sub-*
18 *recipient not located in an urbanized area shall*
19 *be subject to the same terms, conditions, require-*
20 *ments, and provisions as a recipient or sub-*
21 *recipient of assistance under section 5311.*

22 “(C) *SUBRECIPIENT.—The Secretary shall*
23 *require that any private, nonprofit organization*
24 *that is a subrecipient of a grant awarded under*
25 *this section shall be subject to the same terms,*

1 *conditions, requirements, and provisions as a*
2 *subrecipient of assistance under section 5310.*

3 “(D) *STATEWIDE TRANSIT PROVIDER*
4 *GRANTEES.—A statewide transit provider that*
5 *receives a grant under this section shall be sub-*
6 *ject to the terms, conditions, requirements, and*
7 *provisions of this section or section 5311, con-*
8 *sistent with the scope and purpose of the grant*
9 *and the location of the project.”; and*

10 (3) *by adding at the end the following:*

11 “(3) *CERTIFICATION.—An applicant that has*
12 *submitted the certifications required under subpara-*
13 *graphs (A), (B), (C), and (H) of section 5307(d)(1)*
14 *shall be deemed to have provided sufficient informa-*
15 *tion upon which the Secretary may make the findings*
16 *required under this subsection.”.*

17 (c) *DEFINED TERM.—Section 5309(b) is amended to*
18 *read as follows:*

19 “(b) *DEFINED TERM.—As used in this section, the*
20 *term ‘alternatives analysis’ means a study conducted as*
21 *part of the transportation planning process required under*
22 *sections 5303 and 5304, which includes—*

23 “(1) *an assessment of a wide range of public*
24 *transportation alternatives designed to address a*
25 *transportation problem in a corridor or subarea;*

1 “(2) sufficient information to enable the Sec-
2 retary to make the findings of project justification
3 and local financial commitment required under this
4 section;

5 “(3) the selection of a locally preferred alter-
6 native; and

7 “(4) the adoption of the locally preferred alter-
8 native as part of the long-range transportation plan
9 required under section 5303.”.

10 (d) GRANT REQUIREMENTS.—Section 5309(d) is
11 amended to read as follows:

12 “(d) GRANT REQUIREMENTS.—The Secretary may not
13 approve a grant for a project under this section unless the
14 Secretary determines that—

15 “(1) the project is part of an approved transpor-
16 tation plan and program of projects required under
17 sections 5303, 5304, and 5306; and

18 “(2) the applicant has, or will have—

19 “(A) the legal, financial, and technical ca-
20 pacity to carry out the project, including safety
21 and security aspects of the project;

22 “(B) satisfactory continuing control over
23 the use of the equipment or facilities; and

24 “(C) the capability and willingness to
25 maintain the equipment or facilities.”.

1 (e) MAJOR CAPITAL INVESTMENT PROJECTS OF
2 \$75,000,000 OR MORE.—Section 5309(e) is amended to
3 read as follows:

4 “(e) MAJOR CAPITAL INVESTMENT PROJECTS OF
5 \$75,000,000 OR MORE.—

6 “(1) FULL FUNDING GRANT AGREEMENT.—The
7 Secretary shall enter into a full funding grant agree-
8 ment, based on the evaluations and ratings required
9 under this subsection, with each grantee receiving not
10 less than \$75,000,000 under this subsection for a new
11 fixed guideway capital project that—

12 “(A) is authorized for final design and con-
13 struction; and

14 “(B) has been rated as medium, medium-
15 high, or high, in accordance with paragraph
16 (5)(B).

17 “(2) DETERMINATIONS.—The Secretary may not
18 award a grant under this subsection for a new fixed
19 guideway capital project unless the Secretary deter-
20 mines that the proposed project is—

21 “(A) based on the results of an alternatives
22 analysis and preliminary engineering;

23 “(B) justified based on a comprehensive re-
24 view of its mobility improvements, environ-
25 mental benefits, cost-effectiveness, operating effi-

1 *ciencies, economic development effects, and public*
2 *transportation supportive land use patterns and*
3 *policies; and*

4 “(C) supported by an acceptable degree of
5 local financial commitment, including evidence
6 of stable and dependable financing sources to
7 construct the project, and maintain and operate
8 the entire public transportation system, while
9 ensuring that the extent and quality of existing
10 public transportation services are not degraded.

11 “(3) *EVALUATION OF PROJECT JUSTIFICATION.*—

12 *In making the determinations under paragraph*
13 *(2)(B) for a major capital investment grant, the Sec-*
14 *retary shall analyze, evaluate, and consider—*

15 “(A) *the results of the alternatives analysis*
16 *and preliminary engineering for the proposed*
17 *project;*

18 “(B) *the reliability of the forecasts of costs*
19 *and utilization made by the recipient and the*
20 *contractors to the recipient;*

21 “(C) *the direct and indirect costs of relevant*
22 *alternatives;*

23 “(D) *factors such as—*

24 “(i) *congestion relief;*

25 “(ii) *improved mobility;*

- 1 “(iii) air pollution;
- 2 “(iv) noise pollution;
- 3 “(v) energy consumption; and
- 4 “(vi) all associated ancillary and miti-
- 5 gation costs necessary to carry out each al-
- 6 ternative analyzed;
- 7 “(E) reductions in local infrastructure costs
- 8 achieved through compact land use development
- 9 and positive impacts on the capacity, utiliza-
- 10 tion, or longevity of other surface transportation
- 11 assets and facilities;
- 12 “(F) the cost of suburban sprawl;
- 13 “(G) the degree to which the project in-
- 14 creases the mobility of the public transportation
- 15 dependent population or promotes economic de-
- 16 velopment;
- 17 “(H) population density and current tran-
- 18 sit ridership in the transportation corridor;
- 19 “(I) the technical capability of the grant re-
- 20 cipient to construct the project;
- 21 “(J) any adjustment to the project justifica-
- 22 tion necessary to reflect differences in local land,
- 23 construction, and operating costs; and

1 “(K) other factors that the Secretary deter-
2 mines to be appropriate to carry out this chap-
3 ter.

4 “(4) *EVALUATION OF LOCAL FINANCIAL COMMIT-*
5 *MENT.—*

6 “(A) *IN GENERAL.—*In evaluating a project
7 under paragraph (2)(C), the Secretary shall re-
8 quire that—

9 “(i) the proposed project plan provides
10 for the availability of contingency amounts
11 that the Secretary determines to be reason-
12 able to cover unanticipated cost increases;

13 “(ii) each proposed local source of cap-
14 ital and operating financing is stable, reli-
15 able, and available within the proposed
16 project timetable; and

17 “(iii) local resources are available to
18 recapitalize and operate the overall pro-
19 posed public transportation system, includ-
20 ing essential feeder bus and other services
21 necessary to achieve the projected ridership
22 levels, while ensuring that the extent and
23 quality of existing public transportation
24 services are not degraded.

1 “(B) *EVALUATION CRITERIA.*—*In assessing*
2 *the stability, reliability, and availability of pro-*
3 *posed sources of local financing under paragraph*
4 *(2)(C), the Secretary shall consider—*

5 “(i) *the reliability of the forecasts of*
6 *costs and utilization made by the recipient*
7 *and the contractors to the recipient;*

8 “(ii) *existing grant commitments;*

9 “(iii) *the degree to which financing*
10 *sources are dedicated to the proposed pur-*
11 *poses;*

12 “(iv) *any debt obligation that exists, or*
13 *is proposed by the recipient, for the pro-*
14 *posed project or other public transportation*
15 *purpose; and*

16 “(v) *the extent to which the project has*
17 *a local financial commitment that exceeds*
18 *the required non-Federal share of the cost of*
19 *the project, provided that if the Secretary*
20 *gives priority to financing projects that in-*
21 *clude more than the non-Federal share re-*
22 *quired under subsection (h), the Secretary*
23 *shall give equal consideration to differences*
24 *in the fiscal capacity of State and local gov-*
25 *ernments.*

1 “(5) *PROJECT ADVANCEMENT AND RATINGS.*—

2 “(A) *PROJECT ADVANCEMENT.*—*A proposed*
3 *project under this subsection shall not advance*
4 *from alternatives analysis to preliminary engi-*
5 *neering or from preliminary engineering to final*
6 *design and construction unless the Secretary de-*
7 *termines that the project meets the requirements*
8 *of this section and there is a reasonable likeli-*
9 *hood that the project will continue to meet such*
10 *requirements.*

11 “(B) *RATINGS.*—*In making a determina-*
12 *tion under subparagraph (A), the Secretary shall*
13 *evaluate and rate the project on a 5-point scale*
14 *(high, medium-high, medium, medium-low, or*
15 *low) based on the results of the alternatives anal-*
16 *ysis, the project justification criteria, and the de-*
17 *gree of local financial commitment, as required*
18 *under this subsection. In rating the projects, the*
19 *Secretary shall provide, in addition to the over-*
20 *all project rating, individual ratings for each of*
21 *the criteria established by regulation.*

22 “(6) *APPLICABILITY.*—*This subsection shall not*
23 *apply to projects for which the Secretary has issued*
24 *a letter of intent or entered into a full funding grant*

1 *agreement before the date of enactment of the Federal*
2 *Public Transportation Act of 2005.*

3 “(7) *RULEMAKING.—Not later than 240 days*
4 *after the date of enactment of the Federal Public*
5 *Transportation Act of 2005, the Secretary shall issue*
6 *regulations on the manner by which the Secretary*
7 *shall evaluate and rate projects based on the results*
8 *of alternatives analysis, project justification, and*
9 *local financial commitment, in accordance with this*
10 *subsection.*

11 “(8) *POLICY GUIDANCE.—*

12 “(A) *PUBLICATION.—The Secretary shall*
13 *publish policy guidance regarding the new starts*
14 *project review and evaluation process—*

15 “(i) *not later than 120 days after the*
16 *date of enactment of the Federal Public*
17 *Transportation Act of 2005; and*

18 “(ii) *each time significant changes are*
19 *made by the Secretary to the new starts*
20 *project review and evaluation process and*
21 *criteria, but not less frequently than once*
22 *every 2 years.*

23 “(B) *PUBLIC COMMENT AND RESPONSE.—*

24 *The Secretary shall—*

1 “(i) invite public comment to the pol-
2 icy guidance published under subparagraph
3 (A); and

4 “(ii) publish a response to the com-
5 ments received under clause (i).”.

6 (f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS
7 THAN \$75,000,000.—Section 5309(f) is amended to read as
8 follows:

9 “(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS
10 THAN \$75,000,000.—

11 “(1) PROJECT CONSTRUCTION GRANT AGREE-
12 MENT.—

13 “(A) IN GENERAL.—The Secretary shall
14 enter into a project construction grant agree-
15 ment, based on evaluations and ratings required
16 under this subsection, with each grantee receiv-
17 ing less than \$75,000,000 under this subsection
18 for a new fixed guideway or corridor improve-
19 ment capital project that—

20 “(i) is authorized by law; and

21 “(ii) has been rated as medium, me-
22 dium-high, or high, in accordance with
23 paragraph (3)(B).

24 “(B) CONTENTS.—

1 “(i) *IN GENERAL.*—*An agreement*
2 *under this paragraph shall specify—*

3 “(I) *the scope of the project to be*
4 *constructed;*

5 “(II) *the estimated net cost of the*
6 *project;*

7 “(III) *the schedule under which*
8 *the project shall be constructed;*

9 “(IV) *the maximum amount of*
10 *funding to be obtained under this sub-*
11 *section;*

12 “(V) *the proposed schedule for ob-*
13 *ligation of future Federal grants; and*

14 “(VI) *the sources of non-Federal*
15 *funding.*

16 “(ii) *ADDITIONAL FUNDING.*—*The*
17 *agreement may include a commitment on*
18 *the part of the Secretary to provide funding*
19 *for the project in future fiscal years.*

20 “(C) *FULL FUNDING GRANT AGREEMENT.*—
21 *An agreement under this paragraph shall be con-*
22 *sidered a full funding grant agreement for the*
23 *purposes of subsection (g).*

24 “(2) *SELECTION PROCESS.*—

1 “(A) *SELECTION CRITERIA.*—*The Secretary*
2 *may not award a grant under this subsection for*
3 *a proposed project unless the Secretary deter-*
4 *mines that the project is—*

5 “(i) *based on the results of planning*
6 *and alternatives analysis;*

7 “(ii) *justified based on a review of its*
8 *public transportation supportive land use*
9 *policies, cost effectiveness, and effect on local*
10 *economic development; and*

11 “(iii) *supported by an acceptable de-*
12 *gree of local financial commitment.*

13 “(B) *PLANNING AND ALTERNATIVES.*—*In*
14 *evaluating a project under subparagraph (A)(i),*
15 *the Secretary shall analyze and consider the re-*
16 *sults of planning and alternatives analysis for*
17 *the project.*

18 “(C) *PROJECT JUSTIFICATION.*—*In making*
19 *the determinations under subparagraph (A)(ii),*
20 *the Secretary shall—*

21 “(i) *determine the degree to which local*
22 *land use policies are supportive of the pub-*
23 *lic transportation project and the degree to*
24 *which the project is likely to achieve local*
25 *developmental goals;*

1 “(ii) determine the cost effectiveness of
2 the project at the time of the initiation of
3 revenue service;

4 “(iii) determine the degree to which the
5 project will have a positive effect on local
6 economic development;

7 “(iv) consider the reliability of the
8 forecasts of costs and ridership associated
9 with the project; and

10 “(v) consider other factors that the Sec-
11 retary determines to be appropriate to
12 carry out this subsection.

13 “(D) LOCAL FINANCIAL COMMITMENT.—For
14 purposes of subparagraph (A)(iii), the Secretary
15 shall require that each proposed local source of
16 capital and operating financing is stable, reli-
17 able, and available within the proposed project
18 timetable.

19 “(3) ADVANCEMENT OF PROJECT TO DEVELOP-
20 MENT AND CONSTRUCTION.—

21 “(A) IN GENERAL.—A proposed project
22 under this subsection may not advance from the
23 planning and alternatives analysis stage to
24 project development and construction unless—

1 “(i) the Secretary finds that the project
2 meets the requirements of this subsection
3 and there is a reasonable likelihood that the
4 project will continue to meet such require-
5 ments; and

6 “(ii) the metropolitan planning orga-
7 nization has adopted the locally preferred
8 alternative for the project into the long-
9 range transportation plan.

10 “(B) EVALUATION.—In making the findings
11 under subparagraph (A), the Secretary shall
12 evaluate and rate the project as high, medium-
13 high, medium, medium-low, or low, based on the
14 results of the analysis of the project justification
15 criteria and the degree of local financial commit-
16 ment, as required under this subsection.

17 “(4) IMPACT REPORT.—

18 “(A) IN GENERAL.—Not later than 240
19 days after the date of enactment of the Federal
20 Public Transportation Act of 2005, the Federal
21 Transit Administration shall submit a report on
22 the methodology to be used in evaluating the
23 land use and economic development impacts of
24 non-fixed guideway or partial fixed guideway
25 projects to—

1 “(i) the Committee on Banking, Hous-
2 ing, and Urban Affairs of the Senate; and

3 “(ii) the Committee on Transportation
4 and Infrastructure of the House of Rep-
5 resentatives.

6 “(B) CONTENTS.—The report submitted
7 under subparagraph (A) shall address any quali-
8 tative and quantitative differences between fixed
9 guideway and non-fixed guideway projects with
10 respect to land use and economic development
11 impacts.

12 “(5) REGULATIONS.—Not later than 120 days
13 after the date of enactment of the Federal Public
14 Transportation Act of 2005, the Secretary shall issue
15 regulations establishing an evaluation and rating
16 process for proposed projects under this subsection
17 that is based on the results of project justification and
18 local financial commitment, as required under this
19 subsection.”.

20 (g) FULL FUNDING GRANT AGREEMENTS.—Section
21 5309(g)(2) is amended by adding at the end the following:

22 “(C) BEFORE AND AFTER STUDY.—

23 “(i) IN GENERAL.—Each full funding grant
24 agreement shall require the applicant to conduct a
25 study that—

1 “(I) describes and analyzes the impacts of
2 the new start project on transit services and
3 transit ridership;

4 “(II) evaluates the consistency of predicted
5 and actual project characteristics and perform-
6 ance; and

7 “(III) identifies sources of differences be-
8 tween predicted and actual outcomes.

9 “(i) *INFORMATION COLLECTION AND ANALYSIS*
10 *PLAN.*—

11 “(I) *SUBMISSION OF PLAN.*—*Applicants*
12 *seeking a full funding grant agreement shall sub-*
13 *mit a complete plan for the collection and anal-*
14 *ysis of information to identify the impacts of the*
15 *new start project and the accuracy of the fore-*
16 *casts prepared during the development of the*
17 *project. Preparation of this plan shall be in-*
18 *cluded in the full funding grant agreement as an*
19 *eligible activity.*

20 “(II) *CONTENTS OF PLAN.*—*The plan sub-*
21 *mitted under subclause (I) shall provide for—*

22 “(aa) *the collection of data on the cur-*
23 *rent transit system regarding transit service*
24 *levels and ridership patterns, including ori-*

1 *gins and destinations, access modes, trip*
2 *purposes, and rider characteristics;*

3 *“(bb) documentation of the predicted*
4 *scope, service levels, capital costs, operating*
5 *costs, and ridership of the project;*

6 *“(cc) collection of data on the transit*
7 *system 2 years after the opening of the new*
8 *start project, including analogous informa-*
9 *tion on transit service levels and ridership*
10 *patterns and information on the as-built*
11 *scope and capital costs of the new start*
12 *project; and*

13 *“(dd) analysis of the consistency of*
14 *predicted project characteristics with the*
15 *after data.*

16 *“(D) COLLECTION OF DATA ON CURRENT SYSTEM.—*
17 *To be eligible for a full funding grant agreement, recipients*
18 *shall have collected data on the current system, according*
19 *to the plan required, before the beginning of construction*
20 *of the proposed new start project. Collection of this data*
21 *shall be included in the full funding grant agreement as*
22 *an eligible activity.*

23 *“(E) PUBLIC PRIVATE PARTNERSHIP PILOT PRO-*
24 *GRAM.—*

1 “(i) *AUTHORIZATION.*—*The Secretary may es-*
2 *tablish a pilot program to demonstrate the advantages*
3 *of public-private partnerships for certain fixed guide-*
4 *way systems development projects.*

5 “(ii) *IDENTIFICATION OF QUALIFIED*
6 *PROJECTS.*—*The Secretary shall identify qualified*
7 *public-private partnership projects as permitted by*
8 *applicable State and local enabling laws and work*
9 *with project sponsors to enhance project delivery and*
10 *reduce overall costs.”.*

11 “(h) *GOVERNMENT SHARE OF NET PROJECT COST.*—
12 *Section 5309(h) is amended to read as follows:*

13 “(h) *GOVERNMENT SHARE OF ADJUSTED NET*
14 *PROJECT COST.*—

15 “(1) *IN GENERAL.*—*The Secretary shall estimate*
16 *the net project cost based on engineering studies, stud-*
17 *ies of economic feasibility, and information on the ex-*
18 *pected use of equipment or facilities.*

19 “(2) *ADJUSTMENT FOR COMPLETION UNDER*
20 *BUDGET.*—*The Secretary may adjust the final net*
21 *project cost of a major capital investment project*
22 *evaluated under subsections (e) and (f) to include the*
23 *cost of eligible activities not included in the originally*
24 *defined project if the Secretary determines that the*

1 *originally defined project has been completed at a cost*
2 *that is significantly below the original estimate.*

3 *“(3) MAXIMUM GOVERNMENT SHARE.—*

4 *“(A) IN GENERAL.—A grant for the project*
5 *shall be for 80 percent of the net project cost, or*
6 *the net project cost as adjusted under paragraph*
7 *(2), unless the grant recipient requests a lower*
8 *grant percentage.*

9 *“(B) EXCEPTIONS.—The Secretary may*
10 *provide a higher grant percentage than requested*
11 *by the grant recipient if—*

12 *“(i) the Secretary determines that the*
13 *net project cost of the project is not more*
14 *than 10 percent higher than the net project*
15 *cost estimated at the time the project was*
16 *approved for advancement into preliminary*
17 *engineering; and*

18 *“(ii) the ridership estimated for the*
19 *project is not less than 90 percent of the*
20 *ridership estimated for the project at the*
21 *time the project was approved for advance-*
22 *ment into preliminary engineering.*

23 *“(4) OTHER SOURCES.—The costs not funded by*
24 *a grant under this section may be funded from—*

25 *“(A) an undistributed cash surplus;*

1 “(B) a replacement or depreciation cash
2 fund or reserve; or

3 “(C) new capital, including any Federal
4 funds that are eligible to be expended for trans-
5 portation.

6 “(5) *PLANNED EXTENSION TO FIXED GUIDEWAY*
7 *SYSTEM.*—In addition to amounts allowed under
8 paragraph (1), a planned extension to a fixed guide-
9 way system may include the cost of rolling stock pre-
10 viously purchased if the Secretary determines that
11 only non-Federal funds were used and that the pur-
12 chase was made for use on the extension. A refund or
13 reduction of the costs not funded by a grant under
14 this section may be made only if a refund of a pro-
15 portional amount of the grant is made at the same
16 time.

17 “(6) *EXCEPTION.*—The prohibitions on the use of
18 funds for matching requirements under section
19 403(a)(5)(C)(vii) of the Social Security Act (42
20 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts
21 allowed under paragraph (4).”.

22 (i) *LOAN PROVISIONS AND FISCAL CAPACITY CONSID-*
23 *ERATIONS.*—Section 5309 is amended—

24 (1) by striking subsections (i), (j), (k), and (l);

1 (2) by redesignating subsections (m) and (n) as
2 subsections (i) and (j), respectively;

3 (3) by striking subsection (o) (as added by sec-
4 tion 3009(i) of the Federal Transit Act of 1998); and

5 (4) by redesignating subsections (o) and (p) as
6 subsections (k) and (l), respectively.

7 (j) *ALLOCATING AMOUNTS*.—Section 5309(i), as redес-
8 ignated, is amended to read as follows:

9 “(i) *ALLOCATING AMOUNTS*.—

10 “(1) *FISCAL YEAR 2005*.—Of the amounts made
11 available or appropriated for fiscal year 2005 under
12 section 5338(a)(3)—

13 “(A) \$1,437,829,600 shall be allocated for
14 projects of not less than \$75,000,000 for major
15 capital projects for new fixed guideway systems
16 and extensions of such systems under subsection
17 (e) and projects for new fixed guideway or cor-
18 ridor improvement capital projects under sub-
19 section (f);

20 “(B) \$1,204,684,800 shall be allocated for
21 capital projects for fixed guideway moderniza-
22 tion; and

23 “(C) \$669,600,000 shall be allocated for
24 capital projects for buses and bus-related equip-
25 ment and facilities.

1 “(2) *IN GENERAL.*—*Of the amounts made avail-*
2 *able or appropriated for fiscal year 2006 and each*
3 *fiscal year thereafter for grants under this section*
4 *pursuant to subsections (b)(4) and (c) of section*
5 *5338—*

6 “(A) *the amounts appropriated under sec-*
7 *tion 5338(c) shall be allocated for major capital*
8 *projects for—*

9 “(i) *new fixed guideway systems and*
10 *extensions of not less than \$75,000,000, in*
11 *accordance with subsection (e); and*

12 “(ii) *projects for new fixed guideway*
13 *or corridor improvement capital projects, in*
14 *accordance with subsection (f); and*

15 “(B) *the amounts made available under sec-*
16 *tion 5338(b)(4) shall be allocated for capital*
17 *projects for buses and bus-related equipment and*
18 *facilities.*

19 “(3) *FIXED GUIDEWAY MODERNIZATION.*—*The*
20 *amounts made available for fixed guideway mod-*
21 *ernization under section 5338(b)(2)(K) for fiscal year*
22 *2006 and each fiscal year thereafter shall be allocated*
23 *in accordance with section 5337.*

24 “(4) *PRELIMINARY ENGINEERING.*—*Not more*
25 *that 8 percent of the allocation described in para-*

1 *graphs (1)(A) and (2)(A) may be expended on pre-*
2 *liminary engineering.*

3 “(5) *FUNDING FOR FERRY BOATS.*—*Of the*
4 *amounts described in paragraphs (1)(A) and (2)(A),*
5 *\$10,400,000 shall be available in each of the fiscal*
6 *years 2005 through 2009 for capital projects in Alas-*
7 *ka and Hawaii for new fixed guideway systems and*
8 *extension projects utilizing ferry boats, ferry boat ter-*
9 *minals, or approaches to ferry boat terminals.*

10 “(6) *BUS AND BUS FACILITY GRANTS.*—

11 “(A) *CONSIDERATIONS.*—*In making grants*
12 *under paragraphs (1)(C) and (2)(B), the Sec-*
13 *retary shall consider the age and condition of*
14 *buses, bus fleets, related equipment, and bus-re-*
15 *lated facilities.*

16 “(B) *PROJECTS NOT IN URBANIZED*
17 *AREAS.*—*Of the amounts made available under*
18 *paragraphs (1)(C) and (2)(B), not less than 5.5*
19 *percent shall be available in each fiscal year for*
20 *projects that are not in urbanized areas.*

21 “(C) *INTERMODAL TERMINALS.*—*Of the*
22 *amounts made available under paragraphs*
23 *(1)(C) and (2)(B), not less than \$75,000,000*
24 *shall be available in each fiscal year for inter-*

1 *modal terminal projects, including the intercity*
2 *bus portion of such projects.”.*

3 *(k) REPORTS.—Section 5309 is amended by inserting*
4 *at the end the following:*

5 “*(m) REPORTS.—*

6 “*(1) ANNUAL REPORT ON FUNDING REC-*
7 *COMMENDATIONS.—*

8 “*(A) IN GENERAL.—Not later than the first*
9 *Monday of February of each year, the Secretary*
10 *shall submit a report on funding recommenda-*
11 *tions to—*

12 “*(i) the Committee on Transportation*
13 *and Infrastructure of the House of Rep-*
14 *resentatives;*

15 “*(ii) the Committee on Banking, Hous-*
16 *ing, and Urban Affairs of the Senate;*

17 “*(iii) the Subcommittee on the Depart-*
18 *ments of Transportation, Treasury, Hous-*
19 *ing and Urban Development, The Judici-*
20 *ary, District of Columbia, and Independent*
21 *Agencies of the Committee on Appropria-*
22 *tions of the House of Representatives; and*

23 “*(iv) the Subcommittee on Transpor-*
24 *tation, Treasury, and General Government*

1 *of the Committee on Appropriations of the*
2 *Senate.*

3 “(B) *CONTENTS.*—*The report submitted*
4 *under subparagraph (A) shall contain—*

5 “*(i) a proposal on the allocation of*
6 *amounts to finance grants for capital in-*
7 *vestment projects among grant applicants;*

8 “*(ii) a recommendation of projects to*
9 *be funded based on—*

10 “*(I) the evaluations and ratings*
11 *determined under subsection (e) and*
12 *(f); and*

13 “*(II) existing commitments and*
14 *anticipated funding levels for the sub-*
15 *sequent 3 fiscal years; and*

16 “*(iii) detailed ratings and evaluations*
17 *on each project recommended for funding.*

18 “(2) *TRIENNIAL REPORTS ON PROJECT RAT-*
19 *INGS.*—

20 “*(A) IN GENERAL.*—*Not later than the first*
21 *Monday of February, the first Monday of June,*
22 *and the first Monday of October of each year, the*
23 *Secretary shall submit a report on project rat-*
24 *ings to—*

1 “(i) the Committee on Transportation
2 and Infrastructure of the House of Rep-
3 resentatives;

4 “(ii) the Committee on Banking, Hous-
5 ing, and Urban Affairs of the Senate;

6 “(iii) the Subcommittee on the Depart-
7 ments of Transportation, Treasury, Hous-
8 ing and Urban Development, The Judici-
9 ary, District of Columbia, and Independent
10 Agencies of the Committee on Appropria-
11 tions of the House of Representatives; and

12 “(iv) the Subcommittee on Transpor-
13 tation, Treasury, and General Government
14 of the Committee on Appropriations of the
15 Senate.

16 “(B) CONTENTS.—Each report submitted
17 under subparagraph (A) shall contain—

18 “(i) a summary of the ratings of all
19 capital investment projects for which fund-
20 ing was requested under this section;

21 “(ii) detailed ratings and evaluations
22 on the project of each applicant that had
23 significant changes to the finance or project
24 proposal or has completed alternatives anal-

1 *ysis or preliminary engineering since the*
2 *date of the latest report; and*

3 *“(iii) all relevant information sup-*
4 *porting the evaluation and rating of each*
5 *updated project, including a summary of*
6 *the financial plan of each updated project.*

7 *“(3) BEFORE AND AFTER STUDY REPORTS.—Not*
8 *later than the first Monday of August of each year,*
9 *the Secretary shall submit a report containing a sum-*
10 *mary of the results of the studies conducted under*
11 *subsection (g)(2) to—*

12 *“(A) the Committee on Transportation and*
13 *Infrastructure of the House of Representatives;*

14 *“(B) the Committee on Banking, Housing,*
15 *and Urban Affairs of the Senate;*

16 *“(C) the Subcommittee on the Departments*
17 *of Transportation, Treasury, Housing and*
18 *Urban Development, The Judiciary, District of*
19 *Columbia, and Independent Agencies of the Com-*
20 *mittee on Appropriations of the House of Rep-*
21 *resentatives; and*

22 *“(D) the Subcommittee on Transportation,*
23 *Treasury, and General Government of the Com-*
24 *mittee on Appropriations of the Senate.*

1 “(4) *CONTRACTOR PERFORMANCE ASSESSMENT*
2 *REPORT.*—

3 “(A) *IN GENERAL.*—*Not later than 180*
4 *days after the enactment of the Federal Public*
5 *Transportation Act of 2005, and each year there-*
6 *after, the Secretary shall submit a report ana-*
7 *lyzing the consistency and accuracy of cost and*
8 *ridership estimates made by each contractor to*
9 *public transportation agencies developing major*
10 *investment projects to the committees and sub-*
11 *committees listed under paragraph (3).*

12 “(B) *CONTENTS.*—*The report submitted*
13 *under subparagraph (A) shall compare the cost*
14 *and ridership estimates made at the time*
15 *projects are approved for entrance into prelimi-*
16 *nary engineering with—*

17 “(i) *estimates made at the time*
18 *projects are approved for entrance into final*
19 *design;*

20 “(ii) *costs and ridership when the*
21 *project commences revenue operation; and*

22 “(iii) *costs and ridership when the*
23 *project has been in operation for 2 years.*

24 “(5) *ANNUAL GOVERNMENT ACCOUNTABILITY OF-*
25 *FICE REVIEW.*—

1 “(A) *REVIEW.*—*The Comptroller General of*
2 *the United States shall conduct an annual re-*
3 *view of the processes and procedures for evalu-*
4 *ating and rating projects and recommending*
5 *projects and the Secretary’s implementation of*
6 *such processes and procedures.*

7 “(B) *REPORT.*—*Not later than 90 days*
8 *after the submission of each report required*
9 *under paragraph (1), the Comptroller General*
10 *shall submit a report to Congress that summa-*
11 *rizes the results of the review conducted under*
12 *subparagraph (A).*

13 “(6) *CONTRACTOR PERFORMANCE INCENTIVE RE-*
14 *PORT.*—*Not later than 180 days after the enactment*
15 *of the Federal Public Transportation Act of 2005, the*
16 *Secretary shall submit a report to the committees and*
17 *subcommittees listed under paragraph (3) on the suit-*
18 *ability of allowing contractors to public transpor-*
19 *tation agencies that undertake major capital invest-*
20 *ments under this section to receive performance incen-*
21 *tive awards if a project is completed for less than the*
22 *original estimated cost.”.*

23 “(l) *RESTRICTIONS ON USE OF BUS CATEGORY FUNDS*
24 *FOR FIXED GUIDEWAY PROJECTS.*—*Funds provided to*
25 *grantees under the bus and bus facility category for fixed*

1 *guideway ferry and gondola projects in the Department of*
 2 *Transportation and Related Agencies Appropriations Acts*
 3 *for any of fiscal years 1998 through 2005, or accompanying*
 4 *committee reports, that remain available and unobligated*
 5 *may be used for fixed guideway projects under this section.*

6 (m) *MIAMI METRO RAIL.*—*The Secretary may credit*
 7 *funds provided by the Florida Department of Transpor-*
 8 *tation for the extension of the Miami Metrorail System from*
 9 *Earlington Heights to the Miami Intermodal Center to sat-*
 10 *isfy the matching requirements of section 5309(h)(4) of title*
 11 *49, United States Code, for the Miami North Corridor and*
 12 *Miami East-West Corridor projects.*

13 **SEC. 6012. NEW FREEDOM FOR ELDERLY PERSONS AND**
 14 **PERSONS WITH DISABILITIES.**

15 (a) *IN GENERAL.*—*Section 5310 is amended to read*
 16 *as follows:*

17 **“§ 5310. New freedom for elderly persons and persons**
 18 ***with disabilities***

19 **“(a) GENERAL AUTHORITY.**—

20 **“(1) AUTHORIZATION.**—*The Secretary may*
 21 *award grants to a State for capital public transpor-*
 22 *tation projects that are planned, designed, and car-*
 23 *ried out to meet the needs of elderly individuals and*
 24 *individuals with disabilities, with priority given to*

1 *the needs of these individuals to access necessary*
2 *health care.*

3 “(2) *ACQUISITION OF PUBLIC TRANSPORTATION*
4 *SERVICES.—A capital public transportation project*
5 *under this section may include acquiring public*
6 *transportation services as an eligible capital expense.*

7 “(3) *ADMINISTRATIVE COSTS.—A State may use*
8 *not more than 15 percent of the amounts received*
9 *under this section to administer, plan, and provide*
10 *technical assistance for a project funded under this*
11 *section.*

12 “(b) *ALLOTMENTS AMONG STATES.—*

13 “(1) *IN GENERAL.—From amounts made avail-*
14 *able or appropriated in each fiscal year under sub-*
15 *sections (a)(1)(C)(iv) and (b)(2)(D) of section 5338*
16 *for grants under this section, the Secretary shall allot*
17 *amounts to each State under a formula based on the*
18 *number of elderly individuals and individuals with*
19 *disabilities in each State.*

20 “(2) *TRANSFER OF FUNDS.—Any funds allotted*
21 *to a State under paragraph (1) may be transferred by*
22 *the State to the apportionments made under sections*
23 *5311(c) and 5336 if such funds are only used for eli-*
24 *gible projects selected under this section.*

1 “(3) *REALLOCATION OF FUNDS.*—*A State receiving a grant under this section may reallocate such grant funds to—*

2 “(A) *a private nonprofit organization;*

3 “(B) *a public transportation agency or authority; or*

4 “(C) *a governmental authority that—*

5 “(i) *has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;*

6 “(ii) *certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or*

7 “(iii) *will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.*

8 “(c) *GOVERNMENT SHARE.*—

9 “(1) *MAXIMUM.*—

10 “(A) *IN GENERAL.*—*A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.*

1 “(B) *EXCEPTION.*—*A State described in sec-*
2 *tion 120(d) of title 23 shall receive an increased*
3 *Government share in accordance with the for-*
4 *mula under that section.*

5 “(2) *REMAINING COSTS.*—*The costs of a capital*
6 *project under this section that are not funded through*
7 *a grant under this section—*

8 “(A) *may be funded from an undistributed*
9 *cash surplus, a replacement or depreciation cash*
10 *fund or reserve, a service agreement with a State*
11 *or local social service agency or a private social*
12 *service organization, or new capital; and*

13 “(B) *may be derived from amounts appro-*
14 *priated to or made available to any Federal*
15 *agency (other than the Department of Transpor-*
16 *tation, except for Federal Lands Highway funds)*
17 *that are eligible to be expended for transpor-*
18 *tation.*

19 “(3) *EXCEPTION.*—*For purposes of paragraph*
20 *(2), the prohibitions on the use of funds for matching*
21 *requirements under section 403(a)(5)(C)(vii) of the*
22 *Social Security Act (42 U.S.C. 603(a)(5)(C)(vii))*
23 *shall not apply to Federal or State funds to be used*
24 *for transportation purposes.*

25 “(d) *GRANT REQUIREMENTS.*—

1 “(1) *IN GENERAL.*—A grant recipient under this
2 section shall be subject to the requirements of a grant
3 recipient under section 5307 to the extent the Sec-
4 retary determines to be appropriate.

5 “(2) *CERTIFICATION REQUIREMENTS.*—

6 “(A) *FUND TRANSFERS.*—A grant recipient
7 under this section that transfers funds to a
8 project funded under section 5336 in accordance
9 with subsection (b)(2) shall certify that the
10 project for which the funds are requested has
11 been coordinated with private nonprofit pro-
12 viders of services under this section.

13 “(B) *PROJECT SELECTION AND PLAN DE-*
14 *VELOPMENT.*—Each grant recipient under this
15 section shall certify that—

16 “(i) the projects selected were derived
17 from a locally developed, coordinated public
18 transit-human services transportation plan;
19 and

20 “(ii) the plan was developed through a
21 process that included representatives of pub-
22 lic, private, and nonprofit transportation
23 and human services providers and partici-
24 pation by the public.

1 “(C) *ALLOCATIONS TO SUBRECIPIENTS.*—

2 *Each grant recipient under this section shall cer-*
3 *tify that allocations of the grant to subrecipients,*
4 *if any, are distributed on a fair and equitable*
5 *basis.*

6 “(e) *STATE PROGRAM OF PROJECTS.*—

7 “(1) *SUBMISSION TO SECRETARY.*—*Each State*
8 *shall annually submit a program of transportation*
9 *projects to the Secretary for approval with an assur-*
10 *ance that the program provides for maximum feasible*
11 *coordination between transportation services funded*
12 *under this section and transportation services assisted*
13 *by other Federal sources.*

14 “(2) *USE OF FUNDS.*—*Each State may use*
15 *amounts made available to carry out this section to*
16 *provide transportation services for elderly individuals*
17 *and individuals with disabilities if such services are*
18 *included in an approved State program of projects.*

19 “(f) *LEASING VEHICLES.*—*Vehicles acquired under*
20 *this section may be leased to local governmental authorities*
21 *to improve transportation services designed to meet the*
22 *needs of elderly individuals and individuals with disabil-*
23 *ities.*

24 “(g) *MEAL DELIVERY FOR HOMEBOUND INDIVID-*
25 *UALS.*—*Public transportation service providers receiving*

1 *assistance under this section or section 5311(c) may coordi-*
 2 *nate and assist in regularly providing meal delivery service*
 3 *for homebound individuals if the delivery service does not*
 4 *conflict with providing public transportation service or re-*
 5 *duce service to public transportation passengers.*

6 “(h) *TRANSFERS OF FACILITIES AND EQUIPMENT.—*
 7 *With the consent of the recipient in possession of a facility*
 8 *or equipment acquired with a grant under this section, a*
 9 *State may transfer the facility or equipment to any recipi-*
 10 *ent eligible to receive assistance under this chapter if the*
 11 *facility or equipment will continue to be used as required*
 12 *under this section.*

13 “(i) *FARES NOT REQUIRED.—This section does not re-*
 14 *quire that elderly individuals and individuals with disabil-*
 15 *ities be charged a fare.”.*

16 “(b) *CONFORMING AMENDMENT.—The item relating to*
 17 *section 5310 in the table of sections for chapter 53 is amend-*
 18 *ed to read as follows:*

“5310. New freedom for elderly persons and persons with disabilities.”.

19 **SEC. 6013. FORMULA GRANTS FOR OTHER THAN URBAN-**
 20 **IZED AREAS.**

21 “(a) *DEFINITIONS.—Section 5311(a) is amended to*
 22 *read as follows:*

23 “(a) *DEFINITIONS.—As used in this section, the fol-*
 24 *lowing definitions shall apply:*

1 “(1) *RECIPIENT.*—The term ‘recipient’ means a
2 *State or Indian tribe that receives a Federal transit*
3 *program grant directly from the Federal Government.*

4 “(2) *SUBRECIPIENT.*—The term ‘subrecipient’
5 *means a State or local governmental authority, a*
6 *nonprofit organization, or a private operator of pub-*
7 *lic transportation or intercity bus service that receives*
8 *Federal transit program grant funds indirectly*
9 *through a recipient.”.*

10 (b) *GENERAL AUTHORITY.*—Section 5311(b) is
11 *amended—*

12 (1) *by amending paragraph (1) to read as fol-*
13 *lows:*

14 “(1) *GRANTS AUTHORIZED.*—*Except as provided*
15 *under paragraph (2), the Secretary may award*
16 *grants under this section to recipients located in*
17 *areas other than urbanized areas for—*

18 “(A) *public transportation capital projects;*

19 “(B) *operating costs of equipment and fa-*
20 *ilities for use in public transportation; and*

21 “(C) *the acquisition of public transpor-*
22 *tation services.”;*

23 (2) *by redesignating paragraph (2) as para-*
24 *graph (3);*

1 (3) by inserting after paragraph (1) the fol-
2 *lowing:*

3 “(2) *STATE PROGRAM.*—

4 “(A) *IN GENERAL.*—A project eligible for a
5 *grant under this section shall be included in a*
6 *State program for public transportation service*
7 *projects, including agreements with private pro-*
8 *viders of public transportation service.*

9 “(B) *SUBMISSION TO SECRETARY.*—Each
10 *State shall annually submit the program de-*
11 *scribed in subparagraph (A) to the Secretary.*

12 “(C) *APPROVAL.*—The Secretary may not
13 *approve the program unless the Secretary deter-*
14 *mines that—*

15 “(i) *the program provides a fair dis-*
16 *tribution of amounts in the State; and*

17 “(ii) *the program provides the max-*
18 *imum feasible coordination of public trans-*
19 *portation service assisted under this section*
20 *with transportation service assisted by other*
21 *Federal sources.”;*

22 (4) *in paragraph (3), as redesignated—*

23 (A) *by striking “(3) The Secretary of*
24 *Transportation” and inserting the following:*

1 “(3) *RURAL TRANSPORTATION ASSISTANCE PRO-*
2 *GRAM.*—

3 “(A) *ESTABLISHMENT.*—*The Secretary*”;

4 (B) *by striking “make” and inserting “use*
5 *not more than 2 percent of the amount made*
6 *available to carry out this section to award*”;
7 *and*

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

9 “(B) *DATA COLLECTION.*—

10 “(i) *REPORT.*—*Each grantee under*
11 *this section shall submit an annual report*
12 *to the Secretary containing information on*
13 *capital investment, operations, and service*
14 *provided with funds received under this sec-*
15 *tion, including—*

16 “(I) *total annual revenue;*

17 “(II) *sources of revenue;*

18 “(III) *total annual operating*
19 *costs;*

20 “(IV) *total annual capital costs;*

21 “(V) *fleet size and type, and re-*
22 *lated facilities;*

23 “(VI) *revenue vehicle miles; and*

24 “(VII) *ridership.*”; *and*

25 (5) *by adding after paragraph (3) the following:*

1 “(4) *Of the amount made available to carry out*
2 *paragraph (3)—*

3 “(A) *not more than 15 percent may be used*
4 *to carry out projects of a national scope; and*

5 “(B) *any amounts not used under subpara-*
6 *graph (A) shall be allocated to the States.”.*

7 (c) *APPORTIONMENTS.—Section 5311(c) is amended to*
8 *read as follows:*

9 “(c) *APPORTIONMENTS.—*

10 “(1) *PUBLIC TRANSPORTATION ON INDIAN RES-*
11 *ERVATIONS.—Of the amounts made available or ap-*
12 *propriated for each fiscal year pursuant to sub-*
13 *sections (a)(1)(C)(v) and (b)(2)(F) of section 5338,*
14 *the following amounts shall be apportioned for grants*
15 *to Indian tribes for any purpose eligible under this*
16 *section, under such terms and conditions as may be*
17 *established by the Secretary:*

18 “(A) *\$8,000,000 for fiscal year 2006.*

19 “(B) *\$10,000,000 for fiscal year 2007.*

20 “(C) *\$12,000,000 for fiscal year 2008.*

21 “(D) *\$15,000,000 for fiscal year 2009.*

22 “(2) *REMAINING AMOUNTS.—Of the amounts*
23 *made available or appropriated for each fiscal year*
24 *pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of*

1 *section 5338 that are not apportioned under para-*
2 *graph (1)—*

3 *“(A) 20 percent shall be apportioned to the*
4 *States in accordance with paragraph (3); and*

5 *“(B) 80 percent shall be apportioned to the*
6 *States in accordance with paragraph (4).*

7 *“(3) APPORTIONMENTS BASED ON LAND AREA IN*
8 *NONURBANIZED AREAS.—*

9 *“(A) IN GENERAL.—Subject to subpara-*
10 *graph (B), each State shall receive an amount*
11 *that is equal to the amount apportioned under*
12 *paragraph (2)(A) multiplied by the ratio of the*
13 *land area in areas other than urbanized areas in*
14 *that State and divided by the land area in all*
15 *areas other than urbanized areas in the United*
16 *States, as shown by the most recent decennial*
17 *census of population.*

18 *“(B) MAXIMUM APPORTIONMENT.—No State*
19 *shall receive more than 5 percent of the amount*
20 *apportioned under this paragraph.*

21 *“(4) APPORTIONMENTS BASED ON POPULATION*
22 *IN NONURBANIZED AREAS.—Each State shall receive*
23 *an amount equal to the amount apportioned under*
24 *paragraph (2)(B) multiplied by the ratio of the popu-*
25 *lation of areas other than urbanized areas in that*

1 *State divided by the population of all areas other*
2 *than urbanized areas in the United States, as shown*
3 *by the most recent decennial census of population.”.*

4 *(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECH-*
5 *NICAL ASSISTANCE.—Section 5311(e) is amended—*

6 *(1) by striking “AND TECHNICAL ASSISTANCE.—*
7 *(1) The Secretary of Transportation” and inserting “,*
8 *PLANNING, AND TECHNICAL ASSISTANCE.—The Sec-*
9 *retary”;*

10 *(2) by striking “to a recipient”; and*

11 *(3) by striking paragraph (2).*

12 *(e) INTERCITY BUS TRANSPORTATION.—Section*
13 *5311(f) is amended—*

14 *(1) in paragraph (1)—*

15 *(A) by striking “(1)” and inserting the fol-*
16 *lowing:*

17 *“(1) IN GENERAL.—”; and*

18 *(B) by striking “after September 30, 1993,”;*

19 *and*

20 *(2) in paragraph (2)—*

21 *(A) by striking “A State” and inserting*
22 *“After consultation with affected intercity bus*
23 *service providers, a State”; and*

24 *(B) by striking “of Transportation”.*

1 (f) *GOVERNMENT SHARE OF COSTS.—Section 5311(g)*
2 *is amended to read as follows:*

3 “(g) *GOVERNMENT SHARE OF COSTS.—*

4 “(1) *MAXIMUM GOVERNMENT SHARE.—*

5 “(A) *CAPITAL PROJECTS.—*

6 “(i) *IN GENERAL.—Except as provided*
7 *under clause (ii), a grant awarded under*
8 *this section for any purpose other than op-*
9 *erating assistance may not exceed 80 per-*
10 *cent of the net capital costs of the project,*
11 *as determined by the Secretary.*

12 “(ii) *EXCEPTION.—A State described*
13 *in section 120(d) of title 23 shall receive a*
14 *Government share of the net capital costs in*
15 *accordance with the formula under that sec-*
16 *tion.*

17 “(B) *OPERATING ASSISTANCE.—*

18 “(i) *IN GENERAL.—Except as provided*
19 *under clause (ii), a grant made under this*
20 *section for operating assistance may not ex-*
21 *ceed 50 percent of the net operating costs of*
22 *the project, as determined by the Secretary.*

23 “(ii) *EXCEPTION.—A State described*
24 *in section 120(d) of title 23 shall receive a*
25 *Government share of the net operating costs*

1 *equal to 62.5 percent of the Government*
2 *share provided for under subparagraph*
3 *(A)(ii).*

4 “(2) *OTHER FUNDING SOURCES.—Funds for a*
5 *project under this section that are not provided for by*
6 *a grant under this section—*

7 “(A) *may be provided from—*

8 “(i) *an undistributed cash surplus;*

9 “(ii) *a replacement or depreciation*
10 *cash fund or reserve;*

11 “(iii) *a service agreement with a State*
12 *or local social service agency or a private*
13 *social service organization; or*

14 “(iv) *new capital; and*

15 “(B) *may be derived from amounts appro-*
16 *priated to or made available to a Government*
17 *agency (other than the Department of Transpor-*
18 *tation, except for Federal Land Highway funds)*
19 *that are eligible to be expended for transpor-*
20 *tation.*

21 “(3) *USE OF GOVERNMENT GRANT.—A State car-*
22 *rying out a program of operating assistance under*
23 *this section may not limit the level or extent of use*
24 *of the Government grant for the payment of operating*
25 *expenses.*

1 “(4) *EXCEPTION.*—For purposes of paragraph
2 (2)(B), the prohibitions on the use of funds for match-
3 ing requirements under section 403(a)(5)(c)(vii) of
4 the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii))
5 shall not apply to Federal or State funds to be used
6 for transportation purposes.”.

7 (g) *WAIVER CONDITION.*—Section 5311(j)(1) is
8 amended by striking “but the Secretary of Labor may waive
9 the application of section 5333(b)” and inserting “if the
10 Secretary of Labor utilizes a Special Warranty that pro-
11 vides a fair and equitable arrangement to protect the inter-
12 ests of employees”.

13 **SEC. 6014. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
14 **AND DEPLOYMENT PROJECTS.**

15 (a) *IN GENERAL.*—Section 5312 is amended—

16 (1) by amending subsection (a) to read as fol-
17 lows:

18 “(a) *RESEARCH, DEVELOPMENT, AND DEMONSTRA-*
19 *TION PROJECTS.*—

20 “(1) *IN GENERAL.*—The Secretary may make
21 grants, contracts, cooperative agreements, or other
22 transactions (including agreements with departments,
23 agencies, and instrumentalities of the United States
24 Government) for research, development, demonstration
25 or deployment projects, or evaluation of technology of

1 *national significance to public transportation that the*
2 *Secretary determines will improve public transpor-*
3 *tation service or help public transportation service*
4 *meet the total transportation needs at a minimum*
5 *cost.*

6 “(2) *INFORMATION.*—*The Secretary may request*
7 *and receive appropriate information from any source.*

8 “(3) *SAVINGS PROVISION.*—*This subsection does*
9 *not limit the authority of the Secretary under any*
10 *other law.”;*

11 (2) *by striking subsections (b) and (c);*

12 (3) *by redesignating subsections (d) and (e) as*
13 *(b) and (c), respectively.*

14 (4) *in subsection (b)(2), as redesignated, by*
15 *striking “other agreements” and inserting “other*
16 *transactions”;* and

17 (5) *in subsection (c)(2), as redesignated, by strik-*
18 *ing “public and private” and inserting “public or*
19 *private”.*

20 (b) *CONFORMING AMENDMENTS.*—

21 (1) *SECTION HEADING.*—*The heading of section*
22 *5312 is amended to read as follows:*

1 **“§ 5312. Research, development, demonstration, and**
 2 **deployment projects”.**

3 (2) *TABLE OF SECTIONS.*—*The item relating to*
 4 *section 5312 in the table of sections for chapter 53 is*
 5 *amended to read as follows:*

“5312. Research, development, demonstration, and deployment projects.”.

6 **SEC. 6015. TRANSIT COOPERATIVE RESEARCH PROGRAM.**

7 (a) *IN GENERAL.*—*Section 5313 is amended—*

8 (1) *by striking subsection (b);*

9 (2) *in subsection (a)—*

10 (A) *in paragraph (1), by striking “(1) The*
 11 *amounts made available under paragraphs (1)*
 12 *and (2)C)(ii) of section 5338(c) of this title” and*
 13 *inserting “The amounts made available under*
 14 *subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of sec-*
 15 *tion 5338”; and*

16 (B) *in paragraph (2), by striking “(2)” and*
 17 *inserting the following:*

18 *“(b) GOVERNMENT ASSISTANCE.—”; and*

19 (3) *by amending subsection (c) to read as fol-*
 20 *lows:*

21 *“(c) GOVERNMENT SHARE.—If there would be a clear*
 22 *and direct financial benefit to an entity under a grant or*
 23 *contract financed under this section, the Secretary shall es-*
 24 *tablish a Government share consistent with such benefit.”.*

25 (b) *CONFORMING AMENDMENTS.—*

1 (1) *SECTION HEADING.*—*The heading of section*
 2 *5313 is amended to read as follows:*

3 **“§ 5313. Transit cooperative research program”.**

4 (2) *TABLE OF SECTIONS.*—*The item relating to*
 5 *section 5313 in the table of sections for chapter 53 is*
 6 *amended to read as follows:*

“5313. *Transit cooperative research program.*”.

7 **SEC. 6016. NATIONAL RESEARCH PROGRAMS.**

8 (a) *IN GENERAL.*—*Section 5314 is amended—*

9 (1) *in subsection (a)—*

10 (A) *by amending paragraph (1) to read as*
 11 *follows:*

12 “(1) *AVAILABILITY OF FUNDS.*—*The Secretary*
 13 *may use amounts made available under subsections*
 14 *(a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for*
 15 *grants, contracts, cooperative agreements, or other*
 16 *transactions for the purposes described in sections*
 17 *5312, 5315, and 5322.”;*

18 (B) *in paragraph (2), by striking “(2) Of”*
 19 *and inserting the following:*

20 “(2) *ADA COMPLIANCE.*—*From”;*

21 (C) *by amending paragraph (3) to read as*
 22 *follows:*

23 “(3) *SPECIAL DEMONSTRATION INITIATIVES.*—
 24 *The Secretary may use not more than 25 percent of*
 25 *the amounts made available under paragraph (1) for*

1 *special demonstration initiatives, subject to terms*
 2 *that the Secretary determines to be consistent with*
 3 *this chapter. For a nonrenewable grant of not more*
 4 *than \$100,000, the Secretary shall provide expedited*
 5 *procedures for complying with the requirements of*
 6 *this chapter.”;*

7 *(D) in paragraph (4)—*

8 *(i) by striking subparagraph (B); and*

9 *(ii) by redesignating subparagraph (C)*

10 *as subparagraph (B); and*

11 *(E) by adding at the end the following:*

12 *“(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—*
 13 *”*

14 *“(A) GRANTS AUTHORIZED.—The Secretary*
 15 *may award demonstration grants, from funds*
 16 *made available under paragraph (1), to eligible*
 17 *entities to provide transportation services to in-*
 18 *dividuals to access dialysis treatments and other*
 19 *medical treatments for renal disease.*

20 *“(B) ELIGIBLE ENTITIES.—An entity shall*
 21 *be eligible to receive a grant under this para-*
 22 *graph if the entity—*

23 *“(i) meets the conditions described in*
 24 *section 501(c)(3) of the Internal Revenue*
 25 *Code of 1986; or*

1 “(ii) is an agency of a State or unit
2 of local government.

3 “(C) *USE OF FUNDS.*—Grant funds received
4 under this paragraph may be used to provide
5 transportation services to individuals to access
6 dialysis treatments and other medical treatments
7 for renal disease.

8 “(D) *APPLICATION.*—

9 “(i) *IN GENERAL.*—Each eligible entity
10 desiring a grant under this paragraph shall
11 submit an application to the Secretary at
12 such time, at such place, and containing
13 such information as the Secretary may rea-
14 sonably require.

15 “(ii) *SELECTION OF GRANTEES.*—In
16 awarding grants under this paragraph, the
17 Secretary shall give preference to eligible en-
18 tities from communities with—

19 “(I) high incidence of renal dis-
20 ease; and

21 “(II) limited access to dialysis fa-
22 cilities.

23 “(E) *RULEMAKING.*—The Secretary shall
24 issue regulations to implement and administer

1 *the grant program established under this para-*
2 *graph.*

3 “(F) *REPORT.*—*The Secretary shall submit*
4 *a report on the results of the demonstration*
5 *projects funded under this paragraph to the*
6 *Committee on Banking, Housing, and Urban Af-*
7 *airs of the Senate and the Committee on Trans-*
8 *portation and Infrastructure of the House of*
9 *Representatives.”; and*
10 (2) *by amending subsection (b) to read as fol-*
11 *lows:*

12 “(b) *GOVERNMENT SHARE.*—*If there would be a clear*
13 *and direct financial benefit to an entity under a grant, con-*
14 *tract, cooperative agreement, or other transaction financed*
15 *under subsection (a) or section 5312, 5313, 5315, or 5322,*
16 *the Secretary shall establish a Government share consistent*
17 *with such benefit.”.*

18 (c) *NATIONAL TECHNICAL ASSISTANCE CENTER FOR*
19 *SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.*—
20 *Section 5314 is amended by adding at the end the following:*

21 “(c) *NATIONAL TECHNICAL ASSISTANCE CENTER FOR*
22 *SENIOR TRANSPORTATION.*—

23 “(1) *ESTABLISHMENT.*—*The Secretary shall*
24 *award grants to a national not-for-profit organiza-*

1 *tion for the establishment and maintenance of a na-*
2 *tional technical assistance center.*

3 “(2) *ELIGIBILITY.*—*An organization shall be eli-*
4 *gible to receive the grant under paragraph (1) if the*
5 *organization—*

6 “(A) *focuses significantly on serving the*
7 *needs of the elderly;*

8 “(B) *has demonstrated knowledge and ex-*
9 *pertise in senior transportation policy and plan-*
10 *ning issues;*

11 “(C) *has affiliates in a majority of the*
12 *States;*

13 “(D) *has the capacity to convene local*
14 *groups to consult on operation and development*
15 *of senior transportation programs; and*

16 “(E) *has established close working relation-*
17 *ships with the Federal Transit Administration*
18 *and the Administration on Aging.*

19 “(3) *USE OF FUNDS.*—*The national technical as-*
20 *sistance center established under this section shall—*

21 “(A) *gather best practices from throughout*
22 *the country and provide such practices to local*
23 *communities that are implementing senior trans-*
24 *portation programs;*

1 “(B) work with teams from local commu-
2 nities to identify how they are successfully meet-
3 ing the transportation needs of senior and any
4 gaps in services in order to create a plan for an
5 integrated senior transportation program;

6 “(C) provide resources on ways to pay for
7 senior transportation services;

8 “(D) create a web site to publicize and cir-
9 culate information on senior transportation pro-
10 grams;

11 “(E) establish a clearinghouse for print,
12 video, and audio resources on senior mobility;
13 and

14 “(F) administer the demonstration grant
15 program established under paragraph (4).

16 “(4) GRANTS AUTHORIZED.—

17 “(A) IN GENERAL.—The national technical
18 assistance center established under this section,
19 in consultation with the Federal Transit Admin-
20 istration, shall award senior transportation dem-
21 onstration grants to—

22 “(i) local transportation organizations;

23 “(ii) State agencies;

24 “(iii) units of local government; and

25 “(iv) nonprofit organizations.

1 “(B) *USE OF FUNDS.*—Grant funds received
2 under this paragraph may be used to—

3 “(i) evaluate the state of transpor-
4 tation services for senior citizens;

5 “(ii) recognize barriers to mobility that
6 senior citizens encounter in their commu-
7 nities;

8 “(iii) establish partnerships and pro-
9 mote coordination among community stake-
10 holders, including public, not-for-profit, and
11 for-profit providers of transportation serv-
12 ices for senior citizens;

13 “(iv) identify future transportation
14 needs of senior citizens within local commu-
15 nities; and

16 “(v) establish strategies to meet the
17 unique needs of healthy and frail senior
18 citizens.

19 “(C) *SELECTION OF GRANTEES.*—The Sec-
20 retary shall select grantees under this subsection
21 based on a fair representation of various geo-
22 graphical locations throughout the United States.

23 “(5) *ALLOCATIONS.*—From the funds made
24 available for each fiscal year under subsections
25 (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338,

1 \$3,000,000 shall be allocated to carry out this sub-
2 section.

3 “(d) *ALTERNATIVE FUELS STUDY.*—

4 “(1) *STUDY.*—The Secretary shall conduct a
5 study of the actions necessary to facilitate the pur-
6 chase of increased volumes of alternative fuels (as de-
7 fined in section 301 of the *Energy Policy Act of 1992*
8 (42 U.S.C. 13211)) for use in public transit vehicles.

9 “(2) *SCOPE OF STUDY.*—The study conducted
10 under this subsection shall focus on the incentives nec-
11 essary to increase the use of alternative fuels in public
12 transit vehicles, including buses, fixed guideway vehi-
13 cles, and ferries.

14 “(3) *CONTENTS.*—The study shall consider—

15 “(A) the environmental benefits of increased
16 use of alternative fuels in transit vehicles;

17 “(B) existing opportunities available to
18 transit system operators that encourage the pur-
19 chase of alternative fuels for transit vehicle oper-
20 ation;

21 “(C) existing barriers to transit system op-
22 erators that discourage the purchase of alter-
23 native fuels for transit vehicle operation, includ-
24 ing situations where alternative fuels that do not
25 require capital improvements to transit vehicles

1 are disadvantaged over fuels that do require such
2 improvements; and

3 “(D) the necessary levels and type of sup-
4 port necessary to encourage additional use of al-
5 ternative fuels for transit vehicle operation.

6 “(4) *RECOMMENDATIONS.*—The study shall rec-
7 ommend regulatory and legislative alternatives that
8 will result in the increased use of alternative fuels in
9 transit vehicles.

10 “(5) *REPORT.*—Not later than 1 year after the
11 date of enactment of the Federal Public Transpor-
12 tation Act of 2005, the Secretary shall submit the
13 study completed under this subsection to the Com-
14 mittee on Banking, Housing, and Urban Affairs of
15 the Senate and the Committee on Transportation and
16 Infrastructure of the House of Representatives.

17 “(e) *STUDY OF METHODS TO IMPROVE ACCESSIBILITY*
18 *OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL*
19 *DISABILITIES.*—Not later than October 1, 2006, the Sec-
20 retary shall transmit to the Committee on Transportation
21 and Infrastructure of the House of Representatives and the
22 Committee on Banking, Housing, and Urban Affairs of the
23 Senate a report on the effectiveness of alternative methods
24 to improve the accessibility of public transportation for per-
25 sons with visual disabilities. The report shall evaluate a va-

1 *riety of methods and techniques for improving accessibility,*
 2 *including installation of Remote Infrared Audible Signs for*
 3 *provision of wayfinding and information for people who*
 4 *have visual, cognitive, or learning disabilities.”.*

5 (c) *CONFORMING AMENDMENTS.*—

6 (1) *SECTION HEADING.*—*The heading for section*
 7 *5314 is amended to read as follows:*

8 **“§ 5314. National research programs”.**

9 (2) *TABLE OF SECTIONS.*—*The item relating to*
 10 *section 5314 in the table of sections for chapter 53 is*
 11 *amended to read as follows:*

“5314. National research programs.”.

12 **SEC. 6017. NATIONAL TRANSIT INSTITUTE.**

13 (a) *Section 5315 is amended—*

14 (1) *by striking subsections (a) and (b) and in-*
 15 *serting the following:*

16 “(a) *ESTABLISHMENT.*—*The Secretary shall award*
 17 *grants to Rutgers University to conduct a national transit*
 18 *institute.*

19 “(b) *DUTIES.*—

20 “(1) *IN GENERAL.*—*In cooperation with the Fed-*
 21 *eral Transit Administration, State transportation de-*
 22 *partments, public transportation authorities, and na-*
 23 *tional and international entities, the institute estab-*
 24 *lished pursuant to subsection (a) shall develop and*
 25 *conduct training programs for Federal, State, and*

1 *local transportation employees, United States citizens,*
2 *and foreign nationals engaged or to be engaged in*
3 *Government-aid public transportation work.*

4 “(2) *TRAINING PROGRAMS.—The training pro-*
5 *grams developed under paragraph (1) may include*
6 *courses in recent developments, techniques, and proce-*
7 *dures related to—*

8 “(A) *intermodal and public transportation*
9 *planning;*

10 “(B) *management;*

11 “(C) *environmental factors;*

12 “(D) *acquisition and joint use rights of*
13 *way;*

14 “(E) *engineering and architectural design;*

15 “(F) *procurement strategies for public*
16 *transportation systems;*

17 “(G) *turnkey approaches to delivering pub-*
18 *lic transportation systems;*

19 “(H) *new technologies;*

20 “(I) *emission reduction technologies;*

21 “(J) *ways to make public transportation*
22 *accessible to individuals with disabilities;*

23 “(K) *construction, construction manage-*
24 *ment, insurance, and risk management;*

25 “(L) *maintenance;*

1 “(M) contract administration;
 2 “(N) inspection;
 3 “(O) innovative finance;
 4 “(P) workplace safety; and
 5 “(Q) public transportation security.”; and
 6 (2) in subsection (d), by striking “mass” each
 7 place it appears.

8 **SEC. 6018. BUS TESTING FACILITY.**

9 Section 5318 is amended—

10 (1) in subsection (a)—

11 (A) by striking “ESTABLISHMENT.—The
 12 Secretary of Transportation shall establish one
 13 facility” and inserting “IN GENERAL.—The Sec-
 14 retary shall maintain 1 facility”; and

15 (B) by striking “established by renovating”
 16 and inserting “maintained at”; and

17 (2) in subsection (d), by striking “section
 18 5309(m)(1)(C) of this title” and inserting “para-
 19 graphs (1)(C) and (2)(B) of section 5309(i)”.

20 **SEC. 6019. BICYCLE FACILITIES.**

21 Section 5319 is amended by striking “5307(k)” and
 22 inserting “5307(d)(1)(K)”.

23 **SEC. 6020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT**
 24 **PROJECT.**

25 Section 5320 is repealed.

1 **SEC. 6021. CRIME PREVENTION AND SECURITY.**

2 *Section 5321 is repealed.*

3 **SEC. 6022. GENERAL PROVISIONS ON ASSISTANCE.**

4 *Section 5323 is amended—*

5 *(1) in subsection (a)—*

6 *(A) by amending paragraph (1) to read as*
7 *follows:*

8 *“(1) IN GENERAL.—Financial assistance pro-*
9 *vided under this chapter to a State or a local govern-*
10 *mental authority may be used to acquire an interest*
11 *in, or to buy property of, a private company engaged*
12 *in public transportation, for a capital project for*
13 *property acquired from a private company engaged*
14 *in public transportation after July 9, 1964, or to op-*
15 *erate a public transportation facility or equipment in*
16 *competition with, or in addition to, transportation*
17 *service provided by an existing public transportation*
18 *company, only if—*

19 *“(A) the Secretary determines that such fi-*
20 *nancial assistance is essential to a program of*
21 *projects required under sections 5303, 5304, and*
22 *5306;*

23 *“(B) the Secretary determines that the pro-*
24 *gram provides for the participation of private*
25 *companies engaged in public transportation to*
26 *the maximum extent feasible; and*

1 “(C) just compensation under State or local
2 law will be paid to the company for its franchise
3 or property.”; and

4 (B) in paragraph (2), by striking “(2)” and
5 inserting the following:

6 “(2) LIMITATION.—”;

7 (2) by amending subsection (b) to read as fol-
8 lows:

9 “(b) NOTICE AND PUBLIC HEARING.—

10 “(1) IN GENERAL.—An application for a grant
11 under this chapter for a capital project that will sub-
12 stantially affect a community, or the public transpor-
13 tation service of a community, shall include, in the
14 environmental record for the project, evidence that the
15 applicant has—

16 “(A) provided an adequate opportunity for
17 public review and comment on the project;

18 “(B) held a public hearing on the project if
19 the project affects significant economic, social, or
20 environmental interests;

21 “(C) considered the economic, social, and
22 environmental effects of the project; and

23 “(D) found that the project is consistent
24 with official plans for developing the urban area.

1 “(2) *CONTENTS OF NOTICE.*—*Notice of a hearing*
2 *under this subsection—*

3 “(A) *shall include a concise description of*
4 *the proposed project; and*

5 “(B) *shall be published in a newspaper of*
6 *general circulation in the geographic area the*
7 *project will serve.”;*

8 (3) *by amending subsection (e) to read as fol-*
9 *lows:*

10 “(e) *NEW TECHNOLOGY.*—*A grant for financial assist-*
11 *ance under this chapter for new technology, including inno-*
12 *vative or improved products, techniques, or methods, shall*
13 *be subject to the requirements of section 5309 to the extent*
14 *the Secretary determines to be appropriate.”;*

15 (4) *in subsection (f)—*

16 (A) *by striking “(1)” and inserting the fol-*
17 *lowing:*

18 “(1) *IN GENERAL.*—”;

19 (B) *by striking paragraph (2);*

20 (C) *by striking “This subsection” and in-*
21 *serting the following:*

22 “(2) *EXCEPTIONS.*—*This subsection; and*

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

24 “(3) *PENALTY.*—*If the Secretary determines that*
25 *an applicant, governmental authority, or publicly*

1 *owned operator has violated the agreement required*
 2 *under paragraph (1), the Secretary shall bar the ap-*
 3 *plicant, authority, or operator from receiving Federal*
 4 *transit assistance in an amount the Secretary deter-*
 5 *mines to be appropriate.”;*

6 *(5) in subsection (g), by striking “103(e)(4) and*
 7 *142 (a) or (c)” each place it appears and inserting*
 8 *“133 and 142”;*

9 *(6) by amending subsection (h) to read as fol-*
 10 *lows:*

11 *“(h) TRANSFER OF LANDS OR INTERESTS IN LANDS*
 12 *OWNED BY THE UNITED STATES.—*

13 *“(1) REQUEST BY SECRETARY.—If the Secretary*
 14 *determines that any part of the lands or interests in*
 15 *lands owned by the United States and made available*
 16 *as a result of a military base closure is necessary for*
 17 *transit purposes eligible under this chapter, including*
 18 *corridor preservation, the Secretary shall submit a re-*
 19 *quest to the head of the Federal agency supervising*
 20 *the administration of such lands or interests in lands.*
 21 *Such request shall include a map showing the portion*
 22 *of such lands or interests in lands, which is desired*
 23 *to be transferred for public transportation purposes.*

24 *“(2) TRANSFER OF LAND.—If 4 months after*
 25 *submitting a request under paragraph (1), the Sec-*

1 *retary does not receive a response from the Federal*
2 *agency described in paragraph (1) that certifies that*
3 *the proposed appropriation of land is contrary to the*
4 *public interest or inconsistent with the purposes for*
5 *which such land has been reserved, or if the head of*
6 *such agency agrees to the utilization or transfer under*
7 *conditions necessary for the adequate protection and*
8 *utilization of the reserve, such land or interests in*
9 *land may be utilized or transferred to a State, local*
10 *governmental authority, or public transportation op-*
11 *erator for such purposes and subject to the conditions*
12 *specified by such agency.*

13 *“(3) REVERSION.—If at any time the lands or*
14 *interests in land utilized or transferred under para-*
15 *graph (2) are no longer needed for public transpor-*
16 *tation purposes, the State, local governmental author-*
17 *ity, or public transportation operator that received*
18 *the land shall notify to the Secretary, and such lands*
19 *shall immediately revert to the control of the head of*
20 *the Federal agency from which the land was origi-*
21 *nally transferred.”;*

22 *(7) in subsection (j)(5), by striking “Intermodal*
23 *Surface Transportation Efficiency Act of 1991 (Pub-*
24 *lic Law 102–240, 105 Stat. 1914)” and inserting*
25 *“Federal Public Transportation Act of 2005”;*

1 (8) *by amending subsection (l) to read as follows:*

2 “(l) *RELATIONSHIP TO OTHER LAWS.—Section 1001*
3 *of title 18 applies to a certificate, submission, or statement*
4 *provided under this chapter. The Secretary may terminate*
5 *financial assistance under this chapter and seek reimburse-*
6 *ment directly, or by offsetting amounts, available under this*
7 *chapter, if the Secretary determines that a recipient of such*
8 *financial assistance has made a false or fraudulent state-*
9 *ment or related act in connection with a Federal transit*
10 *program.*”;

11 (9) *in subsection (m), by adding at the end the*
12 *following: “Requirements to perform preaward and*
13 *postdelivery reviews of rolling stock purchases to en-*
14 *sure compliance with subsection (j) shall not apply to*
15 *private nonprofit organizations or to grantees serving*
16 *urbanized areas with a population of fewer than*
17 *1,000,000.*”;

18 (10) *in subsection (o), by striking “the Transpor-*
19 *tation Infrastructure Finance and Innovation Act of*
20 *1998” and inserting “subchapter II of chapter 1 of*
21 *title 23”; and*

22 (11) *by adding at the end the following:*

23 “(p) *BOND PROCEEDS ELIGIBLE FOR LOCAL*
24 *SHARE.—*

1 “(1) *IN GENERAL.*—Notwithstanding any other
 2 *provision of law, a recipient of assistance under sec-*
 3 *tion 5307 or 5309, may use the proceeds from the*
 4 *issuance of revenue bonds as part of the local match-*
 5 *ing funds for a capital project.*

6 “(2) *REIMBURSEMENT BY SECRETARY.*—*The Sec-*
 7 *retary may reimburse an eligible recipient for depos-*
 8 *its of bond proceeds in a debt service reserve that the*
 9 *recipient established pursuant to section*
 10 *5302(a)(1)(K) from amounts made available to the re-*
 11 *ipient under section 5307 or 5309.”;*

12 “(q) *PROHIBITED USE OF FUNDS.*—*Grant funds re-*
 13 *ceived under this chapter may not be used to pay ordinary*
 14 *governmental or nonproject operating expenses.”.*

15 **SEC. 6023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

16 (a) *IN GENERAL.*—*Section 5324 is amended to read*
 17 *as follows:*

18 **“§ 5324. Special provisions for capital projects**

19 “(a) *REAL PROPERTY AND RELOCATION SERVICES.*—
 20 *Whenever real property is acquired or furnished as a re-*
 21 *quired contribution incident to a project, the Secretary shall*
 22 *not approve the application for financial assistance unless*
 23 *the applicant has made all payments and provided all as-*
 24 *sistance and assurances that are required of a State agency*
 25 *under sections 210 and 305 of the Uniform Relocation As-*

1 *sistance and Real Property Acquisition Policies Act of 1970*
2 *(42 U.S.C. 4630 and 4655). The Secretary must be advised*
3 *of specific references to any State law that are believed to*
4 *be an exception to section 301 or 302 of such Act (42 U.S.C.*
5 *4651 and 4652).*

6 “(b) *ADVANCE REAL PROPERTY ACQUISITIONS.*—

7 (1) *IN GENERAL.*—*The Secretary may partici-*
8 *pate in the acquisition of real property for any*
9 *project that may use the property if the Secretary de-*
10 *termines that external market forces are jeopardizing*
11 *the potential use of the property for the project and*
12 *if—*

13 “(A) *there are offers on the open real estate*
14 *market to convey that property for a use that is*
15 *incompatible with the project under study;*

16 “(B) *there is an imminent threat of devel-*
17 *opment or redevelopment of the property for a*
18 *use that is incompatible with the project under*
19 *study;*

20 “(C) *recent appraisals reflect a rapid in-*
21 *crease in the fair market value of the property;*

22 “(D) *the property, because it is located near*
23 *an existing transportation facility, is likely to be*
24 *developed and to be needed for a future transpor-*
25 *tation improvement; or*

1 “(E) the property owner can demonstrate
2 that, for health, safety, or financial reasons, re-
3 taining ownership of the property poses an
4 undue hardship on the owner in comparison to
5 other affected property owners and requests the
6 acquisition to alleviate that hardship.

7 “(2) ENVIRONMENTAL REVIEWS.—Property ac-
8 quired in accordance with this subsection may not be
9 developed in anticipation of the project until all re-
10 quired environmental reviews for the project have
11 been completed.

12 “(3) LIMITATION.—The Secretary shall limit the
13 size and number of properties acquired under this
14 subsection as necessary to avoid any prejudice to the
15 Secretary’s objective evaluation of project alternatives.

16 “(4) EXEMPTION.—An acquisition under this
17 section shall be considered an exempt project under
18 section 176 of the Clean Air Act (42 U.S.C. 7506).

19 “(c) RAILROAD CORRIDOR PRESERVATION.—

20 “(1) IN GENERAL.—The Secretary may assist an
21 applicant to acquire railroad right-of-way before the
22 completion of the environmental reviews for any
23 project that may use the right-of-way if the acquisi-
24 tion is otherwise permitted under Federal law. The
25 Secretary may establish restrictions on such an acqui-

1 *sition as the Secretary determines to be necessary and*
2 *appropriate.*

3 “(2) *ENVIRONMENTAL REVIEWS.—Railroad*
4 *right-of-way acquired under this subsection may not*
5 *be developed in anticipation of the project until all*
6 *required environmental reviews for the project have*
7 *been completed.*

8 “(d) *CONSIDERATION OF ECONOMIC, SOCIAL, AND EN-*
9 *VIRONMENTAL INTERESTS.—*

10 “(1) *IN GENERAL.—The Secretary may not ap-*
11 *prove an application for financial assistance for a*
12 *capital project under this chapter unless the Secretary*
13 *determines that the project has been developed in ac-*
14 *cordance with the National Environmental Policy Act*
15 *of 1969 (42 U.S.C. 4321 et seq.). The Secretary’s find-*
16 *ings under this paragraph shall be made a matter of*
17 *public record.*

18 “(2) *COOPERATION AND CONSULTATION.—In car-*
19 *rying out section 5301(e), the Secretary shall cooper-*
20 *ate and consult with the Secretary of the Interior and*
21 *the Administrator of the Environmental Protection*
22 *Agency on each project that may have a substantial*
23 *impact on the environment.”.*

1 (b) *CONFORMING AMENDMENT.*—*The item relating to*
2 *section 5324 in the table of sections for chapter 53 is amend-*
3 *ed to read as follows:*

“5324. Special provisions for capital projects.”.

4 **SEC. 6024. CONTRACT REQUIREMENTS.**

5 (a) *IN GENERAL.*—*Section 5325 is amended to read*
6 *as follows:*

7 **“§ 5325. Contract requirements**

8 “(a) *COMPETITION.*—*Recipients of assistance under*
9 *this chapter shall conduct all procurement transactions in*
10 *a manner that provides full and open competition as deter-*
11 *mined by the Secretary.*

12 “(b) *ARCHITECTURAL, ENGINEERING, AND DESIGN*
13 *CONTRACTS.*—

14 “(1) *IN GENERAL.*—*A contract or requirement*
15 *for program management, architectural engineering,*
16 *construction management, a feasibility study, and*
17 *preliminary engineering, design, architectural, engi-*
18 *neering, surveying, mapping, or related services for a*
19 *project for which Federal assistance is provided under*
20 *this chapter shall be awarded in the same manner as*
21 *a contract for architectural and engineering services*
22 *is negotiated under chapter 11 of title 40, or an*
23 *equivalent qualifications-based requirement of a*
24 *State. This subsection does not apply to the extent a*

1 *State has adopted or adopts by law a formal proce-*
2 *dure for procuring those services.*

3 “(2) *ADDITIONAL REQUIREMENTS.—When*
4 *awarding a contract described in paragraph (1), re-*
5 *ipients of assistance under this chapter shall comply*
6 *with the following requirements:*

7 “(A) *Any contract or subcontract awarded*
8 *under this chapter shall be performed and au-*
9 *dated in compliance with cost principles con-*
10 *tained in part 31 of title 48, Code of Federal*
11 *Regulations (commonly known as the Federal*
12 *Acquisition Regulation).*

13 “(B) *A recipient of funds under a contract*
14 *or subcontract awarded under this chapter shall*
15 *accept indirect cost rates established in accord-*
16 *ance with the Federal Acquisition Regulation for*
17 *1-year applicable accounting periods by a cog-*
18 *nizant Federal or State government agency, if*
19 *such rates are not currently under dispute.*

20 “(C) *After a firm’s indirect cost rates are*
21 *accepted under subparagraph (B), the recipient*
22 *of the funds shall apply such rates for the pur-*
23 *poses of contract estimation, negotiation, admin-*
24 *istration, reporting, and contract payment, and*

1 *shall not be limited by administrative or de facto*
2 *ceilings.*

3 “(D) *A recipient requesting or using the*
4 *cost and rate data described in subparagraph*
5 *(C) shall notify any affected firm before such re-*
6 *quest or use. Such data shall be confidential and*
7 *shall not be accessible or provided by the group*
8 *of agencies sharing cost data under this subpara-*
9 *graph, except by written permission of the au-*
10 *dated firm. If prohibited by law, such cost and*
11 *rate data shall not be disclosed under any cir-*
12 *cumstances.*

13 “(c) *EFFICIENT PROCUREMENT.—A recipient may*
14 *award a procurement contract under this chapter to other*
15 *than the lowest bidder if the award furthers an objective*
16 *consistent with the purposes of this chapter, including im-*
17 *proved long-term operating efficiency and lower long-term*
18 *costs.*

19 “(d) *DESIGN-BUILD PROJECTS.—*

20 “(1) *DEFINED TERM.—As used in this sub-*
21 *section, the term ‘design-build project’—*

22 “(A) *means a project under which a recipi-*
23 *ent enters into a contract with a seller, firm, or*
24 *consortium of firms to design and build an oper-*

1 *able segment of a public transportation system*
2 *that meets specific performance criteria; and*

3 “(B) *may include an option to finance, or*
4 *operate for a period of time, the system or seg-*
5 *ment or any combination of designing, building,*
6 *operating, or maintaining such system or seg-*
7 *ment.*

8 “(2) *FINANCIAL ASSISTANCE FOR CAPITAL*
9 *COSTS.—Federal financial assistance under this chap-*
10 *ter may be provided for the capital costs of a design-*
11 *build project after the recipient complies with Govern-*
12 *ment requirements.*

13 “(e) *ROLLING STOCK.—*

14 “(1) *ACQUISITION.—A recipient of financial as-*
15 *sistance under this chapter may enter into a contract*
16 *to expend that assistance to acquire rolling stock—*

17 “(A) *with a party selected through a com-*
18 *petitive procurement process; or*

19 “(B) *based on—*

20 “(i) *initial capital costs; or*

21 “(ii) *performance, standardization, life*
22 *cycle costs, and other factors.*

23 “(2) *MULTIYEAR CONTRACTS.—A recipient pro-*
24 *curing rolling stock with Federal financial assistance*
25 *under this chapter may make a multiyear contract,*

1 *including options, to buy not more than 5 years of re-*
2 *quirements for rolling stock and replacement parts.*
3 *The Secretary shall allow a recipient to act on a co-*
4 *operative basis to procure rolling stock under this*
5 *paragraph and in accordance with other Federal pro-*
6 *curement requirements.*

7 “(f) *EXAMINATION OF RECORDS.*—*Upon request, the*
8 *Secretary and the Comptroller General, or any of their rep-*
9 *resentatives, shall have access to and the right to examine*
10 *and inspect all records, documents, and papers, including*
11 *contracts, related to a project for which a grant is made*
12 *under this chapter.*

13 “(g) *GRANT PROHIBITION.*—*A grant awarded under*
14 *this chapter may not be used to support a procurement that*
15 *uses an exclusionary or discriminatory specification.*

16 “(h) *BUS DEALER REQUIREMENTS.*—*No State law re-*
17 *quiring buses to be purchased through in-State dealers shall*
18 *apply to vehicles purchased with a grant under this chap-*
19 *ter.*

20 “(i) *AWARDS TO RESPONSIBLE CONTRACTORS.*—

21 “(1) *IN GENERAL.*—*Federal financial assistance*
22 *under this chapter may be provided for contracts only*
23 *if a recipient awards such contracts to responsible*
24 *contractors possessing the ability to successfully per-*

1 *form under the terms and conditions of a proposed*
2 *procurement.*

3 “(2) *CRITERIA.*—*Before making an award to a*
4 *contractor under paragraph (1), a recipient shall*
5 *consider—*

6 “(A) *the integrity of the contractor;*

7 “(B) *the contractor’s compliance with pub-*
8 *lic policy;*

9 “(C) *the contractor’s past performance, in-*
10 *cluding the performance reported in the Con-*
11 *tractor Performance Assessment Reports required*
12 *under section 5309(m)(4); and*

13 “(D) *the contractor’s financial and tech-*
14 *nical resources.”.*

15 (b) *CONFORMING AMENDMENTS.*—*Chapter 53 is*
16 *amended by striking section 5326.*

17 **SEC. 6025. PROJECT MANAGEMENT OVERSIGHT AND RE-**
18 **VIEW.**

19 (a) *PROJECT MANAGEMENT PLAN REQUIREMENTS.*—
20 *Section 5327(a) is amended—*

21 (1) *in paragraph (11), by striking “and” at the*
22 *end;*

23 (2) *in paragraph (12), by striking the period at*
24 *the end and inserting “; and”; and*

25 (3) *by adding at the end the following:*

1 “(13) *safety and security management.*”.

2 (b) *LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—*

3 *Section 5327(c) is amended—*

4 (1) *by amending paragraph (1) to read as fol-*
5 *lows:*

6 “(1) *IN GENERAL.—The Secretary may not use*
7 *more than 1 percent of amounts made available for*
8 *a fiscal year to carry out any of sections 5307*
9 *through 5311, 5316, or 5317, or a project under the*
10 *National Capital Transportation Act of 1969 (Public*
11 *Law 91–143) to make a contract to oversee the con-*
12 *struction of major projects under any of sections 5307*
13 *through 5311, 5316, or 5317 or under that Act.”; and*

14 (2) *in paragraph (2)—*

15 (A) *by striking “(2)” and inserting the fol-*
16 *lowing:*

17 “(2) *OTHER ALLOWABLE USES.—*”; *and*

18 (B) *by inserting “and security” after “safe-*
19 *ty”.*

20 **SEC. 6026. PROJECT REVIEW.**

21 *Section 5328 is amended—*

22 (1) *in subsection (a)—*

23 (A) *in paragraph (1) by striking “(1) When*
24 *the Secretary of Transportation allows a new*
25 *fixed guideway project to advance into the alter-*

1 *natives analysis stage of project review, the Sec-*
2 *retary shall cooperate with the applicant” and*
3 *inserting the following:*

4 “(1) *ALTERNATIVES ANALYSIS.—The Secretary*
5 *shall cooperate with an applicant undertaking an al-*
6 *ternatives analysis under subsections (e) and (f) of*
7 *section 5309”;*

8 *(B) in paragraph (2)—*

9 *(i) by striking “(2)” and inserting the*
10 *following:*

11 “(2) *ADVANCEMENT TO PRELIMINARY ENGINEER-*
12 *ING STAGE.—”;* and

13 *(ii) by striking “is consistent with”*
14 *and inserting “meets the requirements of”;*

15 *(C) in paragraph (3)—*

16 *(i) by striking “(3)” and inserting the*
17 *following:*

18 “(3) *RECORD OF DECISION.—”;*

19 *(ii) by striking “of construction”;* and

20 *(iii) by adding before the period at the*
21 *end the following: “if the Secretary deter-*
22 *mines that the project meets the require-*
23 *ments of subsection (e) or (f) of section*
24 *5309”;* and

25 *(D) by striking paragraph (4); and*

1 (2) *by striking subsection (c).*

2 **SEC. 6027. INVESTIGATIONS OF SAFETY AND SECURITY**

3 **RISK.**

4 (a) *IN GENERAL.*—Section 5329 is amended to read
5 *as follows:*

6 **“§ 5329. Investigation of safety hazards and security**
7 **risks**

8 “(a) *IN GENERAL.*—The Secretary may conduct inves-
9 *tigations into safety hazards and security risks associated*
10 *with a condition in equipment, a facility, or an operation*
11 *financed under this chapter to establish the nature and ex-*
12 *tent of the condition and how to eliminate, mitigate, or cor-*
13 *rect it.*

14 “(b) *SUBMISSION OF CORRECTIVE PLAN.*—If the Sec-
15 *retary establishes that a safety hazard or security risk war-*
16 *rants further protective measures, the Secretary shall re-*
17 *quire the local governmental authority receiving amounts*
18 *under this chapter to submit a plan for eliminating, miti-*
19 *gating, or correcting it.*

20 “(c) *WITHHOLDING OF FUNDS.*—Financial assistance
21 *under this chapter, in an amount to be determined by the*
22 *Secretary, may be withheld until a plan is approved and*
23 *carried out.*

24 “(d) *PUBLIC TRANSPORTATION SECURITY.*—

1 “(1) *IN GENERAL.*—Not later than 90 days after
2 the date of enactment of the Federal Public Transpor-
3 tation Act of 2005, the Secretary shall enter into a
4 memorandum of understanding with the Secretary of
5 Homeland Security to define and clarify the respec-
6 tive roles and responsibilities of the Department of
7 Transportation and the Department of Homeland Se-
8 curity relating to public transportation security.

9 “(2) *CONTENTS.*—The memorandum of under-
10 standing described in paragraph (1) shall—

11 “(A) establish national security standards
12 for public transportation agencies;

13 “(B) establish funding priorities for grants
14 from the Department of Homeland Security to
15 public transportation agencies;

16 “(C) create a method of coordination with
17 public transportation agencies on security mat-
18 ters; and

19 “(D) address any other issues determined to
20 be appropriate by the Secretary and the Sec-
21 retary of Homeland Security.”.

22 (b) *CONFORMING AMENDMENT.*—The item relating to
23 section 5329 in the table of sections for chapter 53 is amend-
24 ed to read as follows:

“5329. *Investigation of safety hazards and security risks.*”.

1 **SEC. 6028. STATE SAFETY OVERSIGHT.**

2 (a) *IN GENERAL.*—Section 5330 is amended—

3 (1) *by amending the heading to read as follows:*

4 **“§ 5330. Withholding amounts for noncompliance with**
 5 **State safety oversight requirements”;**

6 (2) *by amending subsection (a) to read as fol-*
 7 *lows:*

8 “(a) *APPLICATION.*—*This section shall only apply to—*

9 “(1) *States that have rail fixed guideway public*
 10 *transportation systems that are not subject to regula-*
 11 *tion by the Federal Railroad Administration; and*

12 “(2) *States that are designing rail fixed guide-*
 13 *way public transportation systems that will not be*
 14 *subjected to regulation by the Federal Railroad Ad-*
 15 *ministration.”;*

16 (3) *in subsection (d), by striking “affected*
 17 *States” and inserting the following: “affected States—*

18 “(1) *shall ensure uniform safety standards and*
 19 *enforcement; or*

20 “(2)”;

21 (4) *in subsection (f), by striking “Not later than*
 22 *December 18, 1992, the” and inserting “The”.*

23 (b) *CONFORMING AMENDMENT.*—*The item relating to*
 24 *section 5330 in the table of sections for chapter 53 is amend-*
 25 *ed to read as follows:*

“5330. Withholding amounts for noncompliance with State safety oversight requirements.”.

1 **SEC. 6029. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**
 2 **LENCE AGAINST PUBLIC TRANSPORTATION**
 3 **SYSTEMS.**

4 (a) *IN GENERAL.*—Section 1993 of title 18, United
 5 States Code, is amended—

6 (1) by striking “mass” each place it appears and
 7 inserting “public”;

8 (2) in subsection (a)(5), by inserting “control-
 9 ling,” after “operating”; and

10 (3) in subsection (c)(5), by striking “5302(a)(7)
 11 of title 49, United States Code,” and inserting
 12 “5302(a) of title 49,”.

13 (b) *CONFORMING AMENDMENT.*—The table of contents
 14 for chapter 97 of title 18, United States Code is amended
 15 by amending the item related to section 1993 to read as
 16 follows:

“1993. Terrorist attacks and other acts of violence against public transportation systems.”.

17 **SEC. 6030. CONTROLLED SUBSTANCES AND ALCOHOL MIS-**
 18 **USE TESTING.**

19 Section 5331 is amended—

20 (1) in subsection (a)(3), by inserting before the
 21 period at the end the following: “or sections 2303a,
 22 7101(i), or 7302(e) of title 46. The Secretary may
 23 also decide that a form of public transportation is

1 covered adequately, for employee alcohol and con-
2 trolled substances testing purposes, under the alcohol
3 and controlled substance statutes or regulations of an
4 agency within the Department of Transportation or
5 other Federal agency”; and

6 (2) in subsection (f), by striking paragraph (3).

7 **SEC. 6031. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

8 Section 5333(b) is amended—

9 (1) in paragraph (3), by striking the period at
10 the end and inserting “: Provided, That—

11 “(A) the protective period shall not exceed 4
12 years; and

13 “(B) the separation allowance shall not exceed
14 12 months.”; and

15 (2) by adding at the end the following:

16 “(4) An arrangement under this subsection shall not
17 guarantee continuation of employment as a result of a
18 change in private contractors through competitive bidding
19 unless such continuation is otherwise required under sub-
20 paragraph (A), (B), or (D) of paragraph (2).

21 “(5) Fair and equitable arrangements to protect the
22 interests of employees utilized by the Secretary of Labor for
23 assistance to purchase like-kind equipment or facilities, and
24 amendments to existing assistance agreements, shall be cer-
25 tified without referral.

1 “(6) *Nothing in this subsection shall affect the level*
2 *of protection provided to freight railroad employees.*”.

3 **SEC. 6032. ADMINISTRATIVE PROCEDURES.**

4 *Section 5334 is amended—*

5 (1) *in subsection (a)—*

6 (A) *in paragraph (1), by striking “5309–*
7 *5311 of this title” and all that follows and in-*
8 *serting “5309 through 5311;”;*

9 (B) *in paragraph (9), by striking “and” at*
10 *the end;*

11 (C) *in paragraph (10), by striking the pe-*
12 *riod at the end and inserting “; and”; and*

13 (D) *by inserting at the end the following:*

14 “(11) *issue regulations as necessary to carry out*
15 *the purposes of this chapter.*”;

16 (2) *by redesignating subsections (b), (c), (d), (e),*
17 *(f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f),*
18 *(g), (h), (i), (j), and (k), respectively;*

19 (3) *by adding after subsection (a) the following:*

20 “(b) *PROHIBITIONS AGAINST REGULATING OPER-*
21 *ATIONS AND CHARGES.—*

22 “(1) *IN GENERAL.—Except as directed by the*
23 *President for purposes of national defense or in the*
24 *event of a national or regional emergency, the Sec-*
25 *retary may not regulate—*

1 “(A) the operation, routes, or schedules of a
2 public transportation system for which a grant
3 is made under this chapter; or

4 “(B) the rates, fares, tolls, rentals, or other
5 charges prescribed by any public or private
6 transportation provider.

7 “(2) COMPLIANCE WITH AGREEMENT.—Nothing
8 in this subsection shall prevent the Secretary from re-
9 quiring a recipient of funds under this chapter to
10 comply with the terms and conditions of its Federal
11 assistance agreement.”;

12 (4) in subsection (j)(1), as redesignated, by strik-
13 ing “carry out section 5312(a) and (b)(1) of this
14 title” and inserting “advise and assist the Secretary
15 in carrying out section 5312(a)”; and

16 (5) by adding at the end the following:

17 “(l) NOTIFICATION OF PENDING DISCRETIONARY
18 GRANTS.—Not less than 3 full business days before
19 announcement of award by the Secretary of any dis-
20 cretionary grant, letter of intent, or full funding
21 grant agreement totaling \$1,000,000 or more, the Sec-
22 retary shall notify the Committees on Banking, Hous-
23 ing, and Urban Affairs and Appropriations of the
24 Senate and Committees on Transportation and Infra-

1 *structure and Appropriation of the House of Rep-*
2 *resentatives.”.*

3 **SEC. 6033. REPORTS AND AUDITS.**

4 *Section 5335 is amended—*

5 *(1) by striking subsection (b); and*

6 *(2) in subsection (a)—*

7 *(A) in paragraph (1), by striking “(1)”;*

8 *and*

9 *(B) in paragraph (2), by striking “(2) The*
10 *Secretary may make a grant under section 5307*
11 *of this title” and inserting the following:*

12 *“(b) REPORTING AND UNIFORM SYSTEMS.—The Sec-*
13 *retary may award a grant under section 5307 or 5311”.*

14 **SEC. 6034. APPORTIONMENTS OF APPROPRIATIONS FOR**
15 **FORMULA GRANTS.**

16 *Section 5336 is amended—*

17 *(1) by striking subsections (d), (h), and (k);*

18 *(2) by redesignating subsections (a) through (c)*
19 *as subsections (b) through (d), respectively;*

20 *(3) by redesignating subsection (i) and (j) as*
21 *subsection (h) and (i) respectively;*

22 *(4) by adding before subsection (b), as redesi-*
23 *gnated, the following:*

1 “(a) *APPORTIONMENTS.*—*Of the amounts made avail-*
2 *able for each fiscal year under subsections (a)(1)(C)(vi) and*
3 *(b)(2)(L) of section 5338—*

4 “(1) *there shall be apportioned, in fiscal year*
5 *2006 and each fiscal year thereafter, \$35,000,000 to*
6 *certain urbanized areas with populations of less than*
7 *200,000 in accordance with subsection (k); and*

8 “(2) *any amount not apportioned under para-*
9 *graph (1) shall be apportioned to urbanized areas in*
10 *accordance with subsections (b) through (d).”;*

11 “(5) *in subsection (b), as redesignated—*

12 “(A) *by striking “Of the amount made avail-*
13 *able or appropriated under section 5338(a) of*
14 *this title” and inserting “Of the amount appor-*
15 *tioned under subsection (a)(3)”;* and

16 “(B) *in paragraph (2), by striking “sub-*
17 *sections (b) and (c) of this section” and inserting*
18 *“subsections (c) and (d)”;*

19 “(6) *in subsection (c)(2), as redesignated, by strik-*
20 *ing “subsection (a)(2) of this section” and inserting*
21 *“subsection (b)(2)”;*

22 “(7) *in subsection (d), as redesignated, by striking*
23 *“subsection (a)(2) of this section” and inserting “sub-*
24 *section (b)(2)”;*

1 (8) *in subsection (e)(1), by striking “subsections*
2 *(a) and (h)(2) of section 5338 of this title” and in-*
3 *serting “subsections (a) and (b) of section 5338”;*

4 (9) *in subsection (g), by striking “subsection*
5 *(a)(1) of this section” each place it appears and in-*
6 *serting “subsection (b)(1)”;* and

7 (10) *by adding at the end the following:*

8 “(j) *SMALL TRANSIT INTENSIVE CITIES FACTORS.—*

9 *The amount apportioned under subsection (a)(1) shall be*
10 *apportioned to urbanized areas as follows:*

11 “(1) *The Secretary shall calculate a factor equal*
12 *to the sum of revenue vehicle hours operated within*
13 *urbanized areas with a population of between 200,000*
14 *and 1,000,000 divided by the sum of the population*
15 *of all such urbanized areas.*

16 “(2) *The Secretary shall designate as eligible for*
17 *an apportionment under this subsection all urbanized*
18 *areas with a population of under 200,000 for which*
19 *the number of revenue vehicle hours operated within*
20 *the urbanized area divided by the population of the*
21 *urbanized area exceeds the factor calculated under*
22 *paragraph (1).*

23 “(3) *For each urbanized area qualifying for an*
24 *apportionment under paragraph (2), the Secretary*
25 *shall calculate an amount equal to the product of the*

1 *population of that urbanized area and the factor cal-*
2 *culated under paragraph (1).*

3 *“(4) For each urbanized area qualifying for an*
4 *apportionment under paragraph (2), the Secretary*
5 *shall calculate an amount equal to the difference be-*
6 *tween the number of revenue vehicle hours within that*
7 *urbanized area less the amount calculated in para-*
8 *graph (3).*

9 *“(5) Each urbanized area qualifying for an ap-*
10 *portionment under paragraph (2) shall receive an*
11 *amount equal to the amount to be apportioned under*
12 *this subsection multiplied by the amount calculated*
13 *for that urbanized area under paragraph (4) divided*
14 *by the sum of the amounts calculated under para-*
15 *graph (4) for all urbanized areas qualifying for an*
16 *apportionment under paragraph (2).*

17 *“(k) STUDY ON INCENTIVES IN FORMULA PRO-*
18 *GRAMS.—*

19 *“(1) STUDY.—The Secretary shall conduct a*
20 *study to assess the feasibility and appropriateness of*
21 *developing and implementing an incentive funding*
22 *system under sections 5307 and 5311 for operators of*
23 *public transportation.*

24 *“(2) REPORT.—*

1 “(A) *IN GENERAL.*—Not later than 1 year
2 after the date of enactment of the Federal Public
3 Transportation Act of 2005, the Secretary shall
4 submit a report on the results of the study con-
5 ducted under paragraph (1) to the Committee on
6 Banking, Housing, and Urban Affairs of the
7 Senate and the Committee on Transportation
8 and Infrastructure of the House of Representa-
9 tives.

10 “(B) *CONTENTS.*—The report submitted
11 under subparagraph (A) shall include—

12 “(i) an analysis of the availability of
13 appropriate measures to be used as a basis
14 for the distribution of incentive payments;

15 “(ii) the optimal number and size of
16 any incentive programs;

17 “(iii) what types of systems should
18 compete for various incentives;

19 “(iv) how incentives should be distrib-
20 uted; and

21 “(v) the likely effects of the incentive
22 funding system.”.

23 **SEC. 6035. APPORTIONMENTS FOR FIXED GUIDEWAY MOD-**
24 **ERNIZATION.**

25 Section 5337 is amended—

1 (1) *in subsection (a), by striking “for each of fis-*
2 *cal years 1998 through 2003”;* and

3 (2) *by striking “section 5336(b)(2)(A)” each*
4 *place it appears and inserting “section*
5 *5336(c)(2)(A)”.*

6 **SEC. 6036. AUTHORIZATIONS.**

7 *Section 5338 is amended to read as follows:*

8 **“§ 5338. Authorizations**

9 *“(a) FISCAL YEAR 2005.—*

10 *“(1) FORMULA GRANTS.—*

11 *“(A) TRUST FUND.—For fiscal year 2005,*
12 *\$3,499,927,776 shall be available from the Mass*
13 *Transit Account of the Highway Trust Fund to*
14 *carry out sections 5307, 5309, 5310, and 5311 of*
15 *this chapter and section 3038 of the Transpor-*
16 *tation Equity Act for the 21st Century (49*
17 *U.S.C. 5310 note).*

18 *“(B) GENERAL FUND.—In addition to the*
19 *amounts made available under subparagraph*
20 *(A), there are authorized to be appropriated*
21 *\$499,989,824 for fiscal year 2005 to carry out*
22 *sections 5307, 5309, 5310, and 5311 of this chap-*
23 *ter and section 3038 of the Transportation Eq-*
24 *uity Act for the 21st Century (49 U.S.C. 5310*
25 *note).*

1 “(C) *ALLOCATION OF FUNDS.*—Of the
2 *amounts made available or appropriated under*
3 *this paragraph—*

4 “(i) \$4,811,150 shall be available to the
5 *Alaska Railroad for improvements to its*
6 *passenger operations under section 5307;*

7 “(ii) \$6,894,400 shall be available to
8 *provide over-the-road bus accessibility*
9 *grants under section 3038 of the Transpor-*
10 *tation Equity Act for the 21st Century (49*
11 *U.S.C. 5310 note);*

12 “(iii) \$94,526,689 shall be available to
13 *provide transportation services to elderly*
14 *individuals and individuals with disabil-*
15 *ities under section 5310;*

16 “(iv) \$173,040,330 shall be available to
17 *provide financial assistance for other than*
18 *urbanized areas under section 5311;*

19 “(v) \$3,325,048,327 shall be available
20 *to provide financial assistance for urban-*
21 *ized areas under section 5307;*

22 “(vi) \$49,600,000 shall be available to
23 *provide financial assistance for buses and*
24 *bus facilities under section 5309; and*

1 “(vii) \$345,996,704 shall be allocated
2 in accordance with section 5340 to provide
3 financial assistance for urbanized areas
4 under section 5307 and other than urban-
5 ized areas under section 5311.”.

6 “(2) *JOB ACCESS AND REVERSE COMMUTE.*—

7 “(A) *TRUST FUND.*—For fiscal year 2005,
8 \$108,500,000 shall be available from the Mass
9 Transit Account of the Highway Trust Fund to
10 carry out section 3037 of the Transportation Eq-
11 uity Act for the 21st Century (49 U.S.C. 5309
12 note).

13 “(B) *GENERAL FUND.*—In addition to the
14 amounts made available under paragraph (A),
15 there are authorized to be appropriated
16 \$15,500,000 for fiscal year 2005 to carry out sec-
17 tion 3037 of the Transportation Equity Act of
18 the 21st Century (49 U.S.C. 5309 note).

19 “(3) *CAPITAL PROGRAM GRANTS.*—

20 “(A) *TRUST FUND.*—For fiscal year 2005,
21 \$2,898,100,224 shall be available from the Mass
22 Transit Account of the Highway Trust Fund to
23 carry out section 5309.

24 “(B) *GENERAL FUND.*—In addition to the
25 amounts made available under subparagraph

1 (A), there are authorized to be appropriated
2 \$414,014,176 for fiscal year 2005 to carry out
3 section 5309.

4 “(4) *PLANNING.*—

5 “(A) *TRUST FUND.*—For fiscal year 2005,
6 \$63,364,000 shall be available from the Mass
7 Transit Account of the Highway Trust Fund to
8 carry out section 5308.

9 “(B) *GENERAL FUND.*—In addition to the
10 amounts made available under subparagraph
11 (A), there are authorized to be appropriated
12 \$9,052,000 for fiscal year 2005 to carry out sec-
13 tion 5308.

14 “(C) *ALLOCATION OF FUNDS.*—Of the
15 amounts made available or appropriated under
16 this paragraph—

17 “(i) 82.72 percent shall be allocated for
18 metropolitan planning under section
19 5308(c); and

20 “(ii) 17.28 percent shall be allocated
21 for State planning under section 5308(d).

22 “(5) *RESEARCH.*—

23 “(A) *TRUST FUND.*—For fiscal year 2005,
24 \$47,740,000 shall be available from the Mass
25 Transit Account of the Highway Trust Fund to

1 *carry out sections 5311(b), 5312, 5313, 5314,*
2 *5315, and 5322.*

3 “(B) *GENERAL FUND.*—*In addition to the*
4 *amounts made available under subparagraph*
5 *(A), there are authorized to be appropriated*
6 *\$6,820,000 for fiscal year 2005 to carry out sec-*
7 *tions 5311(b), 5312, 5313, 5314, 5315, and 5322.*

8 “(C) *ALLOCATION OF FUNDS.*—*Of the funds*
9 *made available or appropriated under this*
10 *paragraph—*

11 “(i) *not less than \$3,968,000 shall be*
12 *available to carry out programs of the Na-*
13 *tional Transit Institute under section 5315;*

14 “(ii) *not less than \$5,208,000 shall be*
15 *available to carry out section 5311(b)(2);*

16 “(iii) *not less than \$8,184,000 shall be*
17 *available to carry out section 5313; and*

18 “(iv) *the remainder shall be available*
19 *to carry out national research and tech-*
20 *nology programs under sections 5312, 5314,*
21 *and 5322.*

22 “(6) *UNIVERSITY TRANSPORTATION RE-*
23 *SEARCH.*—

24 “(A) *TRUST FUND.*—*For fiscal year 2005,*
25 *\$5,208,000 shall be available from the Mass*

1 *Transit Account of the Highway Trust Fund to*
2 *carry out sections 5505 and 5506.*

3 “(B) *GENERAL FUND.*—*In addition to*
4 *amounts made available under subparagraph*
5 *(A), there are authorized to be appropriated*
6 *\$744,000 for fiscal year 2005 to carry out sec-*
7 *tions 5505 and 5506.*

8 “(C) *ALLOCATION OF FUNDS.*—*Of the*
9 *amounts made available or appropriated under*
10 *this paragraph—*

11 “(i) *\$1,984,000 shall be available for*
12 *grants under 5506(f)(5) to the institution*
13 *identified in section 5505(j)(3)(E), as in ef-*
14 *fect on the day before the date of enactment*
15 *of the Federal Public Transportation Act of*
16 *2005;*

17 “(ii) *\$1,984,000 shall be available for*
18 *grants under section 5505(d) to the institu-*
19 *tion identified in section 5505(j)(4)(A), as*
20 *in effect on the date specified in clause (i);*
21 *and*

22 “(iii) *\$1,984,000 shall be available for*
23 *grants under section 5505(d) to the institu-*
24 *tion identified in section 5505(j)(4)(F), as*

1 *in effect on the date specified in subclause*
2 *(I).*

3 “(C) *SPECIAL RULE.—Nothing in this*
4 *paragraph shall be construed to limit the trans-*
5 *portation research conducted by the centers re-*
6 *ceiving financial assistance under this section.*

7 “(7) *ADMINISTRATION.—*

8 “(A) *TRUST FUND.—For fiscal year 2005,*
9 *\$67,704,000 shall be available from the Mass*
10 *Transit Account of the Highway Trust Fund to*
11 *carry out section 5334.*

12 “(B) *GENERAL FUND.—In addition to amounts*
13 *made available under subparagraph (A), there are*
14 *authorized to be appropriated \$9,672,000 for fiscal*
15 *year 2005 to carry out section 5334.*

16 “(8) *GRANTS AS CONTRACTUAL OBLIGATIONS.—*

17 “(A) *GRANTS FINANCED FROM HIGHWAY TRUST*
18 *FUND.—A grant or contract that is approved by the*
19 *Secretary and financed with amounts made available*
20 *under paragraph (1)(A), (2)(A), (3)(A), (4)(A),*
21 *(5)(A), (6)(A), or (7)(A) is a contractual obligation of*
22 *the United States Government to pay the Federal*
23 *share of the cost of the project.*

24 “(B) *GRANTS FINANCED FROM GENERAL*
25 *FUND.—A grant or contract that is approved by*

1 *the Secretary and financed with amounts appro-*
2 *propriated in advance under paragraph (1)(B),*
3 *(2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B)*
4 *is a contractual obligation of the United States*
5 *Government to pay the Federal share of the cost*
6 *of the project only to the extent that amounts are*
7 *appropriated for such purpose by an Act of Con-*
8 *gress.*

9 “(9) *AVAILABILITY OF AMOUNTS.—Amounts*
10 *made available or appropriated under paragraphs (1)*
11 *through (6) shall remain available until expended.”.*

12 “(b) *FORMULA GRANTS AND RESEARCH.—*

13 “(1) *IN GENERAL.—There shall be available from*
14 *the Mass Transit Account of the Highway Trust Fund*
15 *to carry out sections 5307, 5308, 5309, 5310 through*
16 *5316, 5322, 5335, 5340, and 5505 of this title, and*
17 *sections 3037 and 3038 of the Federal Transit Act of*
18 *1998 (112 Stat. 387 et seq.)—*

19 “(A) \$6,443,600,000 for fiscal year 2006;

20 “(B) \$6,709,644,000 for fiscal year 2007;

21 “(C) \$7,276,707,000 for fiscal year 2008;

22 *and*

23 “(D) \$7,737,026,000 for fiscal year 2009.

1 “(2) *ALLOCATION OF FUNDS.*—*Of the amounts*
2 *made available under paragraph (1) for each fiscal*
3 *year—*

4 “(A) *0.092 percent shall be available for*
5 *grants to the Alaska Railroad under section 5307*
6 *for improvements to its passenger operations;*

7 “(B) *1.75 percent shall be available to carry*
8 *out section 5308;*

9 “(C) *2.05 percent shall be available to pro-*
10 *vide financial assistance for job access and re-*
11 *verse commute projects under section 3037 of the*
12 *Federal Transit Act of 1998 (49 U.S.C. 5309*
13 *note);*

14 “(D) *3.00 percent shall be available to pro-*
15 *vide financial assistance for services for elderly*
16 *persons and persons with disabilities under sec-*
17 *tion 5310;*

18 “(E) *0.125 percent shall be available to*
19 *carry out section 3038 of the Transportation Eq-*
20 *uity Act for the 21st Century (49 U.S.C. 5310*
21 *note);*

22 “(F) *6.25 percent shall be available to pro-*
23 *vide financial assistance for other than urban-*
24 *ized areas under section 5311;*

1 “(G) 0.89 percent shall be available to carry
2 out transit cooperative research programs under
3 section 5313, the National Transit Institute
4 under section 5315, university research centers
5 under section 5505, and national research pro-
6 grams under sections 5312, 5313, 5314, and
7 5322, of which—

8 “(i) 17.0 percent shall be allocated to
9 carry out transit cooperative research pro-
10 grams under section 5313;

11 “(ii) 7.5 percent shall be allocated to
12 carry out programs under the National
13 Transit Institute under section 5315, in-
14 cluding not more than \$1,000,000 to carry
15 out section 5315(a)(16);

16 “(iii) 11.0 percent shall be allocated to
17 carry out the university centers program
18 under section 5505; and

19 “(iv) any funds made available under
20 this subparagraph that are not allocated
21 under clauses (i) through (iii) shall be allo-
22 cated to carry out national research pro-
23 grams under sections 5312, 5313, 5314, and
24 5322;

1 “(H) \$25,000,000 shall be available for each
2 of the fiscal years 2006 through 2009 to carry
3 out section 5316;

4 “(I) there shall be available to carry out
5 section 5335—

6 “(i) \$3,900,000 in fiscal year 2006;

7 “(ii) \$4,200,000 in fiscal year 2007;

8 “(iii) \$4,600,000 in fiscal year 2008;

9 and

10 “(iv) \$5,000,000 in fiscal year 2009;

11 “(J) 6.25 percent shall be allocated in ac-
12 cordance with section 5340 to provide financial
13 assistance for urbanized areas under section
14 5307 and other than urbanized areas under sec-
15 tion 5311; and

16 “(K) 22.0 percent shall be allocated in ac-
17 cordance with section 5337 to provide financial
18 assistance under section 5309(i)(3); and

19 “(L) any amounts not made available
20 under subparagraphs (A) through (K) shall be
21 allocated in accordance with section 5336 to pro-
22 vide financial assistance for urbanized areas
23 under section 5307.

24 “(3) UNIVERSITY CENTERS PROGRAM.—

1 “(A) *ALLOCATION.*—*Of the amounts allo-*
2 *cated under paragraph (2)(G)(iii), \$1,000,000*
3 *shall be available in each of the fiscal years 2006*
4 *through 2009 for Morgan State University to*
5 *provide transportation research, training, and*
6 *curriculum development.*

7 “(B) *REQUIREMENTS.*—*The university spec-*
8 *ified under subparagraph (A) shall be considered*
9 *a University Transportation Center under sec-*
10 *tion 510 of title 23, and shall be subject to the*
11 *requirements under subsections (c), (d), (e), and*
12 *(f) of such section.*

13 “(C) *REPORT.*—*In addition to the report*
14 *required under section 510(e)(3) of title 23, the*
15 *university specified under subparagraph (A)*
16 *shall annually submit a report to the Secretary*
17 *that describes the university’s contribution to*
18 *public transportation.*

19 “(4) *BUS GRANTS.*—*In addition to the amounts*
20 *made available under paragraph (1), there shall be*
21 *available from the Mass Transit Account of the High-*
22 *way Trust Fund to carry out section 5309(i)(2)(B)—*

23 “(A) \$864,101,000 for fiscal year 2006;

24 “(B) \$899,778,000 for fiscal year 2007;

25 “(C) \$975,823,000 for fiscal year 2008; and

1 “(D) \$1,037,552,000 for fiscal year 2009.

2 “(c) MAJOR CAPITAL INVESTMENT GRANTS.—There
3 are authorized to be appropriated to carry out section
4 5309(i)(2)(A)—

5 “(1) \$1,503,299,000 for fiscal year 2006;

6 “(2) \$1,565,367,000 for fiscal year 2007;

7 “(3) \$1,697,663,000 for fiscal year 2008; and

8 “(4) \$1,805,057,000 for fiscal year 2009.

9 “(d) ADMINISTRATION.—There shall be available from
10 the Mass Transit Account of the Highway Trust Fund to
11 carry out section 5334—

12 “(1) \$89,000,000 for fiscal year 2006;

13 “(2) \$92,675,000 for fiscal year 2007;

14 “(3) \$100,507,000 for fiscal year 2008; and

15 “(4) \$106,865,000 for fiscal year 2009.

16 “(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

17 “(1) MASS TRANSIT ACCOUNT FUNDS.—A grant
18 or contract approved by the Secretary that is fi-
19 nanced with amounts made available under sub-
20 section (b)(1), (b)(4), or (d) is a contractual obliga-
21 tion of the United States Government to pay the Fed-
22 eral share of the cost of the project.

23 “(2) APPROPRIATED FUNDS.—A grant or con-
24 tract approved by the Secretary that is financed with
25 amounts made available under subsection (c) is a

1 *contractual obligation of the United States Govern-*
 2 *ment to pay the Federal share of the cost of the*
 3 *project only to the extent that amounts are appro-*
 4 *propriated in advance for such purpose by an Act of*
 5 *Congress.*

6 “(f) *AVAILABILITY OF AMOUNTS.—Amounts made*
 7 *available by or appropriated under subsections (b) and (c)*
 8 *shall remain available until expended.”.*

9 **SEC. 6037. APPORTIONMENTS BASED ON GROWING STATES**

10 **FORMULA FACTORS.**

11 (a) *IN GENERAL.—Chapter 53 is amended by adding*
 12 *at the end the following:*

13 **“§ 5340. Apportionments based on growing States and**
 14 **high density State formula factors**

15 “(a) *DEFINITION.—In this section, the term ‘State’*
 16 *shall mean each of the 50 States of the United States.*

17 “(b) *ALLOCATION.—Of the amounts made available for*
 18 *each fiscal year under section 5338(b)(2)(J), the Secretary*
 19 *shall apportion—*

20 “(1) *50 percent to States and urbanized areas in*
 21 *accordance with subsection (c); and*

22 “(2) *50 percent to States and urbanized areas in*
 23 *accordance with subsection (d).*

24 “(c) *GROWING STATE APPORTIONMENTS.—*

1 “(1) *APPORTIONMENT AMONG STATES.*—*The*
2 *amounts apportioned under subsection (b)(1) shall*
3 *provide each State with an amount equal to the total*
4 *amount apportioned multiplied by a ratio equal to*
5 *the population of that State forecast for the year that*
6 *is 15 years after the most recent decennial census, di-*
7 *vided by the total population of all States forecast for*
8 *the year that is 15 years after the most recent decen-*
9 *ennial census. Such forecast shall be based on the popu-*
10 *lation trend for each State between the most recent*
11 *decennial census and the most recent estimate of popu-*
12 *lation made by the Secretary of Commerce.*

13 “(2) *APPORTIONMENTS BETWEEN URBANIZED*
14 *AREAS AND OTHER THAN URBANIZED AREAS IN EACH*
15 *STATE.*—

16 “(A) *IN GENERAL.*—*The Secretary shall ap-*
17 *portion amounts to each State under paragraph*
18 *(1) so that urbanized areas in that State receive*
19 *an amount equal to the amount apportioned to*
20 *that State multiplied by a ratio equal to the sum*
21 *of the forecast population of all urbanized areas*
22 *in that State divided by the total forecast popu-*
23 *lation of that State. In making the apportion-*
24 *ment under this subparagraph, the Secretary*
25 *shall utilize any available forecasts made by the*

1 *State. If no forecasts are available, the Secretary*
2 *shall utilize data on urbanized areas and total*
3 *population from the most recent decennial cen-*
4 *sus.*

5 “(B) *REMAINING AMOUNTS.*—*Amounts re-*
6 *maining for each State after apportionment*
7 *under subparagraph (A) shall be apportioned to*
8 *that State and added to the amount made avail-*
9 *able for grants under section 5311.*

10 “(3) *APPORTIONMENTS AMONG URBANIZED*
11 *AREAS IN EACH STATE.*—*The Secretary shall appor-*
12 *tion amounts made available to urbanized areas in*
13 *each State under paragraph (2)(A) so that each ur-*
14 *banized area receives an amount equal to the amount*
15 *apportioned under paragraph (2)(A) multiplied by a*
16 *ratio equal to the population of each urbanized area*
17 *divided by the sum of populations of all urbanized*
18 *areas in the State. Amounts apportioned to each ur-*
19 *banized area shall be added to amounts apportioned*
20 *to that urbanized area under section 5336, and made*
21 *available for grants under section 5307.*

22 “(d) *HIGH DENSITY STATE APPORTIONMENTS.*—
23 *Amounts to be apportioned under subsection (b)(2) shall be*
24 *apportioned as follows:*

1 “(1) *ELIGIBLE STATES.*—*The Secretary shall*
2 *designate as eligible for an apportionment under this*
3 *subsection all States with a population density in ex-*
4 *cess of 370 persons per square mile.*

5 “(2) *STATE URBANIZED LAND FACTOR.*—*For*
6 *each State qualifying for an apportionment under*
7 *paragraph (1), the Secretary shall calculate an*
8 *amount equal to—*

9 “(A) *the total land area of the State (in*
10 *square miles); multiplied by*

11 “(B) *370; multiplied by*

12 “(C)(i) *the population of the State in ur-*
13 *banized areas; divided by*

14 “(i) *the total population of the State.*

15 “(3) *STATE APPORTIONMENT FACTOR.*—*For each*
16 *State qualifying for an apportionment under para-*
17 *graph (1), the Secretary shall calculate an amount*
18 *equal to the difference between the total population of*
19 *the State less the amount calculated in paragraph (2).*

20 “(4) *STATE APPORTIONMENT.*—*Each State*
21 *qualifying for an apportionment under paragraph (1)*
22 *shall receive an amount equal to the amount to be ap-*
23 *portioned under this subsection multiplied by the*
24 *amount calculated for the State under paragraph (3)*
25 *divided by the sum of the amounts calculated under*

1 *paragraph (3) for all States qualifying for an appor-*
2 *tionment under paragraph (1).*

3 “(5) *APPORTIONMENTS BETWEEN URBANIZED*
4 *AREAS AND OTHER THAN URBANIZED AREAS IN EACH*
5 *STATE.—*

6 “(A) *IN GENERAL.—The Secretary shall ap-*
7 *portion amounts apportioned to each State*
8 *under paragraph (4) so that urbanized areas in*
9 *that State receive an amount equal to the*
10 *amount apportioned to that State multiplied by*
11 *a ratio equal to the sum of the population of all*
12 *urbanized areas in that State divided by the*
13 *total population of that State.*

14 “(B) *REMAINING AMOUNTS.—Amounts re-*
15 *maining for each State after apportionment*
16 *under subparagraph (a) shall be apportioned to*
17 *that State and added to the amount made avail-*
18 *able for grants under section 5311.*

19 “(6) *APPORTIONMENTS AMONG URBANIZED*
20 *AREAS IN EACH STATE.—The Secretary shall appor-*
21 *tion amounts made available to urbanized areas in*
22 *each State under paragraph (5)(A) so that each ur-*
23 *banized area receives an amount equal to the amount*
24 *apportioned under paragraph (5)(A) multiplied by a*
25 *ratio equal to the population of each urbanized area*

1 *divided by the sum of populations of all urbanized*
 2 *areas in the State. Amounts apportioned to each ur-*
 3 *banized area shall be added to amounts apportioned*
 4 *to that urbanized area under section 5336, and made*
 5 *available for grants under section 5307.”.*

6 *(b) CONFORMING AMENDMENT.—The table of sections*
 7 *for chapter 53 is amended by adding at the end the fol-*
 8 *lowing:*

“5340. Apportionments based on growing States and high density States formula factors.”.

9 **SEC. 6038. JOB ACCESS AND REVERSE COMMUTE GRANTS.**

10 *Section 3037 of the Federal Transit Act of 1998 (49*
 11 *U.S.C. 5309 note) is amended—*

12 *(1) in subsection (b)—*

13 *(A) in paragraph (1)—*

14 *(i) by striking “means an individual”*
 15 *and inserting the following: “means—*

16 *“(A) an individual”; and*

17 *(ii) by striking the period at the end*
 18 *and inserting “; or*

19 *“(B) an individual who is eligible for as-*
 20 *sistance under the State program of Temporary*
 21 *Assistance to Needy Families funded under part*
 22 *A of title IV of the Social Security Act (42*
 23 *U.S.C. 601 et. seq.) in the State in which the re-*

1 *recipient of a grant under this section is located.”;*
2 *and*

3 *(B) in paragraph (2), by striking “develop-*
4 *ment of” each place it appears and inserting*
5 *“development and provision of”;*

6 *(2) in subsection (i), by amending paragraph (2)*
7 *to read as follows:*

8 “(2) *COORDINATION.—*

9 “(A) *IN GENERAL.—The Secretary shall co-*
10 *ordinate activities under this section with related*
11 *activities under programs of other Federal de-*
12 *partments and agencies.*

13 “(B) *CERTIFICATION.—A recipient of funds*
14 *under this section shall certify that—*

15 “(i) *the project has been derived from*
16 *a locally developed, coordinated public tran-*
17 *sit human services transportation plan; and*

18 “(ii) *the plan was developed through a*
19 *process that included representatives of pub-*
20 *lic, private, and nonprofit transportation*
21 *and human services providers and partici-*
22 *pation by the public.”;*

23 *(3) by amending subsection (j) to read as follows:*

24 “(j) *GRANT REQUIREMENTS.—*

25 “(1) *IN GENERAL.—*

1 “(A) *URBANIZED AREAS.*—A grant awarded
2 under this section to a public agency or private
3 company engaged in public transportation in an
4 urbanized area shall be subject to the all of the
5 terms and conditions to which a grant awarded
6 under section 5307 of title 49, United States
7 Code, is subject, to the extent the Secretary con-
8 siders appropriate.

9 “(B) *OTHER THAN URBANIZED AREAS.*—A
10 grant awarded under this section to a public
11 agency or a private company engaged in public
12 transportation in an area other than urbanized
13 areas shall be subject to all of the terms and con-
14 ditions to which a grant awarded under section
15 5311 of title 49, United States Code, is subject,
16 to the extent the Secretary considers appropriate.

17 “(C) *NONPROFIT ORGANIZATIONS.*—A grant
18 awarded under this section to a private non-
19 profit organization shall be subject to all of the
20 terms and conditions to which a grant made
21 under section 5310 of title 49, United States
22 Code, is subject, to the extent the Secretary con-
23 siders appropriate.

24 “(2) *SPECIAL WARRANTY.*—

1 “(A) *IN GENERAL.*—Section 5333(b) of title
 2 49, United States Code, shall apply to grants
 3 under this section if the Secretary of Labor uti-
 4 lizes a Special Warranty that provides a fair
 5 and equitable arrangement to protect the inter-
 6 ests of employees.

7 “(B) *WAIVER.*—The Secretary may waive
 8 the applicability of the Special Warranty under
 9 subparagraph (A) for private non-profit recipi-
 10 ents on a case-by-case basis as the Secretary con-
 11 siders appropriate.”; and
 12 (4) by striking subsections (k) and (l).

13 **SEC. 6039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

14 (a) *SECTION HEADING.*—The section heading for sec-
 15 tion 3038 of the Federal Transit Act of 1998 (49 U.S.C.
 16 5310 note), is amended to read as follows:

17 **“SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PRO-**
 18 **GRAM.”.**

19 (b) *FUNDING.*—Section 3038(g) of the Federal Transit
 20 Act of 1998 (49 U.S.C. 5310 note) is amended to read as
 21 follows:

22 “(g) *FUNDING.*—Of the amounts made available for
 23 each fiscal year under subsections (a)(1)(C)(iii) and
 24 (b)(2)(E) of section 5338 of title 49, United States Code—

1 “(1) 75 percent shall be available, and shall re-
 2 main available until expended, for operators of over-
 3 the-road buses, used substantially or exclusively in
 4 intercity, fixed-route over-the-road bus service, to fi-
 5 nance the incremental capital and training costs of
 6 the Department of Transportation’s final rule regard-
 7 ing accessibility of over-the-road buses; and

8 “(2) 25 percent shall be available, and shall re-
 9 main available until expended, for operators of over-
 10 the-road bus service not described in paragraph (1),
 11 to finance the incremental capital and training costs
 12 of the Department of Transportation’s final rule re-
 13 garding accessibility of over-the-road buses.”.

14 (b) *CONFORMING AMENDMENT.*—*The item relating to*
 15 *section 3038 in the table of contents for the Transportation*
 16 *Equity Act for the 21st Century (Public Law 105–178) is*
 17 *amended to read as follows:*

 “Sec. 3038. *Over-the-road bus accessibility program.*”.

18 **SEC. 6040. ALTERNATIVE TRANSPORTATION IN PARKS AND**
 19 **PUBLIC LANDS.**

20 (a) *IN GENERAL.*—*Chapter 53 is amended by insert-*
 21 *ing after section 5315 the following:*

22 **“§ 5316. Alternative transportation in parks and pub-**
 23 **lic lands**

24 “(a) *IN GENERAL.*—

25 “(1) *AUTHORIZATION.*—

1 “(A) *IN GENERAL.*—*The Secretary, in con-*
2 *sultation with the Secretary of the Interior, may*
3 *award a grant or enter into a contract, coopera-*
4 *tive agreement, interagency agreement,*
5 *intraagency agreement, or other transaction to*
6 *carry out a qualified project under this section*
7 *to enhance the protection of America’s National*
8 *Parks and public lands and increase the enjoy-*
9 *ment of those visiting the parks and public lands*
10 *by ensuring access to all, including persons with*
11 *disabilities, improving conservation and park*
12 *and public land opportunities in urban areas*
13 *through partnering with state and local govern-*
14 *ments, and improving park and public land*
15 *transportation infrastructure.*

16 “(B) *CONSULTATION WITH OTHER AGEN-*
17 *CIES.*—*To the extent that projects are proposed*
18 *or funded in eligible areas that are not within*
19 *the jurisdiction of the Department of the Inte-*
20 *rior, the Secretary of the Interior shall consult*
21 *with the heads of the relevant Federal land man-*
22 *agement agencies in carrying out the responsibil-*
23 *ities under this section.*

24 “(2) *USE OF FUNDS.*—*A grant, cooperative*
25 *agreement, interagency agreement, intraagency agree-*

1 *ment, or other transaction for a qualified project*
2 *under this section shall be available to finance the*
3 *leasing of equipment and facilities for use in public*
4 *transportation, subject to any regulation that the Sec-*
5 *retary may prescribe limiting the grant or agreement*
6 *to leasing arrangements that are more cost-effective*
7 *than purchase or construction.*

8 *“(b) DEFINITIONS.—In this section, the following defi-*
9 *nitions shall apply:*

10 *“(1) ELIGIBLE AREA.—The term ‘eligible area’*
11 *means any federally owned or managed park, refuge,*
12 *or recreational area that is open to the general public,*
13 *including—*

14 *“(A) a unit of the National Park System;*

15 *“(B) a unit of the National Wildlife Refuge*
16 *System;*

17 *“(C) a recreational area managed by the*
18 *Bureau of Land Management; and*

19 *“(D) a recreation area managed by the Bu-*
20 *reau of Reclamation.*

21 *“(2) FEDERAL LAND MANAGEMENT AGENCY.—*
22 *The term ‘Federal land management agency’ means a*
23 *Federal agency that manages an eligible area.*

24 *“(3) ALTERNATIVE TRANSPORTATION.—The term*
25 *‘alternative transportation’ means transportation by*

1 *bus, rail, or any other publicly or privately owned*
2 *conveyance that provides to the public general or spe-*
3 *cial service on a regular basis, including sightseeing*
4 *service.*

5 “(4) *QUALIFIED PARTICIPANT.*—*The term ‘quali-*
6 *fied participant’ means—*

7 “(A) *a Federal land management agency; or*

8 “(B) *a State, tribal, or local governmental*
9 *authority with jurisdiction over land in the vi-*
10 *cinity of an eligible area acting with the consent*
11 *of the Federal land management agency, alone or*
12 *in partnership with a Federal land management*
13 *agency or other Governmental or nongovern-*
14 *mental participant.*

15 “(5) *QUALIFIED PROJECT.*—*The term ‘qualified*
16 *project’ means a planning or capital project in or in*
17 *the vicinity of an eligible area that—*

18 “(A) *is an activity described in section*
19 *5302, 5303, 5304, 5308, or 5309(a)(1)(A);*

20 “(B) *involves—*

21 “(i) *the purchase of rolling stock that*
22 *incorporates clean fuel technology or the re-*
23 *placement of buses of a type in use on the*
24 *date of enactment of this section with clean*
25 *fuel vehicles; or*

1 “(ii) the deployment of alternative
2 transportation vehicles that introduce inno-
3 vative technologies or methods;

4 “(C) relates to the capital costs of coordi-
5 nating the Federal land management agency
6 public transportation systems with other public
7 transportation systems;

8 “(D) provides a nonmotorized transpor-
9 tation system (including the provision of facili-
10 ties for pedestrians, bicycles, and nonmotorized
11 watercraft);

12 “(E) provides waterborne access within or
13 in the vicinity of an eligible area, as appropriate
14 to and consistent with this section; or

15 “(F) is any other alternative transportation
16 project that—

17 “(i) enhances the environment;

18 “(ii) prevents or mitigates an adverse
19 impact on a natural resource;

20 “(iii) improves Federal land manage-
21 ment agency resource management;

22 “(iv) improves visitor mobility and ac-
23 cessibility and the visitor experience;

1 “(v) reduces congestion and pollution
2 (including noise pollution and visual pollu-
3 tion); or

4 “(vi) conserves a natural, historical, or
5 cultural resource (excluding rehabilitation
6 or restoration of a non-transportation facil-
7 ity).

8 “(c) *FEDERAL AGENCY COOPERATIVE ARRANGE-*
9 *MENTS.—The Secretary shall develop cooperative arrange-*
10 *ments with the Secretary of the Interior that provide for—*

11 “(1) technical assistance in alternative transpor-
12 tation;

13 “(2) interagency and multidisciplinary teams to
14 develop Federal land management agency alternative
15 transportation policy, procedures, and coordination;
16 and

17 “(3) the development of procedures and criteria
18 relating to the planning, selection, and funding of
19 qualified projects and the implementation and over-
20 sight of the program of projects in accordance with
21 this section.

22 “(d) *LIMITATION ON USE OF AVAILABLE AMOUNTS.—*

23 “(1) *IN GENERAL.—The Secretary, in consulta-*
24 *tion with the Secretary of the Interior, may use not*
25 *more than 10 percent of the amount made available*

1 *for a fiscal year under section 5338(b)(2)(H) to carry*
2 *out planning, research, and technical assistance*
3 *under this section, including the development of tech-*
4 *nology appropriate for use in a qualified project.*

5 “(2) *ADDITIONAL AMOUNTS.*—*Amounts made*
6 *available under this subsection are in addition to*
7 *amounts otherwise available to the Secretary to carry*
8 *out planning, research, and technical assistance*
9 *under this title or any other provision of law.*

10 “(3) *MAXIMUM AMOUNT.*—*No qualified project*
11 *shall receive more than 12 percent of the total amount*
12 *made available to carry out this section under section*
13 *5338(b)(2)(H) for any fiscal year.*

14 “(e) *PLANNING PROCESS.*—*In undertaking a qualified*
15 *project under this section—*

16 “(1) *if the qualified participant is a Federal*
17 *land management agency—*

18 “(A) *the Secretary, in cooperation with the*
19 *Secretary of the Interior, shall develop transpor-*
20 *tation planning procedures that are consistent*
21 *with—*

22 “(i) *the metropolitan planning provi-*
23 *sions under section 5303 of this title;*

24 “(ii) *the statewide planning provisions*
25 *under section 5304 of this title; and*

1 “(iii) the public participation require-
2 ments under section 5307(e); and

3 “(B) in the case of a qualified project that
4 is at a unit of the National Park system, the
5 planning process shall be consistent with the gen-
6 eral management plans of the unit of the Na-
7 tional Park system; and

8 “(2) if the qualified participant is a State or
9 local governmental authority, or more than one State
10 or local governmental authority in more than one
11 State, the qualified participant shall—

12 “(A) comply with the metropolitan plan-
13 ning provisions under section 5303 of this title;

14 “(B) comply with the statewide planning
15 provisions under section 5304 of this title;

16 “(C) comply with the public participation
17 requirements under section 5307(e) of this title;
18 and

19 “(D) consult with the appropriate Federal
20 land management agency during the planning
21 process.

22 “(f) COST SHARING.—

23 “(1) The Secretary, in cooperation with the Sec-
24 retary of the Interior, shall establish the agency share

1 of net project cost to be provided under this section
2 to a qualified participant.

3 “(2) In establishing the agency share of net
4 project cost to be provided under this section, the Sec-
5 retary shall consider—

6 “(A) visitation levels and the revenue de-
7 rived from user fees in the eligible area in which
8 the qualified project is carried out;

9 “(B) the extent to which the qualified par-
10 ticipant coordinates with a public transportation
11 authority or private entity engaged in public
12 transportation;

13 “(C) private investment in the qualified
14 project, including the provision of contract serv-
15 ices, joint development activities, and the use of
16 innovative financing mechanisms;

17 “(D) the clear and direct benefit to the
18 qualified participant; and

19 “(E) any other matters that the Secretary
20 considers appropriate to carry out this section.

21 “(3) Notwithstanding any other provision of law,
22 Federal funds appropriated to any Federal land man-
23 agement agency may be counted toward the non-agen-
24 cy share of the net project cost of a qualified project.

25 “(g) SELECTION OF QUALIFIED PROJECTS.—

1 “(1) *The Secretary of the Interior, after consulta-*
2 *tion with and in cooperation with the Secretary, shall*
3 *determine the final selection and funding of an an-*
4 *annual program of qualified projects in accordance with*
5 *this section.*

6 “(2) *In determining whether to include a project*
7 *in the annual program of qualified projects, the Sec-*
8 *retary of the Interior shall consider—*

9 “(A) *the justification for the qualified*
10 *project, including the extent to which the quali-*
11 *fied project would conserve resources, prevent or*
12 *mitigate adverse impact, and enhance the envi-*
13 *ronment;*

14 “(B) *the location of the qualified project, to*
15 *ensure that the selected qualified projects—*

16 “(i) *are geographically diverse nation-*
17 *wide; and*

18 “(ii) *include qualified projects in eligi-*
19 *ble areas located in both urban areas and*
20 *rural areas;*

21 “(C) *the size of the qualified project, to en-*
22 *sure that there is a balanced distribution;*

23 “(D) *the historical and cultural significance*
24 *of a qualified project;*

25 “(E) *safety;*

1 “(F) the extent to which the qualified
2 project would-

3 “(i) enhance livable communities;

4 “(ii) reduce pollution (including noise
5 pollution, air pollution, and visual pollu-
6 tion);

7 “(iii) reduce congestion; and

8 “(iv) improve the mobility of people in
9 the most efficient manner; and

10 “(G) any other matters that the Secretary
11 considers appropriate to carry out this section,
12 including—

13 “(i) visitation levels;

14 “(ii) the use of innovative financing or
15 joint development strategies; and

16 “(iii) coordination with gateway com-
17 munities.

18 “(h) *QUALIFIED PROJECTS CARRIED OUT IN AD-*
19 *VANCE.*—

20 “(1) When a qualified participant carries out
21 any part of a qualified project without assistance
22 under this section in accordance with all applicable
23 procedures and requirements, the Secretary, in con-
24 sultation with the Secretary of the Interior, may pay

1 *the share of the net capital project cost of a qualified*
2 *project if—*

3 “(A) *the qualified participant applies for*
4 *the payment;*

5 “(B) *the Secretary approves the payment;*
6 *and*

7 “(C) *before carrying out that part of the*
8 *qualified project, the Secretary approves the*
9 *plans and specifications in the same manner as*
10 *plans and specifications are approved for other*
11 *projects assisted under this section.*

12 “(2)(A) *The cost of carrying out part of a quali-*
13 *fied project under paragraph (1) includes the amount*
14 *of interest earned and payable on bonds issued by a*
15 *State or local governmental authority, to the extent*
16 *that proceeds of the bond are expended in carrying*
17 *out that part.*

18 “(B) *The rate of interest under this paragraph*
19 *may not exceed the most favorable rate reasonably*
20 *available for the qualified project at the time of bor-*
21 *rowing.*

22 “(C) *The qualified participant shall certify, in a*
23 *manner satisfactory to the Secretary, that the quali-*
24 *fied participant has exercised reasonable diligence in*
25 *seeking the most favorable interest rate.*

1 “(i) *RELATIONSHIP TO OTHER LAWS.*—

2 “(1) *SECTION 5307.*—*A qualified participant*
3 *under this section shall be subject to the requirements*
4 *of sections 5307 and 5333(a) to the extent the Sec-*
5 *retary determines to be appropriate.*

6 “(2) *OTHER REQUIREMENTS.*—*A qualified par-*
7 *ticipant under this section is subject to any other*
8 *terms, conditions, requirements, and provisions that*
9 *the Secretary determines to be appropriate to carry*
10 *out this section, including requirements for the dis-*
11 *tribution of proceeds on disposition of real property*
12 *and equipment resulting from a qualified project as-*
13 *sisted under this section.*

14 “(3) *PROJECT MANAGEMENT PLAN.*—*If the*
15 *amount of assistance anticipated to be required for a*
16 *qualified project under this section is not less than*
17 *\$25,000,000—*

18 “(A) *the qualified project shall, to the extent*
19 *the Secretary considers appropriate, be carried*
20 *out through a full funding grant agreement, in*
21 *accordance with section 5309(g); and*

22 “(B) *the qualified participant shall prepare*
23 *a project management plan in accordance with*
24 *section 5327(a).*

1 “(i) *ASSET MANAGEMENT.*—*The Secretary, in con-*
2 *sultation with the Secretary of the Interior, may transfer*
3 *the interest of the Department of Transportation in, and*
4 *control over, all facilities and equipment acquired under*
5 *this section to a qualified participant for use and disposi-*
6 *tion in accordance with any property management regula-*
7 *tions that the Secretary determines to be appropriate.*

8 “(j) *COORDINATION OF RESEARCH AND DEPLOYMENT*
9 *OF NEW TECHNOLOGIES.*—

10 “(1) *The Secretary, in cooperation with the Sec-*
11 *retary of the Interior, may undertake, or make*
12 *grants, cooperative agreements, contracts (including*
13 *agreements with departments, agencies, and instru-*
14 *mentalities of the Federal Government) or other*
15 *transactions for research, development, and deploy-*
16 *ment of new technologies in eligible areas that will—*

17 “(A) *conserve resources;*

18 “(B) *prevent or mitigate adverse environ-*
19 *mental impact;*

20 “(C) *improve visitor mobility, accessibility,*
21 *and enjoyment; and*

22 “(D) *reduce pollution (including noise pol-*
23 *lution and visual pollution).*

24 “(2) *The Secretary may request and receive ap-*
25 *propriate information from any source.*

1 “(3) *Grants, cooperative agreements, contracts or*
2 *other transactions under paragraph (1) shall be*
3 *awarded from amounts allocated under subsection*
4 *(c)(1).*

5 “(k) *INNOVATIVE FINANCING.*—*A qualified project re-*
6 *ceiving financial assistance under this section shall be eligi-*
7 *ble for funding through a state infrastructure bank or other*
8 *innovative financing mechanism available to finance an el-*
9 *igible project under this chapter.*

10 “(l) *REPORTS.*—

11 “(1) *IN GENERAL.*—*The Secretary, in consulta-*
12 *tion with the Secretary of the Interior, shall annually*
13 *submit a report on the allocation of amounts made*
14 *available to assist qualified projects under this section*
15 *to—*

16 “(A) *the Committee on Banking, Housing,*
17 *and Urban Affairs of the Senate; and*

18 “(B) *the Committee on Transportation and*
19 *Infrastructure of the House of Representatives.*

20 “(2) *ANNUAL AND SUPPLEMENTAL REPORTS.*—
21 *The report required under paragraph (1) shall be in-*
22 *cluded in the report submitted under section*
23 *5309(m).”.*

1 (b) *CONFORMING AMENDMENTS.*—*The table of sections*
 2 *for chapter 53 is amended by inserting after the item relat-*
 3 *ing to section 5315 the following:*

 “5316. *Alternative transportation in parks and public lands.*”.

4 **SEC. 6041. OBLIGATION CEILING.**

5 *Notwithstanding any other provision of law, the total*
 6 *of all obligations from amounts made available from the*
 7 *Mass Transit Account of the Highway Trust Fund by, and*
 8 *amounts appropriated under, subsections (a) through (c) of*
 9 *section 5338 of title 49, United States Code, shall not*
 10 *exceed—*

11 (1) \$7,646,336,000 for fiscal year 2005;

12 (2) \$8,900,000,000 for fiscal year 2006;

13 (3) \$9,267,464,000 for fiscal year 2007;

14 (4) \$10,050,700,000 for fiscal year 2008; and

15 (5) \$10,686,500,000 for fiscal year 2009.

16 **SEC. 6042. ADJUSTMENTS FOR THE SURFACE TRANSPOR-**
 17 **TATION EXTENSION ACT OF 2004.**

18 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
 19 *sion of law, the Secretary shall reduce the total apportion-*
 20 *ments and allocations made for fiscal year 2005 to each*
 21 *grant recipient under section 5338 of title 49, United States*
 22 *Code, by the amount apportioned to that recipient pursuant*
 23 *to section 8 of the Surface Transportation Extension Act*
 24 *of 2004 part V (118 Stat. 1154).*

1 (b) *FIXED GUIDEWAY MODERNIZATION ADJUST-*
 2 *MENT.*—*In making the apportionments described in sub-*
 3 *section (a), the Secretary shall adjust the amount appor-*
 4 *tioned for fiscal year 2005 to each urbanized area for fixed*
 5 *guideway modernization to reflect the apportionment meth-*
 6 *od set forth in 5337(a) of title 49, United States Code.*

7 **SEC. 6043. DISADVANTAGED BUSINESS ENTERPRISE.**

8 *Section 1821(a) of the Safe, Accountable, Flexible, and*
 9 *Efficient Transportation Equity Act of 2005 shall apply*
 10 *to all funds authorized or otherwise made available under*
 11 *this title.*

12 **SEC. 6044. TRANSIT PASS TRANSPORTATION FRINGE BENE-**
 13 **FITS.**

14 (a) *TRANSIT PASS TRANSPORTATION FRINGE BENE-*
 15 *FITS STUDY.*—

16 (1) *STUDY.*—*The Secretary of Transportation*
 17 *shall conduct a study on tax-free transit benefits and*
 18 *ways to promote improved access to and increased*
 19 *usage of such benefits, at Federal agencies in the Na-*
 20 *tional Capital Region, including agencies not cur-*
 21 *rently offering the benefit.*

22 (2) *CONTENT.*—*The study under this subsection*
 23 *shall include—*

24 (A) *an examination of how agencies offering*
 25 *the benefit make its availability known to their*

1 *employees and the methods agencies use to de-*
2 *liver the benefit to employees, including examples*
3 *of best practices; and*

4 *(B) an analysis of the impact of Federal*
5 *employees' use of transit on traffic congestion*
6 *and pollution in the National Capital Region.*

7 (3) *REPORT.*—*Not later than 180 days after the*
8 *date of enactment of this Act, the Secretary shall sub-*
9 *mit a report to Congress on the results of the study*
10 *under this subsection.*

11 ***(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO***
12 ***TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR***
13 ***PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.***—

14 (1) *IN GENERAL.*—*Section 1344 of title 31,*
15 *United States Code, is amended—*

16 (A) *by redesignating subsections (g) and (h)*
17 *as subsections (h) and (i), respectively; and*

18 (B) *by inserting after subsection (f) the fol-*
19 *lowing:*

20 “*(g)(1) A passenger carrier may be used to transport*
21 *an officer or employee of a Federal agency between the offi-*
22 *cer's or employee's place of employment and a mass transit*
23 *facility (whether or not publicly owned) in accordance with*
24 *succeeding provisions of this subsection.*”

1 “(2) *Notwithstanding section 1343, a Federal agency*
2 *that provides transportation services under this subsection*
3 *(including by passenger carrier) shall absorb the costs of*
4 *such services using any funds available to such agency,*
5 *whether by appropriation or otherwise.*

6 “(3) *In carrying out this subsection, a Federal agency*
7 *shall—*

8 “(A) *to the maximum extent practicable, use al-*
9 *ternative fuel vehicles to provide transportation serv-*
10 *ices;*

11 “(B) *to the extent consistent with the purposes of*
12 *this subsection, provide transportation services in a*
13 *manner that does not result in additional gross in-*
14 *come for Federal income tax purposes; and*

15 “(C) *coordinate with other Federal agencies to*
16 *share, and otherwise avoid duplication of, transpor-*
17 *tation services provided under this subsection.*

18 “(4) *For purposes of any determination under chapter*
19 *81 of title 5, an individual shall not be considered to be*
20 *in the ‘performance of duty’ by virtue of the fact that such*
21 *individual is receiving transportation services under this*
22 *subsection.*

23 “(5)(A) *The Administrator of General Services, after*
24 *consultation with the National Capital Planning Commis-*

1 sion and other appropriate agencies, shall prescribe any
2 regulations necessary to carry out this subsection.

3 “(B) Transportation services under this subsection
4 shall be subject neither to the last sentence of subsection
5 (d)(3) nor to any regulations under the last sentence of sub-
6 section (e)(1).

7 “(6) In this subsection, the term ‘passenger carrier’
8 means a passenger motor vehicle, aircraft, boat, ship, or
9 other similar means of transportation that is owned or
10 leased by the United States Government or the government
11 of the District of Columbia.”

12 (2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—
13 Subsection (a) of section 1344 of title 31, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 “(3) For purposes of paragraph (1), the transportation
17 of an individual between such individual’s place of employ-
18 ment and a mass transit facility pursuant to subsection (g)
19 is transportation for an official purpose.”

20 (3) COORDINATION.—The authority to provide
21 transportation services under section 1344(g) of title
22 31, United States Code (as amended by paragraph
23 (1)) shall be in addition to any authority otherwise
24 available to the agency involved.

1 **SEC. 6045. FUNDING FOR FERRY BOATS.**

2 *Section 5309(i)(5) of title 49, United States Code, as*
3 *amended by section 6011(j) of this Act, is amended to read*
4 *as follows:*

5 “(5) *FUNDING FOR FERRY BOATS.—Of the*
6 *amounts described in paragraphs (1)(A) and (2)(A)—*

7 “(A) *\$10,400,000 shall be available in fiscal*
8 *year 2005 for capital projects in Alaska and Ha-*
9 *waii for new fixed guideway systems and exten-*
10 *sion projects utilizing ferry boats, ferry boat ter-*
11 *minals, or approaches to ferry boat terminals;*

12 “(B) *\$15,000,000 shall be available in each*
13 *of fiscal years 2006 through 2009 for capital*
14 *projects in Alaska and Hawaii for new fixed*
15 *guideway systems and extension projects uti-*
16 *lizing ferry boats, ferry boat terminals, or ap-*
17 *proaches to ferry boat terminals; and*

18 “(C) *\$5,000,000 shall be available in each of*
19 *fiscal years 2006 through 2009 for payments to*
20 *the Denali Commission under the terms of sec-*
21 *tion 307(e) of the Denali Commission Act of*
22 *1998, as amended (42 U.S.C. 3121 note), for*
23 *docks, waterfront development projects, and re-*
24 *lated transportation infrastructure.”.*

1 **SEC. 6046. COMMUTER RAIL.**

2 (a) *IN GENERAL.*—*The Federal Transit Administra-*
 3 *tion shall approve final design for the project authorized*
 4 *under section 3030(c)(1)(A)(xlv) of the Federal Transit Act*
 5 *of 1998 and section 1214(g) of the Transportation Equity*
 6 *Act for the 21st Century (16 U.S.C. 668dd note) in the ab-*
 7 *sence of an access agreement with the owner of the railroad*
 8 *right of way.*

9 (b) *TIMELY RESOLUTION OF ISSUES.*—*The Secretary*
 10 *shall timely resolve any issues delaying the completion of*
 11 *the project authorized under section 1214(g) of the Trans-*
 12 *portation Equity Act for the 21st Century (16 U.S.C. 668dd*
 13 *note) and section 3030(c)(1)(A)(xlv) of the Federal Transit*
 14 *Act of 1998.*

15 **TITLE VII—SURFACE TRANSPOR-**
 16 **TATION SAFETY IMPROVE-**
 17 **MENT**

18 **SEC. 7001. SHORT TITLE.**

19 *This title may be cited as the “Surface Transportation*
 20 *Safety Improvement Act of 2005”.*

21 **SEC. 7002. AMENDMENT OF UNITED STATES CODE.**

22 (a) *AMENDMENT OF TITLE 49.*—*Except as otherwise*
 23 *specifically provided, whenever in this title (other than in*
 24 *chapter 1 of subtitle B) an amendment is expressed in terms*
 25 *of an amendment to a section or other provision of law,*

1 *the reference shall be considered to be made to a section or*
 2 *other provision of title 49, United States Code.*

3 (b) *AMENDMENT OF TITLE 23.—Except as otherwise*
 4 *expressly provided, whenever in chapter 1 of subtitle B of*
 5 *this title an amendment or repeal is expressed in terms of*
 6 *an amendment to, or a repeal of, a section or other provi-*
 7 *sion, the reference shall be considered to be made to a section*
 8 *or other provision of title 23, United States Code.*

9 ***Subtitle A—Motor Carrier Safety***

10 ***CHAPTER 1—MOTOR CARRIERS***

11 ***SEC. 7101. SHORT TITLE.***

12 *This chapter may be cited as the “Motor Carrier Safe-*
 13 *ty Reauthorization Act of 2005”.*

14 ***SEC. 7102. CONTRACT AUTHORITY.***

15 *Authorizations from the Highway Trust Fund (other*
 16 *than the Mass Transit Account) to carry out this chapter*
 17 *shall be available for obligation on the date of their appor-*
 18 *tionment or allocation or on October 1 of the fiscal year*
 19 *for which they are authorized, whichever occurs first. Ap-*
 20 *proval by the Secretary of a grant with funds made avail-*
 21 *able under this chapter imposes upon the United States*
 22 *Government a contractual obligation for payment of the*
 23 *Government’s share of costs incurred in carrying out the*
 24 *objectives of the grant.*

1 **SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) *ADMINISTRATIVE EXPENSES.*—Section 31104 is
3 amended by adding at the end the following:

4 “(i) *ADMINISTRATIVE EXPENSES.*—

5 “(1) *There are authorized to be appropriated*
6 *from the Highway Trust Fund (other than the Mass*
7 *Transit Account) for the Secretary of Transportation*
8 *to pay administrative expenses of the Federal Motor*
9 *Carrier Safety Administration—*

10 “(A) \$211,400,000 for fiscal year 2006,

11 “(B) \$217,500,000 for fiscal year 2007,

12 “(C) \$222,600,000 for fiscal year 2008, and

13 “(D) \$228,500,000 for fiscal year 2009,

14 *of which \$6,800,000 shall be available for each fiscal*
15 *year to make grants to, or execute contracts with,*
16 *States, local governments, or other persons for the*
17 *commercial vehicle analysis reporting system, with*
18 *the Federal share payable under any such grant to be*
19 *100 percent.*

20 “(2) *The funds authorized by this subsection*
21 *shall be used for personnel costs; administrative infra-*
22 *structure; rent; information technology; programs for*
23 *research and technology, information management,*
24 *regulatory development (including a medical review*
25 *board and rules for medical examiners), performance*
26 *and registration information system management,*

1 *and outreach and education; other operating expenses*
2 *and similar matters; and such other expenses as may*
3 *from time to time become necessary to implement*
4 *statutory mandates not funded from other sources.*

5 “(3) *The amounts made available under this sec-*
6 *tion shall remain available until expended.*”.

7 **(b) GRANT PROGRAMS.**—*There are authorized to be*
8 *appropriated from the Highway Trust Fund (other than*
9 *the Mass Transit Account) for the following Federal Motor*
10 *Carrier Safety Administration programs:*

11 (1) *Border enforcement grants under section*
12 *31107 of title 49, United States Code—*

13 (A) *\$33,000,000 for fiscal year 2006;*

14 (B) *\$34,000,000 for fiscal year 2007;*

15 (C) *\$35,000,000 for fiscal year 2008; and*

16 (D) *\$36,000,000 for fiscal year 2009.*

17 (2) *Performance and registration information*
18 *system management grant program under 31109 of*
19 *title 49, United States Code, \$4,000,000 for each of*
20 *fiscal years 2006 through 2009.*

21 (3) *Commercial driver’s license and driver im-*
22 *provement program grants under section 31318 of*
23 *title 49, United States Code—*

24 (A) *\$23,000,000 for fiscal year 2006;*

25 (B) *\$23,000,000 for fiscal year 2007;*

1 (C) \$24,000,000 for fiscal year 2008; and

2 (D) \$25,000,000 for fiscal year 2009.

3 (4) For carrying out the commercial vehicle in-
4 formation systems and networks deployment program
5 established under section 31151 of title 49, United
6 States Code, \$25,000,000 for each of fiscal years 2006
7 through 2009.

8 (c) *MOTOR CARRIER SAFETY ACCOUNT.*—Funds made
9 available under subsection (a) shall be administered in the
10 account established in the Treasury entitled “Motor Carrier
11 Safety Operations and Program 69–8159–0–7–401” and
12 the funds made available under subsection (b) shall be ad-
13 ministered in the account established in the Treasury enti-
14 tled “Motor Carrier Safety Grants 69–8158–0–7–401”.

15 (d) *PERIOD OF AVAILABILITY.*—The amounts made
16 available under subsection (b) of this section shall remain
17 available until expended.

18 **SEC. 7104. HIGH RISK CARRIER COMPLIANCE REVIEWS.**

19 From the funds authorized by section 31104(i)(1) of
20 title 49, United States Code, the Secretary of Transpor-
21 tation shall ensure that compliance reviews are completed
22 on motor carriers that have demonstrated through perform-
23 ance data that they pose the highest safety risk. At a min-
24 imum, compliance reviews shall be conducted whenever a

1 *motor carrier is rated as category A or B for 2 consecutive*
2 *months.*

3 **SEC. 7105. OVERDUE REPORTS, STUDIES, AND**
4 **RULEMAKINGS.**

5 (a) *REQUIREMENT FOR COMPLETION.*—*Within 6*
6 *months after the date of enactment of this Act, the Secretary*
7 *of Transportation shall transmit to the Senate Committee*
8 *on Commerce, Science, and Transportation and the House*
9 *of Representatives Committee on Transportation and Infra-*
10 *structure a schedule for the completion of the following re-*
11 *ports, studies, and rulemaking proceedings:*

12 (1) *Motor Carrier Replacement Information and*
13 *Registration System, section 103, ICC Termination*
14 *Act of 1995.*

15 (2) *General Jurisdiction Over Freight Forwarder*
16 *Service, section 13531, ICC Termination Act of 1995.*

17 (3) *Performance-based CDL Testing, section*
18 *4019, Transportation Equity Act for the Twenty-*
19 *First Century.*

20 (4) *Improved Flow of Driver History Pilot Pro-*
21 *gram, section 4022, Transportation Equity Act for*
22 *the Twenty-First Century.*

23 (5) *Employee Protections, section 4023, Trans-*
24 *portation Equity Act for the Twenty-First Century.*

1 (6) *Federal Motor Carrier Safety Administration*
2 *2010 Strategy, section 104, Motor Carrier Safety Im-*
3 *provement Act of 1999.*

4 (7) *New Motor Carrier Entrant Requirements,*
5 *section 210, Motor Carrier Safety Improvement Act of*
6 *1999.*

7 (8) *Certified Motor Carrier Safety Auditors, sec-*
8 *tion 211, Motor Carrier Safety Improvement Act of*
9 *1999.*

10 (9) *Medical Certificate, section 215, Motor Car-*
11 *rier Safety Improvement Act of 1999.*

12 (10) *Truck Crash Causation Study, section 224,*
13 *Motor Carrier Safety Improvement Act of 1999.*

14 (b) *FINAL RULE REQUIRED.*—*Unless specifically oth-*
15 *erwise permitted by law, rulemaking proceedings shall be*
16 *considered completed for purposes of this section only when*
17 *the Secretary has issued a final rule and the docket for the*
18 *rulemaking proceeding is closed or the rulemaking pro-*
19 *ceeding is withdrawn or terminated and the docket closed*
20 *without further action.*

21 (c) *SCHEDULE FOR COMPLETION.*—*The Secretary*
22 *shall transmit a revised schedule, indicating progress made*
23 *in completing the reports, studies, and rulemaking pro-*
24 *ceedings reported under subsection (a) every 6 months after*
25 *the first such report under subsection (a) until they are*

1 *completed. The Inspector General of the Department of*
2 *Transportation shall monitor whether the schedule is being*
3 *met and report periodically to the Senate Committee on*
4 *Commerce, Science, and Transportation and the House*
5 *Committee on Transportation and Infrastructure on*
6 *progress made in completing the reports, studies, and rule-*
7 *making proceedings.*

8 *(e) COMPLETION OF NEW RULEMAKING PRO-*
9 *CEEDINGS.—Nothing in this section delays or changes the*
10 *deadlines specified for new reports, studies, or rulemaking*
11 *mandates contained in this chapter.*

12 *(f) REPORT OF OTHER AGENCY ACTIONS.—Within 12*
13 *months after the date of enactment of this Act, the Secretary*
14 *shall submit to the Senate Committee on Commerce,*
15 *Science, and Transportation and the House Committee on*
16 *Transportation and Infrastructure a report on the status*
17 *of the following projects:*

18 *(1) Rescinding the current regulation which pro-*
19 *hibits truck and bus drivers from viewing television*
20 *and monitor screens while operating commercial vehi-*
21 *cles.*

22 *(2) Consolidating Out-Of-Service Criteria regu-*
23 *lations enforced by the Federal Motor Carrier Safety*
24 *Administration.*

1 (3) *Revision of the safety fitness rating system of*
2 *motor carriers.*

3 (4) *Amendment of Federal Motor Carrier Safety*
4 *Administration rules of practice for conducting motor*
5 *carrier administrative proceedings, investigations,*
6 *disqualifications, and for issuing penalties.*

7 (5) *Requiring commercial drivers to have a suffi-*
8 *cient functional speaking and reading comprehension*
9 *of the English language.*

10 **SEC. 7106. AMENDMENTS TO THE LISTED REPORTS, STUD-**
11 **IES, AND RULEMAKING PROCEEDINGS.**

12 *In addition to completing the reports, studies, and*
13 *rulemaking proceedings listed in section 7105(a), the Sec-*
14 *retary of Transportation shall—*

15 (1) *cause the Interim Final Rule addressing New*
16 *Motor Carrier Entrant Requirements to be amended*
17 *so as to require that a safety audit be immediately*
18 *converted to a compliance review and appropriate en-*
19 *forcement actions be taken if the safety audit discloses*
20 *acute safety violations by the new entrant; and*

21 (2) *ensure that Federal motor carrier safety reg-*
22 *ulations that apply to interstate operations of com-*
23 *mercial motor vehicles designed to transport between*
24 *9 and 15 passengers (including the driver) apply to*

1 *all interstate operations of such carries regardless of*
2 *the distance traveled.*

3 **SEC. 7107. MOTOR CARRIER SAFETY GRANTS.**

4 (a) *MOTOR CARRIER SAFETY ASSISTANCE PRO-*
5 *GRAM.—*

6 (1) *Section 31102 is amended—*

7 (A) *by striking “activities by fiscal year*
8 *2000;” in subsection (b)(1)(A) and inserting “ac-*
9 *tivities for commercial motor vehicles of pas-*
10 *sengers and freight;”;*

11 (B) *by striking “years before December 18,*
12 *1991;” in subsection (b)(1)(E) and inserting*
13 *“years;”;*

14 (C) *by striking “and” after the semicolon in*
15 *subsection (b)(1)(S);*

16 (D) *by striking “personnel.” in subsection*
17 *(b)(1)(T) and inserting “personnel;”;*

18 (E) *adding at the end of subsection (b)(1)*
19 *the following:*

20 *“(U) ensures that inspections of motor carriers of*
21 *passengers are conducted at stations, terminals, bor-*
22 *der crossings, or maintenance facilities, except in the*
23 *case of an imminent or obvious safety hazard;*

24 (V) *provides that the State will include in the*
25 *training manual for the licensing examination to*

1 *drive a non-commercial motor vehicle and a commer-*
2 *cial motor vehicle, information on best practices for*
3 *driving safely in the vicinity of commercial motor ve-*
4 *hicles and in the vicinity of non-commercial vehicles,*
5 *respectively; and*

6 *“(W) provides that the State will enforce the reg-*
7 *istration requirements of section 13902 by suspending*
8 *the operation of any vehicle discovered to be operating*
9 *without registration or beyond the scope of its reg-*
10 *istration.”; and*

11 *(F) by striking subsection (c) and inserting*
12 *the following:*

13 *“(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—*
14 *A State may use amounts received under a grant under*
15 *subsection (a) of this section for the following activities:*

16 *“(1) If the activities are carried out in conjunc-*
17 *tion with an appropriate inspection of the commer-*
18 *cial motor vehicle to enforce Government or State*
19 *commercial motor vehicle safety regulations—*

20 *“(A) enforcement of commercial motor vehi-*
21 *cle size and weight limitations at locations other*
22 *than fixed weight facilities, at specific locations*
23 *such as steep grades or mountainous terrains*
24 *where the weight of a commercial motor vehicle*
25 *can significantly affect the safe operation of the*

1 *vehicle, or at ports where intermodal shipping*
2 *containers enter and leave the United States;*
3 *and*

4 *“(B) detection of the unlawful presence of a*
5 *controlled substance (as defined under section*
6 *102 of the Comprehensive Drug Abuse Prevention*
7 *and Control Act of 1970 (21 U.S.C. 802)) in a*
8 *commercial motor vehicle or on the person of any*
9 *occupant (including the operator) of the vehicle.*

10 *“(2) Documented enforcement of State traffic*
11 *laws and regulations designed to promote the safe op-*
12 *eration of commercial motor vehicles, including docu-*
13 *mented enforcement of such laws and regulations*
14 *against non-commercial motor vehicles when nec-*
15 *essary to promote the safe operation of commercial*
16 *motor vehicles.”.*

17 *(2) Section 31103(b) is amended—*

18 *(A) by inserting “(1)” after “ACTIVITIES.—*
19 *”; and*

20 *(B) by adding at the end the following:*

21 *“(2) NEW ENTRANT MOTOR CARRIER AUDIT*
22 *FUNDS.—From the amounts designated under section*
23 *31104(f)(4), the Secretary may allocate new entrant*
24 *motor carrier audit funds to States and local govern-*

1 *ments without requiring a matching contribution*
2 *from such States or local governments.”.*

3 *(3) Section 31104(a) is amended to read as fol-*
4 *lows:*

5 *“(a) IN GENERAL.—There are authorized to be appro-*
6 *priated from the Highway Trust Fund (other than the Mass*
7 *Transit Account) to carry out section 31102:*

8 *“(1) Not more than \$193,620,000 for fiscal year*
9 *2006.*

10 *“(2) Not more than \$197,490,000 for fiscal year*
11 *2007.*

12 *“(3) Not more than \$201,440,000 for fiscal year*
13 *2008.*

14 *“(4) Not more than \$205,470,000 for fiscal year*
15 *2009.”.*

16 *(4) Section 31104(f) is amended by striking*
17 *paragraph (2) and inserting the following:*

18 *“(2) HIGH-PRIORITY ACTIVITIES.—The Secretary*
19 *may designate up to \$15,000,000 for each of fiscal*
20 *years 2006 through 2009 from amounts available for*
21 *allocation under paragraph (1) for States, local gov-*
22 *ernments, and organizations representing government*
23 *agencies or officials for carrying out high priority ac-*
24 *tivities and projects that improve commercial motor*
25 *vehicle safety and compliance with commercial motor*

1 *vehicle safety regulations, including activities and*
2 *projects that are national in scope, increase public*
3 *awareness and education, or demonstrate new tech-*
4 *nologies, and will reduce the number and rate of acci-*
5 *dents involving commercial motor vehicles. The*
6 *amounts designated under this paragraph shall be al-*
7 *located by the Secretary to State agencies, local gov-*
8 *ernments, and organizations representing government*
9 *agencies or officials that use and train qualified offi-*
10 *cers and employees in coordination with State motor*
11 *vehicle safety agencies. The Secretary shall establish*
12 *safety performance criteria to be used to distribute*
13 *high priority program funds. At least 80 percent of*
14 *the amounts designated under this paragraph shall be*
15 *awarded to State agencies and local government agen-*
16 *cies.*

17 *“(3) NEW ENTRANT AUDITS.—The Secretary*
18 *shall designate up to \$29,000,000 of the amounts*
19 *available for allocation under paragraph (1) for au-*
20 *ditions of new entrant motor carriers conducted pursu-*
21 *ant to 31144(f). The Secretary may withhold such*
22 *funds from a State or local government that is unable*
23 *to use government employees to conduct new entrant*
24 *motor carrier audits, and may instead utilize the*
25 *funds to conduct audits in those jurisdictions.*

1 “(4) *CDLIS MODERNIZATION.*—*The Secretary*
2 *may designate up to \$2,000,000 for fiscal year 2006*
3 *and up to \$6,000,000 for fiscal years 2007 through*
4 *2009 from amounts available for allocation under*
5 *paragraph (1) for commercial driver’s license infor-*
6 *mation system modernization under section*
7 *31309(f).”.*

8 (b) *GRANTS TO STATES FOR BORDER ENFORCE-*
9 *MENT.*—*Section 31107 is amended to read as follows:*

10 **“§31107. Border enforcement grants**

11 “(a) *GENERAL AUTHORITY.*—*From the funds author-*
12 *ized by section 7103(b)(1) of the Motor Carrier Safety Re-*
13 *authorization Act of 2005, the Secretary may make a grant*
14 *in a fiscal year to a State that shares a border with another*
15 *country for carrying out border commercial motor vehicle*
16 *safety programs and related enforcement activities and*
17 *projects.*

18 “(b) *MAINTENANCE OF EXPENDITURES.*—*The Sec-*
19 *retary may make a grant to a State under this section only*
20 *if the State agrees that the total expenditure of amounts*
21 *of the State and political subdivisions of the State, exclusive*
22 *of United States Government amounts, for carrying out bor-*
23 *der commercial motor vehicle safety programs and related*
24 *enforcement activities and projects will be maintained at*
25 *a level at least equal to the average level of that expenditure*

1 *by the State and political subdivisions of the State for the*
 2 *last 2 State or Federal fiscal years before October 1, 2005.”.*

3 (c) *NONCOMPLIANCE WITH CDL REQUIREMENTS.—*
 4 *Section 31314 is amended by inserting “up to” after “with-*
 5 *hold” in subsections (a) and (b).*

6 (d) *CONFORMING AMENDMENTS.—(1) The chapter*
 7 *analysis for chapter 311 is amended—*

8 (A) *by striking the item relating to Subchapter*
 9 *I, and inserting the following:*

“*SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS*”;

10 *and*

11 (B) *by striking the item relating to section*
 12 *31107, and inserting the following:*

“*31107. Border enforcement grants.*”.

13 (2) *Subchapter I of chapter 311 is amended by striking*
 14 *the subchapter heading and inserting the following:*

“*SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS*”

15 **SEC. 7108. TECHNICAL CORRECTIONS.**

16 (a) *JURISDICTION OF COURT OF APPEALS OVER COM-*
 17 *MERCIAL MOTOR VEHICLE SAFETY REGULATION AND OP-*
 18 *ERATORS AND MOTOR CARRIER SAFETY.—Section*
 19 *2342(3)(A) of title 28, United States Code, is amended by*
 20 *striking “subtitle IV” and inserting “subtitle IV, subchapter*
 21 *III of chapter 311, chapter 313, or chapter 315”.*

1 (b) *JUDICIAL REVIEW*.—Section 351(a) is amended to
2 read as follows:

3 “(a) *JUDICIAL REVIEW*.—An action of the Secretary
4 of Transportation in carrying out a duty or power trans-
5 ferred under the Department of Transportation Act (Public
6 Law 89–670; 80 Stat. 931), or an action of the Adminis-
7 trator of the Federal Railroad Administration, Federal
8 Motor Carrier Safety Administration, or the Federal Avia-
9 tion Administration in carrying out a duty or power spe-
10 cifically assigned to the Administrator by that Act, may
11 be reviewed judicially to the same extent and in the same
12 way as if the action had been an action by the department,
13 agency, or instrumentality of the United States Government
14 carrying out the duty or power immediately before the
15 transfer or assignment.”.

16 (c) *AUTHORITY TO CARRY OUT CERTAIN TRANS-*
17 *FERRED DUTIES AND POWERS*.—Section 352 is amended
18 to read as follows:

19 “§ 352. **Authority to carry out certain transferred du-**
20 **ties and powers**

21 “*In carrying out a duty or power transferred under*
22 *the Department of Transportation Act (Public Law 89–670;*
23 *80 Stat. 931), the Secretary of Transportation and the Ad-*
24 *ministrators of the Federal Railroad Administration, the*
25 *Federal Motor Carrier Safety Administration, and the Fed-*

1 *eral Aviation Administration have the same authority that*
2 *was vested in the department, agency, or instrumentality*
3 *of the United States Government carrying out the duty or*
4 *power immediately before the transfer. An action of the Sec-*
5 *retary or Administrator in carrying out the duty or power*
6 *has the same effect as when carried out by the department,*
7 *agency, or instrumentality.”.*

8 *(d) TRANSFER OF PROVISION.—*

9 *(1) Section 345 of Public Law 104–59 is trans-*
10 *ferred to subchapter III of chapter 311 of title 49,*
11 *United States Code, redesignated as section 31149,*
12 *and inserted after section 31148 as section 31149.*
13 *Section 31149, as transferred by the preceding sen-*
14 *tence, is amended—*

15 *(A) by conforming the section heading to the*
16 *style and format of the section headings in chap-*
17 *ter 311 of title 49, United States Code;*

18 *(B) by striking “of title 49, United States*
19 *Code,” in subsection (a)(1), subsection (a)(5),*
20 *and subsection (e)(4); and*

21 *(C) by striking subsection (f).*

22 *(2) The chapter analysis for chapter 311 is*
23 *amended by inserting after the item relating to sec-*
24 *tion 31148 the following:*

“31149. Exemptions from requirements relating to commercial motor vehicles and their operators.”.

1 (e) *ELIMINATION OF COMMODITY AND SERVICE EX-*
2 *EMPTIONS.*—

3 (1) *Section 13506(a) is amended—*

4 (A) *by striking paragraphs (6), (11), (12),*
5 *(13), and (15);*

6 (B) *by redesignating paragraphs (7), (8),*
7 *(9), (10), and (14) as paragraphs (6), (7), (8),*
8 *(9) and (10), respectively;*

9 (C) *by inserting “or” after the semicolon in*
10 *paragraph (9), as redesignated; and*

11 (D) *striking “13904(d); or” in paragraph*
12 *(10), as redesignated, and inserting “14904(d).”.*

13 (2) *Section 13507 is amended by striking “(6),*
14 *(8), (11), (12), or (13)” and inserting “(6)”.*

15 **SEC. 7109. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

16 *Section 521(b)(2) is amended by adding at the end the*
17 *following:*

18 “(E) *COPYING OF RECORDS AND ACCESS TO EQUIP-*
19 *MENT, LANDS, AND BUILDINGS.*—*A motor carrier subject to*
20 *chapter 51 of subtitle III, a motor carrier, broker, or freight*
21 *forwarder subject to part B of subtitle IV, or the owner or*
22 *operator of a commercial motor vehicle subject to part B*
23 *of subtitle VI of this title who fails to allow the Secretary,*
24 *or an employee designated by the Secretary, promptly upon*
25 *demand to inspect and copy any record or inspect and ex-*

1 *amine equipment, lands, buildings and other property in*
2 *accordance with sections 504(c), 5121(c), and 14122(b) of*
3 *this title shall be liable to the United States for a civil pen-*
4 *alty not to exceed \$500 for each offense, and each day the*
5 *Secretary is denied the right to inspect and copy any record*
6 *or inspect and examine equipment, lands, buildings and*
7 *other property shall constitute a separate offense, except*
8 *that the total of all civil penalties against any violator for*
9 *all offenses related to a single violation shall not exceed*
10 *\$5,000. It shall be a defense to such penalty that the records*
11 *did not exist at the time of the Secretary's request or could*
12 *not be timely produced without unreasonable expense or ef-*
13 *fort. Nothing herein amends or supersedes any remedy*
14 *available to the Secretary under sections 502(d), 507(c), or*
15 *other provision of this title."*

16 **SEC. 7110. MEDICAL PROGRAM.**

17 *(a) IN GENERAL.—Subchapter III of chapter 311, as*
18 *amended by section 7108(d) of this chapter, is amended by*
19 *adding at the end the following:*

20 **“§ 31150. Medical program**

21 *“(a) MEDICAL REVIEW BOARD.—*

22 *“(1) ESTABLISHMENT AND FUNCTION.—The Sec-*
23 *retary of Transportation shall establish a Medical Re-*
24 *view Board to provide the Federal Motor Carrier*
25 *Safety Administration with medical advice and rec-*

1 *ommendations on driver qualification medical stand-*
2 *ards and guidelines, medical examiner education, and*
3 *medical research.*

4 “(2) *COMPOSITION.*—*The Medical Review Board*
5 *shall be appointed by the Secretary and shall consist*
6 *of 5 members selected from medical institutions and*
7 *private practice. The membership shall reflect exper-*
8 *tise in a variety of specialties relevant to the func-*
9 *tions of the Federal Motor Carrier Safety Administra-*
10 *tion.*

11 “(b) *CHIEF MEDICAL EXAMINER.*—*The Secretary shall*
12 *appoint a chief medical examiner who shall be an employee*
13 *of the Federal Motor Carrier Safety Administration accord-*
14 *ing to the SL schedule.*

15 “(c) *MEDICAL STANDARDS AND REQUIREMENTS.*—

16 “(1) *IN GENERAL.*— *The Secretary, with the ad-*
17 *vice of the Medical Review Board and the chief med-*
18 *ical examiner, shall—*

19 “(A) *establish, review, and revise—*

20 “(i) *medical standards for applicants*
21 *for and holders of commercial driver’s li-*
22 *censes that will ensure that the physical*
23 *condition of operators of commercial motor*
24 *vehicles is adequate to enable them to oper-*
25 *ate the vehicles safely;*

1 “(ii) requirements for periodic physical
2 examinations of such operators performed
3 by medical examiners who have successfully
4 completed training in physical and medical
5 examination standards and are listed on a
6 national registry maintained by the De-
7 partment of Transportation; and

8 “(B) issue certificates to such holders and
9 applicants that have been found, upon examina-
10 tion, to be physically qualified to operate a com-
11 mercial motor vehicle and to meet applicable
12 medical standards unless the authority to issue
13 certificates has been delegated to medical exam-
14 iners under subparagraph (d)(2) of this section;

15 “(C) require each holder of a commercial
16 driver’s license or learner’s permit who operates
17 a commercial vehicle in interstate commerce to
18 have a current valid medical certificate;

19 “(D) conduct periodic reviews of a select
20 number of medical examiners on the national
21 registry to ensure that proper examinations of
22 applicants and holders are being conducted;

23 “(E) develop, as appropriate, specific
24 courses and materials for medical examiners list-
25 ed in the national registry established under this

1 *section, and require those medical examiners to*
2 *complete specific training, including refresher*
3 *courses, to be listed in the registry;*

4 “(F) *require medical examiners to transmit*
5 *the name of the applicant and numerical identi-*
6 *fier, as determined by the Administrator, for any*
7 *completed medical examination report required*
8 *under section 391.43 of title 49, Code of Federal*
9 *Regulations, electronically to the Chief Medical*
10 *Examiner on monthly basis; and*

11 “(G) *periodically review a representative*
12 *sample of the medical examination reports asso-*
13 *ciated with the name and numerical identifiers*
14 *of applicants transmitted under subparagraph*
15 *(F) for errors, omissions, or other indications of*
16 *improper certification.*

17 “(2) *MONITORING PERFORMANCE.—The Sec-*
18 *retary shall investigate patterns of errors or improper*
19 *certification by a medical examiner. If the Secretary*
20 *finds that a medical examiner has issued a medical*
21 *certificate to an applicant or holder who fails to meet*
22 *the applicable standards at the time of the examina-*
23 *tion, such a medical examiner may be removed from*
24 *the registry and the medical certificate of the appli-*
25 *cant or holder may be deemed void.*

1 “(d) *NATIONAL REGISTRY OF MEDICAL EXAMINERS.*—
2 *The Secretary, through the Federal Motor Carrier Safety*
3 *Administration—*

4 “(1) *shall establish and maintain a current na-*
5 *tional registry of medical examiners who are qualified*
6 *to perform examinations and issue medical certifi-*
7 *cates;*

8 “(2) *shall delegate to those examiners the author-*
9 *ity to issue such certificates upon successfully com-*
10 *pleting the required training;*

11 “(3) *shall remove from the registry the name of*
12 *any medical examiner that fails to meet or maintain*
13 *the qualifications established by the Secretary for*
14 *being listed in the registry or otherwise does not meet*
15 *the requirements of this section or regulation issued*
16 *there under; and*

17 “(4) *shall accept as valid only medical certifi-*
18 *cates issued by persons on the national registry of*
19 *medical examiners.*

20 “(e) *REGULATIONS.*—*The Secretary is authorized to*
21 *promulgate such regulations as may be necessary to carry*
22 *out this section.”.*

23 “(b) *MEDICAL EXAMINERS.*—*Section 31136(a)(3) is*
24 *amended to read as follows:*

1 “(3) *the physical condition of operators of com-*
2 *mercial motor vehicles is adequate to enable them to*
3 *operate the vehicles safely, and the periodic physical*
4 *examinations required of such operators are per-*
5 *formed by medical examiners who have received*
6 *training in physical and medical examination stand-*
7 *ards and are listed on a national registry maintained*
8 *by the Department of Transportation; and”.*

9 (c) *DEFINITION OF MEDICAL EXAMINER.*—Section
10 *31132 is amended—*

11 (1) *by redesignating paragraphs (6) through (10)*
12 *as paragraphs (7) through (11), respectively; and*

13 (2) *by inserting after paragraph (5) the fol-*
14 *lowing:*

15 “(6) *‘medical examiner’ means an individual li-*
16 *icensed, certified, or registered in accordance with reg-*
17 *ulations issued by the Federal Motor Carrier Safety*
18 *Administration as a medical examiner.”.*

19 (d) *FUNDING.*—Amounts made available pursuant to
20 *section 31104(i)(1) of title 49, United States Code, shall be*
21 *used by the Secretary to carry out section 31150 of title*
22 *49, United States Code.*

23 (e) *CONFORMING AMENDMENT.*—*The chapter analysis*
24 *for chapter 311, as amended by section 7108(d) of this chap-*

1 *ter, is amended by inserting after the item relating to sec-*
2 *tion 31149 the following:*

“31150. Medical program”.

3 (f) *EFFECTIVE DATE.*—*The amendment made by sub-*
4 *section (a) shall take effect 1 year after the date of enact-*
5 *ment of this Act.*

6 **SEC. 7111. OPERATION OF COMMERCIAL MOTOR VEHICLES**
7 **BY INDIVIDUALS WHO USE INSULIN TO TREAT**
8 **DIABETES MELLITUS.**

9 (a) *REVISION OF FINAL RULE.*—*Not later than 90*
10 *days after the date of the enactment of this Act, the Sec-*
11 *retary shall revise the final rule to allow individuals who*
12 *use insulin to treat their diabetes to operate commercial*
13 *motor vehicles in interstate commerce. The revised final rule*
14 *shall provide for the individual assessment of applicants*
15 *who use insulin to treat their diabetes and who are, except*
16 *for their use of insulin, otherwise qualified under the Fed-*
17 *eral Motor Carrier Safety Regulations. The revised final*
18 *rule shall be consistent with the criteria described in section*
19 *4018 of the Transportation Equity Act for the 21st Century*
20 *(49 U.S.C. 31305 note) and shall conclude the rulemaking*
21 *process in the Federal Motor Carrier Safety Administration*
22 *docket relating to qualifications of drivers with diabetes.*

23 (b) *NO HISTORY OF DRIVING WHILE USING INSULIN*
24 *REQUIRED FOR QUALIFICATION.*—*The Secretary may not*
25 *require individuals to have experience operating commer-*

1 *cial motor vehicles while using insulin in order to qualify*
2 *to operate a commercial motor vehicle in interstate com-*
3 *merce.*

4 *(c) HISTORY OF DIABETES CONTROL.—The Secretary*
5 *may require an individual to have used insulin for a min-*
6 *imum period of time and demonstrated stable control of di-*
7 *abetes in order to qualify to operate a commercial motor*
8 *vehicle in interstate commerce. Any such requirement, in-*
9 *cluding any requirement with respect to the duration of*
10 *such insulin use, shall be consistent with the findings of*
11 *the expert medical panel reported in July 2000 in “A Re-*
12 *port to Congress on the Feasibility of a Program to Qualify*
13 *Individuals with Insulin-Treated Diabetes Mellitus to Op-*
14 *erate Commercial Motor Vehicles in Interstate Commerce*
15 *as Directed by the Transportation Equity Act for the 21st*
16 *Century”.*

17 *(d) APPLICABLE STANDARD.—The Secretary shall en-*
18 *sure that individuals who use insulin to treat their diabetes*
19 *are not held to a higher standard than other qualified com-*
20 *mercial drivers, except to the extent that limited operating,*
21 *monitoring, or medical requirements are deemed medically*
22 *necessary by experts in the field of diabetes medicine.*

23 **SEC. 7112. FINANCIAL RESPONSIBILITY FOR PRIVATE**
24 **MOTOR CARRIERS.**

25 *(a) TRANSPORTATION OF PASSENGERS.—*

1 (1) *Section 31138(a) is amended to read as fol-*
2 *lows:*

3 “(a) *GENERAL REQUIREMENT.—The Secretary of*
4 *Transportation shall prescribe regulations to require min-*
5 *imum levels of financial responsibility sufficient to satisfy*
6 *liability amounts established by the Secretary covering pub-*
7 *lic liability and property damage for the transportation of*
8 *passengers by motor vehicle in the United States between*
9 *a place in a State and—*

10 “(1) *a place in another State;*

11 “(2) *another place in the same State through a*
12 *place outside of that State; or*

13 “(3) *a place outside the United States.*”.

14 (2) *Section 31138(c) is amended by adding at*
15 *the end the following:*

16 “(4) *The Secretary may require a person, other*
17 *than a motor carrier as defined in section 13102(12)*
18 *of this title, transporting passengers by motor vehicle*
19 *to file with the Secretary the evidence of financial re-*
20 *sponsibility specified in subsection (c)(1) of this sec-*
21 *tion in an amount not less than that required by this*
22 *section, and the laws of the State or States in which*
23 *the person is operating, to the extent applicable. The*
24 *extent of the financial responsibility must be suffi-*
25 *cient to pay, not more than the amount of the finan-*

1 *cial responsibility, for each final judgment against*
 2 *the person for bodily injury to, or death of, an indi-*
 3 *vidual resulting from the negligent operation, mainte-*
 4 *nance, or use of motor vehicles, or for loss or damage*
 5 *to property, or both.”.*

6 **(b) TRANSPORTATION OF PROPERTY.**—*Section 31139*
 7 *is amended—*

8 *(1) by striking so much of subsection (b) as pre-*
 9 *cedes paragraph (2) and inserting the following:*

10 **“(b) GENERAL REQUIREMENTS AND MINIMUM**
 11 **AMOUNT.—**

12 *“(1) The Secretary of Transportation shall pre-*
 13 *scribe regulations to require minimum levels of finan-*
 14 *cial 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) by aligning the left margin of paragraph (2)*
 25 *of subsection (b) with the left margin of paragraph*

1 (1) of that subsection (as amended by paragraph (1)
2 of this subsection); and

3 (3) by redesignating subsection (c) through (g) as
4 subsections (d) through (h), respectively, and inserting
5 after subsection (b) the following:

6 “(c) *FILING OF EVIDENCE OF FINANCIAL RESPONSIBI-*
7 *LITY.*—The Secretary may require a motor private car-
8 rier, as defined in section 13102 of this title, to file with
9 the Secretary the evidence of financial responsibility speci-
10 fied in subsection (b) of this section in an amount not less
11 than that required by this section, and the laws of the State
12 or States in which the motor private carrier is operating,
13 to the extent applicable. The amount of the financial re-
14 sponsibility must be sufficient to pay, not more than the
15 amount of the financial responsibility, for each final judg-
16 ment against the motor private carrier for bodily injury
17 to, or death of, an individual resulting from negligent oper-
18 ation, maintenance, or use of motor vehicles, or for loss or
19 damage to property, or both.”.

20 **SEC. 7113. INCREASED PENALTIES FOR OUT-OF-SERVICE**
21 **VIOLATIONS AND FALSE RECORDS.**

22 (a) Section 521(b)(2)(B) is amended to read as follows:

23 “(B) *RECORDKEEPING AND REPORTING VIOLA-*
24 *TIONS.*—A person required to make a report to the
25 Secretary, answer a question, or make, prepare, or

1 *preserve a record under section 504 of this title or*
2 *under any regulation issued by the Secretary pursu-*
3 *ant to subchapter III of chapter 311 (except sections*
4 *31138 and 31139) or section 31502 of this title about*
5 *transportation by motor carrier, motor carrier of mi-*
6 *grant workers, or motor private carrier, or an officer,*
7 *agent, or employee of that person—*

8 *“(i) who does not make that report, does not*
9 *specifically, completely, and truthfully answer*
10 *that question in 30 days from the date the Sec-*
11 *retary requires the question to be answered, or*
12 *does not make, prepare, or preserve that record*
13 *in the form and manner prescribed by the Sec-*
14 *retary, shall be liable to the United States for a*
15 *civil penalty in an amount not to exceed \$1,000*
16 *for each offense, and each day of the violation*
17 *shall constitute a separate offense, except that the*
18 *total of all civil penalties assessed against any*
19 *violation shall not exceed \$10,000; or*

21 *“(ii) who knowingly falsifies, destroys, mu-*
22 *tilates, or changes a required report or record,*
23 *knowingly files a false report with the Secretary,*
24 *knowingly makes or causes or permits to be*
25 *made a false or incomplete entry in that record*

1 *about an operation or business fact or trans-*
2 *action, or knowingly makes, prepares, or pre-*
3 *serves a record in violation of a regulation or*
4 *order of the Secretary, shall be liable to the*
5 *United States for a civil penalty in an amount*
6 *not to exceed \$10,000 for each violation, if any*
7 *such action can be shown to have misrepresented*
8 *a fact that constitutes a violation other than a*
9 *reporting or recordkeeping violation.”.*

10 *(b) Section 31310(i)(2) is amended to read as follows:*

11 *“(2) The Secretary shall prescribe regulations es-*
12 *tablishing sanctions and penalties related to viola-*
13 *tions of out-of-service orders by individuals operating*
14 *commercial motor vehicles. The regulations shall re-*
15 *quire at least that—*

16 *“(A) an operator of a commercial motor ve-*
17 *hicle found to have committed a first violation of*
18 *an out-of-service order shall be disqualified from*
19 *operating such a vehicle for at least 180 days*
20 *and liable for a civil penalty of at least \$2,500;*

21 *“(B) an operator of a commercial motor ve-*
22 *hicle found to have committed a second violation*
23 *of an out-of-service order shall be disqualified*
24 *from operating such a vehicle for at least 2 years*

1 *and not more than 5 years and liable for a civil*
2 *penalty of at least \$5,000;*

3 “(C) *an employer that knowingly allows or*
4 *requires an employee to operate a commercial*
5 *motor vehicle in violation of an out-of-service*
6 *order shall be liable for a civil penalty of not*
7 *more than \$25,000; and*

8 “(D) *an employer that knowingly and will-*
9 *fully allows or requires an employee to operate*
10 *a commercial motor vehicle in violation of an*
11 *out-of-service order shall, upon conviction, be*
12 *subject for each offense to imprisonment for a*
13 *term not to exceed 1 year or a fine under title*
14 *18, United States Code, or both.”*

15 **SEC. 7114. INTRASTATE OPERATIONS OF INTERSTATE**
16 **MOTOR CARRIERS.**

17 *(a) Subsection (a) of section 31144 is amended to read*
18 *as follows:*

19 “(a) *IN GENERAL.—The Secretary shall—*

20 “(1) *determine whether an owner or operator is*
21 *fit to operate safely commercial motor vehicles, uti-*
22 *lizing among other things the accident record of an*
23 *owner or operator operating in interstate commerce*
24 *and the accident record and safety inspection record*
25 *of such owner or operator in operations that affect*

1 *interstate commerce within the United States, and in*
2 *Canada and Mexico if the owner or operator also con-*
3 *ducts operations within the United States;*

4 “(2) *periodically update such safety fitness deter-*
5 *minations;*

6 “(3) *make such final safety fitness determina-*
7 *tions readily available to the public; and*

8 “(4) *prescribe by regulation penalties for viola-*
9 *tions of this section consistent with section 521.”*

10 *(b) Subsection (c) of section 31144 is amended by add-*
11 *ing at the end the following:*

12 “(5) *TRANSPORTATION AFFECTING INTERSTATE*
13 *COMMERCE.—Owners or operators of commercial*
14 *motor vehicles prohibited from operating in interstate*
15 *commerce pursuant to paragraphs (1) through (3) of*
16 *this section may not operate any commercial motor*
17 *vehicle that affects interstate commerce until the Sec-*
18 *retary determines that such owner or operator is fit.”*

19 *(c) Section 31144 is amended by redesignating sub-*
20 *sections (d), (e), and the second subsection (c) as subsections*
21 *(e), (f), and (g), respectively, and inserting after subsection*
22 *(c) the following:*

23 “(d) *DETERMINATION OF UNFITNESS BY A STATE.—*
24 *If a State that receives Motor Carrier Safety Assistance*
25 *Program funds pursuant to section 31102 of this title deter-*

1 *mines, by applying the standards prescribed by the Sec-*
2 *retary under subsection (b) of this section, that an owner*
3 *or operator of commercial motor vehicles that has its prin-*
4 *cipal place of business in that State and operates in intra-*
5 *state commerce is unfit under such standards and prohibits*
6 *the owner or operator from operating such vehicles in the*
7 *State, the Secretary shall prohibit the owner or operator*
8 *from operating such vehicles in interstate commerce until*
9 *the State determines that the owner or operator is fit.”.*

10 **SEC. 7115. AUTHORITY TO STOP COMMERCIAL MOTOR VEHI-**
11 **CLES.**

12 *(a) IN GENERAL.—Chapter 2 of title 18, United States*
13 *Code, is amended by adding at the end the following:*

14 **“§ 39. Commercial motor vehicles required to stop for**
15 **inspections**

16 *“(a) A driver of a commercial motor vehicle, as defined*
17 *in section 31132(1) of title 49, shall stop and submit to*
18 *inspection of the vehicle, driver, cargo, and required records*
19 *when directed to do so by an authorized employee of the*
20 *Federal Motor Carrier Safety Administration, Department*
21 *of Transportation, at or in the vicinity of an inspection*
22 *site. The driver shall not leave the inspection site until au-*
23 *thorized to do so by an authorized employee.*

24 *“(b) A driver of a commercial motor vehicle, as defined*
25 *in subsection (a), who knowingly fails to stop for inspection*

1 *when directed to do so by an authorized employee of the*
 2 *Federal Motor Carrier Safety Administration at or in the*
 3 *vicinity of an inspection site, or leaves the inspection site*
 4 *without authorization, shall be fined under this title or im-*
 5 *prisoned not more than 1 year, or both.”.*

6 (b) *AUTHORITY OF FMCSA.*—Chapter 203 of title 18,
 7 *United States Code, is amended by adding at the end the*
 8 *following:*

9 **“§ 3064. Powers of Federal Motor Carrier Safety Ad-**
 10 **ministration**

11 *“Authorized employees of the Federal Motor Carrier*
 12 *Safety Administration may direct a driver of a commercial*
 13 *motor vehicle, as defined in 49 U.S.C. 31132(1), to stop*
 14 *for inspection of the vehicle, driver, cargo, and required*
 15 *records at or in the vicinity of an inspection site.”.*

16 (c) *CONFORMING AMENDMENTS.*—

17 (1) *The chapter analysis for chapter 2 of title 18,*
 18 *United States Code, is amended by inserting after the*
 19 *item relating to section 38 the following:*

“39. Commercial motor vehicles required to stop for inspections.”.

20 (2) *The chapter analysis for chapter 203 of title*
 21 *18, United States Code, is amended by inserting after*
 22 *the item relating to section 3063 the following:*

“3064. Powers of Federal Motor Carrier Safety Administration.”.

23 **SEC. 7116. REVOCATION OF OPERATING AUTHORITY.**

24 *Section 13905(e) is amended—*

1 (1) *by striking paragraph (1) and inserting the*
2 *following:*

3 “(1) *PROTECTION OF SAFETY.*—*Notwithstanding*
4 *subchapter II of chapter 5 of title 5, the Secretary—*

5 “(A) *may suspend the registration of a*
6 *motor carrier, a freight forwarder, or a broker*
7 *for failure to comply with requirements of the*
8 *Secretary pursuant to section 13904(c) or 13906*
9 *of this title, or an order or regulation of the Sec-*
10 *retary prescribed under those sections; and*

11 “(B) *shall revoke the registration of a motor*
12 *carrier that has been prohibited from operating*
13 *in interstate commerce for failure to comply with*
14 *the safety fitness requirements of section 31144 of*
15 *this title.”;*

16 (2) *by striking “may suspend a registration” in*
17 *paragraph (2) and inserting “shall revoke the reg-*
18 *istration”;* and

19 (3) *by striking paragraph (3) and inserting the*
20 *following:*

21 “(3) *NOTICE; PERIOD OF SUSPENSION.*—*The Sec-*
22 *retary may suspend or revoke under this subsection*
23 *the registration only after giving notice of the suspen-*
24 *sion or revocation to the registrant. A suspension re-*
25 *mains in effect until the registrant complies with the*

1 applicable sections or, in the case of a suspension
2 under paragraph (2), until the Secretary revokes the
3 suspension.”.

4 **SEC. 7117. PATTERN OF SAFETY VIOLATIONS BY MOTOR**
5 **CARRIER MANAGEMENT.**

6 (a) *IN GENERAL.*—Section 31135 is amended—

7 (1) by inserting “(a) *IN GENERAL.*—” before
8 “Each”; and

9 (2) by adding at the end the following:

10 “(b) *PATTERN OF NON-COMPLIANCE.*—If an officer of
11 a motor carrier engages in a pattern or practice of avoiding
12 compliance, or masking or otherwise concealing non-com-
13 pliance, with regulations on commercial motor vehicle safe-
14 ty prescribed under this subchapter, the Secretary may sus-
15 pend, amend, or revoke any part of the motor carrier’s reg-
16 istration under section 13905 of this title.

17 “(c) *REGULATIONS.*—Within 1 year after the date of
18 enactment of the Motor Carrier Safety Reauthorization Act
19 of 2005, the Secretary shall by regulation establish stand-
20 ards to implement subsection (b).

21 “(d) *DEFINITIONS.*—In this section:

22 “(1) *MOTOR CARRIER.*—The term ‘motor carrier’
23 has the meaning given the term in section 13102(12)
24 of this title.

1 “(2) *OFFICER.*—*The term ‘officer’ means an*
 2 *owner, director, chief executive officer, chief operating*
 3 *officer, chief financial officer, safety director, vehicle*
 4 *maintenance supervisor, and driver supervisor of a*
 5 *motor carrier, regardless of the title attached to those*
 6 *functions, and any person, however designated, exer-*
 7 *cising controlling influence over the operations of the*
 8 *motor carrier.”.*

9 (b) *CROSS-REFERENCE.*—*Section 13902(a)(1)(B) is*
 10 *amended to read as follows:*

11 “(B) *any safety regulations imposed by the Sec-*
 12 *retary, the duties of employers and employees estab-*
 13 *lished by the Secretary under section 31135, and the*
 14 *safety fitness requirements established by the Sec-*
 15 *retary under section 31144; and”.*

16 **SEC. 7118. MOTOR CARRIER RESEARCH AND TECHNOLOGY**
 17 **PROGRAM.**

18 (a) *IN GENERAL.*—*Section 31108 is amended to read*
 19 *as follows:*

20 **“§ 31108. Motor carrier research and technology pro-**
 21 **gram**

22 “(a) *RESEARCH, TECHNOLOGY, AND TECHNOLOGY*
 23 *TRANSFER ACTIVITIES.*—

24 “(1) *The Secretary of Transportation shall estab-*
 25 *lish and carry out a motor carrier and motor coach*

1 *research and technology program. The Secretary may*
2 *carry out research, development, technology, and tech-*
3 *nology transfer activities with respect to—*

4 “(A) *the causes of accidents, injuries and*
5 *fatalities involving commercial motor vehicles;*
6 *and*

7 “(B) *means of reducing the number and se-*
8 *verity of accidents, injuries and fatalities involv-*
9 *ing commercial motor vehicles.*

10 “(2) *The Secretary may test, develop, or assist in*
11 *testing and developing any material, invention, pat-*
12 *ented article, or process related to the research and*
13 *technology program.*

14 “(3) *The Secretary may use the funds appro-*
15 *priated to carry out this section for training or edu-*
16 *cation of commercial motor vehicle safety personnel,*
17 *including, but not limited to, training in accident re-*
18 *construction and detection of controlled substances or*
19 *other contraband, and stolen cargo or vehicles.*

20 “(4) *The Secretary may carry out this section—*

21 “(A) *independently;*

22 “(B) *in cooperation with other Federal de-*
23 *partments, agencies, and instrumentalities and*
24 *Federal laboratories; or*

1 “(C) *by making grants to, or entering into*
2 *contracts, cooperative agreements, and other*
3 *transactions with, any Federal laboratory, State*
4 *agency, authority, association, institution, for-*
5 *profit or non-profit corporation, organization,*
6 *foreign country, or person.*

7 “(5) *The Secretary shall use funds made avail-*
8 *able to carry out this section to develop, administer,*
9 *communicate, and promote the use of products of re-*
10 *search, technology, and technology transfer programs*
11 *under this section.*

12 “(b) *COLLABORATIVE RESEARCH AND DEVELOP-*
13 *MENT.—*

14 “(1) *To advance innovative solutions to problems*
15 *involving commercial motor vehicle and motor carrier*
16 *safety, security, and efficiency, and to stimulate the*
17 *deployment of emerging technology, the Secretary*
18 *may carry out, on a cost-shared basis, collaborative*
19 *research and development with—*

20 “(A) *non-Federal entities, including State*
21 *and local governments, foreign governments, col-*
22 *leges and universities, corporations, institutions,*
23 *partnerships, and sole proprietorships that are*
24 *incorporated or established under the laws of any*
25 *State; and*

1 “(B) *Federal laboratories.*

2 “(2) *In carrying out this subsection, the Sec-*
3 *retary may enter into cooperative research and devel-*
4 *opment agreements (as defined in section 12 of the*
5 *Stevenson-Wydler Technology Innovation Act of 1980*
6 *(15 U.S.C. 3710a)).*

7 “(3)(A) *The Federal share of the cost of activities*
8 *carried out under a cooperative research and develop-*
9 *ment agreement entered into under this subsection*
10 *shall not exceed 50 percent, except that if there is sub-*
11 *stantial public interest or benefit, the Secretary may*
12 *approve a greater Federal share.*

13 “(B) *All costs directly incurred by the non-Fed-*
14 *eral partners, including personnel, travel, and hard-*
15 *ware or software development costs, shall be credited*
16 *toward the non-Federal share of the cost of the activi-*
17 *ties described in subparagraph (A).*

18 “(4) *The research, development, or use of a tech-*
19 *nology under a cooperative research and development*
20 *agreement entered into under this subsection, includ-*
21 *ing the terms under which the technology may be li-*
22 *icensed and the resulting royalties may be distributed,*
23 *shall be subject to the Stevenson-Wydler Technology*
24 *Innovation Act of 1980 (15 U.S.C. 3701 et seq.).*

1 “(c) *AVAILABILITY OF AMOUNTS.*—*The amounts made*
2 *available under section 7103(a) of the Motor Carrier Safety*
3 *Reauthorization Act of 2005 to carry out this section shall*
4 *remain available until expended.*”

5 “(d) *CONTRACT AUTHORITY.*—*Approval by the Sec-*
6 *retary of a grant with funds made available under section*
7 *7103(a) of the Motor Carrier Safety Reauthorization Act*
8 *of 2005 to carry out this section imposes upon the United*
9 *States Government a contractual obligation for payment of*
10 *the Government’s share of costs incurred in carrying out*
11 *the objectives of the grant.*”

12 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
13 *for chapter 311 is amended by striking the item relating*
14 *to section 31108, and inserting the following:*

 “31108. *Motor carrier research and technology program.*”

15 **SEC. 7119. INTERNATIONAL COOPERATION.**

16 (a) *IN GENERAL.*—*Chapter 311 is amended by insert-*
17 *ing at the end the following:*

18 **“Subchapter IV—Miscellaneous**

19 **“§ 31161. International cooperation**

20 *“The Secretary is authorized to use funds appro-*
21 *priated under section 31104(i) of this title to participate*
22 *and cooperate in international activities to enhance motor*
23 *carrier, commercial motor vehicle, driver, and highway*
24 *safety by such means as exchanging information, con-*

1 ducting research, and examining needs, best practices, and
2 new technology.”.

3 (b) *CLERICAL AMENDMENT.*—The chapter analysis for
4 chapter 311 is amended by adding at the end the following:

“SUBCHAPTER IV—MISCELLANEOUS

“31161. *International cooperation.*”.

5 **SEC. 7120. PERFORMANCE AND REGISTRATION INFORMA-**
6 **TION SYSTEM MANAGEMENT.**

7 (a) *IN GENERAL.*—Section 31106(b) is amended—

8 (1) by striking paragraphs (2) and (3) and in-
9 serting the following:

10 “(2) *DESIGN.*—The program shall link Federal
11 motor carrier safety information systems with State
12 commercial vehicle registration and licensing systems
13 and shall be designed to enable a State to—

14 “(A) determine the safety fitness of a motor
15 carrier or registrant when licensing or reg-
16 istering the registrant or motor carrier or while
17 the license or registration is in effect; and

18 “(B) deny, suspend, or revoke the commer-
19 cial motor vehicle registrations of a motor car-
20 rier or registrant that has been issued an oper-
21 ations out-of-service order by the Secretary.

1 “(3) *CONDITIONS FOR PARTICIPATION.*—*The Sec-*
2 *retary shall require States, as a condition of partici-*
3 *pation in the program, to—*

4 “(A) *comply with the uniform policies, pro-*
5 *cedures, and technical and operational standards*
6 *prescribed by the Secretary under subsection*
7 *(a)(4);*

8 “(B) *possess the authority to impose sanc-*
9 *tions relating to commercial motor vehicle reg-*
10 *istration on the basis of a Federal safety fitness*
11 *determination; and*

12 “(C) *cancel the motor vehicle registration*
13 *and seize the registration plates of an employer*
14 *found liable under section 31310(i)(2)(C) of this*
15 *title for knowingly allowing or requiring an em-*
16 *ployee to operate a commercial motor vehicle in*
17 *violation of an out-of-service order.”; and*
18 *(2) by striking paragraph (4).*

19 **(b) *PERFORMANCE AND REGISTRATION INFORMATION***
20 ***SYSTEM MANAGEMENT GRANTS.*—**

21 (1) *Subchapter I of chapter 311, as amended by*
22 *section 7118 of this chapter, is further amended by*
23 *adding at the end the following:*

1 **“§31109. Performance and Registration Information**
 2 **System Management**

3 “(a) *IN GENERAL.*—From the funds authorized by sec-
 4 tion 7103(b)(2) of the Motor Carrier Safety Reauthoriza-
 5 tion Act of 2005, the Secretary may make a grant in a
 6 fiscal year to a State to implement the performance and
 7 registration information system management requirements
 8 of section 31106(b).

9 “(b) *AVAILABILITY OF AMOUNTS.*—Amounts made
 10 available to a State under section 7103(b)(2) of the Motor
 11 Carrier Safety Reauthorization Act of 2005 to carry out
 12 this section shall remain available until expended.

13 “(c) *SECRETARY’S APPROVAL.*—Approval by the Sec-
 14 retary of a grant to a State under section 7103(b)(2) of
 15 the Motor Carrier Safety Reauthorization Act of 2005 to
 16 carry out this section is a contractual obligation of the Gov-
 17 ernment for payment of the amount of the grant.”.

18 (2) *CONFORMING AMENDMENT.*—The chapter
 19 analysis for chapter 311 is amended by inserting
 20 after the item relating to section 31108 the following:

“31109. Performance and Registration Information System Management.”.

21 **SEC. 7121. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
 22 **AND NETWORKS DEPLOYMENT.**

23 (a) *IN GENERAL.*—Subchapter III of chapter 311, as
 24 amended by section 7110, is amended by adding at the end
 25 the following:

1 **“§31151. Commercial vehicle information systems and**
2 **networks**

3 “(a) *IN GENERAL.*—*The Secretary shall carry out a*
4 *commercial vehicle information systems and networks pro-*
5 *gram to—*

6 “(1) *improve the safety and productivity of com-*
7 *mmercial vehicles; and*

8 “(2) *reduce costs associated with commercial ve-*
9 *hicle operations and Federal and State commercial*
10 *vehicle regulatory requirements.*

11 “(b) *PURPOSE.*—*The program shall advance the tech-*
12 *nological capability and promote the deployment of intel-*
13 *ligent transportation system applications for commercial*
14 *vehicle operations, including commercial vehicle, commer-*
15 *cial driver, and carrier-specific information systems and*
16 *networks.*

17 “(c) *CORE DEPLOYMENT GRANTS.*—

18 “(1) *IN GENERAL.*—*The Secretary shall make*
19 *grants to eligible States for the core deployment of*
20 *commercial vehicle information systems and networks.*

21 “(2) *ELIGIBILITY.*—*To be eligible for a core de-*
22 *ployment grant under this section, a State—*

23 “(A) *shall have a commercial vehicle infor-*
24 *mation systems and networks program plan and*
25 *a system design approved by the Secretary;*

1 “(B) shall certify to the Secretary that its
2 commercial vehicle information systems and net-
3 works deployment activities, including hardware
4 procurement, software and system development,
5 and infrastructure modifications, are consistent
6 with the national intelligent transportation sys-
7 tems and commercial vehicle information sys-
8 tems and networks architectures and available
9 standards, and promote interoperability and effi-
10 ciency to the extent practicable; and

11 “(C) shall agree to execute interoperability
12 tests developed by the Federal Motor Carrier
13 Safety Administration to verify that its systems
14 conform with the national intelligent transpor-
15 tation systems architecture, applicable stand-
16 ards, and protocols for commercial vehicle infor-
17 mation systems and networks.

18 “(3) AMOUNT OF GRANTS.—The maximum ag-
19 gregate amount a State may receive under this sec-
20 tion for the core deployment of commercial vehicle in-
21 formation systems and networks may not exceed
22 \$2,500,000.

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 systems

1 *and networks. Eligible States that have either com-*
2 *pleted the core deployment of commercial vehicle in-*
3 *formation systems and networks or completed such de-*
4 *ployment before core deployment grant funds are ex-*
5 *pendent may use the remaining core deployment grant*
6 *funds for the expanded deployment of commercial ve-*
7 *hicle information systems and networks in their*
8 *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 eligi-*
14 *ble State, upon request, for the expanded deployment*
15 *of commercial vehicle information systems and net-*
16 *works.*

17 “(2) *ELIGIBILITY.*—*Each State that has com-*
18 *pleted the core deployment of commercial vehicle in-*
19 *formation systems and networks is eligible for an ex-*
20 *panded 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 \$1,000,000 per State.*

1 “(4) *USE OF FUNDS.*—*A State may use funds*
2 *from a grant under this subsection only for the ex-*
3 *expanded deployment of commercial vehicle information*
4 *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) *AVAILABILITY OF FUNDS.*—*Funds authorized to be*
11 *appropriated under section 7103(b)(4) of the Motor Carrier*
12 *Safety Reauthorization Act of 2005 shall be available for*
13 *obligation in the same manner and to the same extent as*
14 *if such funds were apportioned under chapter 1 of title 23,*
15 *United States Code, except that such funds shall remain*
16 *available until expended.*

17 “(g) *DEFINITIONS.*—*In this section:*

18 “(1) *COMMERCIAL VEHICLE INFORMATION SYS-*
19 *TEMS AND NETWORKS.*—*The term ‘commercial vehicle*
20 *information systems and networks’ means the infor-*
21 *mation systems and communications networks that*
22 *provide the capability to—*

23 “(A) *improve the safety of commercial vehi-*
24 *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 enforce-
5 ment 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 commercial
11 vehicles across the United States and across
12 international borders; and

13 “(E) promote the communication of infor-
14 mation among the States and encourage
15 multistate cooperation and corridor development.

16 “(2) *COMMERCIAL VEHICLE OPERATIONS*.—The
17 term ‘commercial vehicle operations’—

18 “(A) means motor carrier operations and
19 motor vehicle regulatory activities associated
20 with the commercial movement of goods, includ-
21 ing hazardous materials, and passengers; and

22 “(B) with respect to the public sector, in-
23 cludes the issuance of operating credentials, the
24 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.*—
8 *Safety information exchange to—*

9 “(i) *electronically collect and transmit*
10 *commercial vehicle and driver inspection*
11 *data at a majority of inspection sites;*

12 “(ii) *connect to the Safety and Fitness*
13 *Electronic Records system for access to*
14 *interstate carrier and commercial vehicle*
15 *data, summaries of past safety performance,*
16 *and commercial vehicle credentials informa-*
17 *tion; and*

18 “(iii) *exchange carrier data and com-*
19 *mmercial vehicle safety and credentials infor-*
20 *mation within the State and connect to*
21 *Safety and Fitness Electronic Records for*
22 *access to interstate carrier and commercial*
23 *vehicle data.*

1 “(B) *INTERSTATE CREDENTIALS ADMINIS-*
2 *TRATION.—Interstate credentials administration*
3 *to—*

4 “(i) *perform end-to-end processing, in-*
5 *cluding carrier application, jurisdiction ap-*
6 *plication processing, and credential*
7 *issuance, of at least the International Reg-*
8 *istration Plan and International Fuel Tax*
9 *Agreement credentials and subsequently ex-*
10 *tend this processing to other credentials, in-*
11 *cluding intrastate, titling, oversize/over-*
12 *weight, carrier registration, and hazardous*
13 *materials;*

14 “(ii) *connect to the International Reg-*
15 *istration Plan and International Fuel Tax*
16 *Agreement clearinghouses; and*

17 “(iii) *have at least 10 percent of the*
18 *transaction volume handled electronically,*
19 *and have the capability to add more car-*
20 *riers and to extend to branch offices where*
21 *applicable.*

22 “(C) *ROADSIDE SCREENING.—Roadside*
23 *electronic screening to electronically screen trans-*
24 *ponder-equipped commercial vehicles at a min-*

1 *imum of 1 fixed or mobile inspection sites and*
 2 *to replicate this screening at other sites.*

3 “(4) *EXPANDED DEPLOYMENT.*—*The term ‘ex-*
 4 *panded deployment’ means the deployment of systems*
 5 *in a State that exceed the requirements of an core de-*
 6 *ployment of commercial vehicle information systems*
 7 *and networks, improve safety and the productivity of*
 8 *commercial vehicle operations, and enhance transpor-*
 9 *tation security.”.*

10 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 11 *for chapter 311 is amended by inserting after the item relat-*
 12 *ing to section 31150 the following:*

 “31151. *Commercial vehicle information systems and networks”.*

13 **SEC. 7122. OUTREACH AND EDUCATION.**

14 (a) *IN GENERAL.*—*The Secretary of Transportation,*
 15 *through the National Highway Traffic Safety Administra-*
 16 *tion and the Federal Motor Carrier Safety Administration,*
 17 *may undertake outreach and education initiatives, includ-*
 18 *ing the “Share the Road Safely” program, that will reduce*
 19 *the number of highway accidents, injuries, and fatalities*
 20 *involving commercial motor vehicles.*

21 (b) *STUDY.*—*The Comptroller General shall update the*
 22 *Government Accountability Office’s evaluation of the*
 23 *“Share the Road Safely” program to determine if it has*
 24 *achieved reductions in the number and severity of commer-*
 25 *cial motor vehicle crashes, including reductions in the num-*

1 *ber of deaths and the severity of injuries sustained in these*
2 *crashes, and shall report its updated evaluation to Congress*
3 *no later than June 30, 2006.*

4 *(c) AUTHORIZATION OF APPROPRIATIONS.—There are*
5 *authorized to be appropriated to the Secretary for each of*
6 *fiscal years 2006 through 2009 to carry out this section—*

7 *(1) \$1,000,000 for the Federal Motor Carrier*
8 *Safety Administration; and*

9 *(2) \$3,000,000 for the National Highway Traffic*
10 *Safety Administration.*

11 **SEC. 7123. FOREIGN COMMERCIAL MOTOR VEHICLES.**

12 *(a) OPERATING AUTHORITY ENFORCEMENT ASSIST-*
13 *ANCE FOR STATES.—Within 180 days after the date of en-*
14 *actment of this Act, the Federal Motor Carrier Safety Ad-*
15 *ministration shall conduct outreach and provide training*
16 *as necessary to State personnel engaged in the enforcement*
17 *of Federal Motor Carrier Safety Administration safety reg-*
18 *ulations to ensure their awareness of the process to be used*
19 *for verification of the operating authority of motor carriers,*
20 *including buses, and to ensure proper enforcement when*
21 *motor carriers are found to be in violation of operating au-*
22 *thority requirements. The Inspector General of the Depart-*
23 *ment of Transportation may periodically assess the imple-*
24 *mentation and effectiveness of the training and outreach*
25 *program.*

1 **(b) STUDY OF FOREIGN COMMERCIAL MOTOR VEHI-**
2 **CLES.—**

3 **(1) REVIEW.—***Within 1 year after the date of en-*
4 *actment of this Act, the Federal Motor Carrier Safety*
5 *Administration shall conduct a review to determine*
6 *the degree to which Canadian and Mexican commer-*
7 *cial motor vehicles, including buses, currently oper-*
8 *ating or expected to operate, in the United States*
9 *comply with the Federal Motor Vehicle Safety Stand-*
10 *ards.*

11 **(2) REPORTS.—***Within 1 year after the date of*
12 *enactment of this Act, the Administrator shall trans-*
13 *mit a report to the Senate Committee on Commerce,*
14 *Science, and Transportation and the House of Rep-*
15 *resentatives Committee on Transportation and Infra-*
16 *structure containing the findings and conclusions of*
17 *the review. Within 4 months after the report is trans-*
18 *mitted to the Committees, the Inspector General of the*
19 *Department of Transportation shall provide com-*
20 *ments and observations to the Committees on the*
21 *scope and methodology of the review.*

22 **SEC. 7124. PRE-EMPLOYMENT SAFETY SCREENING.**

23 **(a) IN GENERAL.—***Subchapter III of chapter 311, as*
24 *amended by section 7121, is amended by adding at the end*
25 *the following:*

1 **“§ 31152. Pre-employment safety screening**

2 “(a) *IN GENERAL.*—*The Secretary of Transportation*
3 *shall provide companies conducting pre-employment screen-*
4 *ing services for the motor carrier industry electronic access*
5 *to—*

6 “(1) *commercial motor vehicle accident report*
7 *information contained in the Motor Carrier Manage-*
8 *ment Information System; and*

9 “(2) *all driver safety violations contained in the*
10 *Motor Carrier Management Information System.*

11 “(b) *ESTABLISHMENT.*—*Prior to making information*
12 *available to such companies under subsection (a), the Sec-*
13 *retary shall—*

14 “(1) *ensure that any information released is*
15 *done in accordance with the Fair Credit Reporting*
16 *Act (15 U.S.C. 1681 et seq.) and all applicable Fed-*
17 *eral laws;*

18 “(2) *require the driver applicant’s written con-*
19 *sent as a condition of releasing the information;*

20 “(3) *ensure that the information made available*
21 *to companies providing pre-employment screening*
22 *services is not released to any other unauthorized*
23 *company or individual, unless expressly authorized or*
24 *required by law; and*

25 “(4) *provide a procedure for drivers to remedy*
26 *incorrect information in a timely manner.*

1 “(c) *DESIGN.*—*To be eligible to have access to informa-*
 2 *tion under subsection (a), a company conducting pre-em-*
 3 *ployment screening services for the motor carrier industry*
 4 *shall utilize a screening process—*

5 “(1) *that is designed to assist the motor carrier*
 6 *industry in assessing an individual driver’s crash*
 7 *and safety violation history as a pre-employment con-*
 8 *dition;*

9 “(2) *the use of which is not mandatory; and*

10 “(3) *which is used only during the pre-employ-*
 11 *ment assessment of a driver-applicant.”.*

12 “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 13 *for chapter 311, as amended by section 7121, is amended*
 14 *by inserting after the item relating to section 31151 the fol-*
 15 *lowing:*

 “31152. *Pre-employment safety screening.*”.

16 **SEC. 7125. CLASS OR CATEGORY EXEMPTIONS.**

17 “(a) *IN GENERAL.*—*The Secretary of Transportation*
 18 *may grant exemptions for categories or classes of drivers*
 19 *of commercial motor vehicles not required to hold a commer-*
 20 *cial driver’s license under section 31301(4) of title 49,*
 21 *United States Code, from compliance in whole or in part*
 22 *with a regulation issued under chapter 315 of title 49,*
 23 *United States Code, or with regulations issued under sec-*
 24 *tion 31502 of that title governing hours of service if the*
 25 *Secretary determines that it is in the public interest to*

1 *grant the exemption and that the exemption is likely to*
2 *achieve a level of safety that is equivalent to, or greater*
3 *than, the level of safety that would be obtained in the ab-*
4 *sence of the exemption subject to such conditions as the Sec-*
5 *retary may impose. An exemption may be granted for no*
6 *longer than 2 years from its initial approval date and may*
7 *be renewed upon application to the Secretary.*

8 (b) *AUTHORITY TO REVOKE EXEMPTION.*—*The Sec-*
9 *retary shall immediately revoke an exemption if—*

10 (1) *the exemption has resulted in a lower level*
11 *of safety than was maintained before the exemption*
12 *was granted; or*

13 (2) *continuation of the exemption would not be*
14 *consistent with the goals and objectives of that chapter*
15 *or section 31136, as the case may be.*

16 (c) *REQUESTS FOR EXEMPTION.*—

17 (1) *INTERIM FINAL RULE.*—*Not later than 180*
18 *days after the date of enactment of this Act, the Sec-*
19 *retary shall specify by interim final rule the proce-*
20 *dures by which an exemption for a category or class*
21 *of drivers may be requested under this section. The*
22 *rule shall, at a minimum, require the motor carrier*
23 *or other entity requesting the exemption to provide*
24 *the following information:*

1 (A) *The provisions from which the motor carrier*
2 *or other entity requests exemption.*

3 (B) *The reason for which the exemption is re-*
4 *quested.*

5 (C) *The time period during which the requested*
6 *exemption would apply.*

7 (D) *An analysis of the safety impacts the re-*
8 *quested exemption may cause.*

9 (E) *The specific countermeasures the motor car-*
10 *rier or other entity will undertake to ensure an equiv-*
11 *alent or greater level of safety than would be achieved*
12 *absent the requested exemption.*

13 (F) *The benefits to be derived from the exemp-*
14 *tion.*

15 (2) *FINAL RULE.*—*Not later than 2 years after*
16 *the date of enactment of this Act, and after notice and*
17 *an opportunity for comment, the Secretary shall pro-*
18 *mulgate a final rule specifying the procedures by*
19 *which an exemption for a category or class of drivers*
20 *may be requested under this section.*

21 (d) *NOTICE AND COMMENT.*—

22 (1) *UPON RECEIPT OF A REQUEST.*—*Upon re-*
23 *ceipt of an exemption request, the Secretary shall*
24 *publish in the Federal Register a notice explaining*
25 *the request that has been filed and shall give the pub-*

1 *lic an opportunity to inspect the safety analysis and*
2 *any other relevant information known to the Sec-*
3 *retary and to comment on the request. This subpara-*
4 *graph does not require the release of information pro-*
5 *ected by law from public disclosure.*

6 (2) *UPON GRANTING A REQUEST.—Upon grant-*
7 *ing a request for exemption, the Secretary shall pub-*
8 *lish in the Federal Register the name of the motor*
9 *carrier or other entity granted the exemption, the pro-*
10 *visions from which the category or class of vehicles*
11 *will be exempt, the effective period, and all terms and*
12 *conditions of the exemption.*

13 (3) *AFTER DENYING A REQUEST.—After denying*
14 *a request for exemption, the Secretary shall publish in*
15 *the Federal Register the name of the motor carrier or*
16 *other entity denied the exemption, the category or*
17 *class of vehicles for which the exemption was re-*
18 *quested, and the reasons for such denial. The Sec-*
19 *retary may meet the requirement of this subpara-*
20 *graph by periodically publishing in the Federal Reg-*
21 *ister the names of motor carriers or other entities de-*
22 *nyed exemptions, the categories or classes of vehicles*
23 *for which the exemption was requested, and the rea-*
24 *sons for such denials.*

1 (e) *APPLICATIONS TO BE DEALT WITH PROMPTLY.*—
2 *The Secretary shall grant or deny an exemption request*
3 *after a thorough review of its safety implications, but in*
4 *no case later than 90 days after the filing date of such re-*
5 *quest.*

6 (f) *TERMS AND CONDITIONS.*—*The Secretary shall es-*
7 *tablish terms and conditions for each exemption to ensure*
8 *that it will likely achieve a level of safety that is equivalent*
9 *to, or greater than, the level that would be achieved absent*
10 *such exemption. The Secretary shall monitor the implemen-*
11 *tation of the exemption to ensure compliance with its terms*
12 *and conditions.*

13 (g) *NOTIFICATION OF STATE COMPLIANCE AND EN-*
14 *FORCEMENT PERSONNEL.*—*Before granting a request for*
15 *exemption, the Secretary shall notify State safety compli-*
16 *ance and enforcement personnel, including roadside inspec-*
17 *tors, and the public that a motor carrier or other entity*
18 *will be operating pursuant to an exemption and any terms*
19 *and conditions that will apply to the exemption.*

20 (h) *PREEMPTION OF STATE RULES.*—*During the time*
21 *period that an exemption is in effect under this section, no*
22 *State shall enforce any law or regulation that conflicts with*
23 *or is inconsistent with the exemption with respect to the*
24 *category or class of vehicles to which the exemption applies.*

1 **SEC. 7126. DECALS.**

2 *The Commercial Vehicle Safety Alliance may not re-*
3 *strict the sale of any inspection decal to the Federal Motor*
4 *Carrier Safety Administration unless the Administration*
5 *fails to meet its responsibilities under its memorandum of*
6 *understanding with the Alliance (other than a failure due*
7 *to the Administration's compliance with Federal law).*

8 **SEC. 7127. ROADABILITY.**

9 *(a) INSPECTION, REPAIR AND MAINTENANCE OF*
10 *INTERMODAL EQUIPMENT.—*

11 *(1) IN GENERAL.—Not later than 1 year after*
12 *the date of enactment of this Act, the Secretary, after*
13 *providing notice and opportunity for comment, shall*
14 *issue regulations establishing a program to ensure*
15 *that intermodal equipment used to transport inter-*
16 *modal containers is safe and systematically main-*
17 *tained.*

18 *(2) INTERMODAL EQUIPMENT SAFETY REGULA-*
19 *TIONS.—The Secretary shall promulgate regulations*
20 *under this section as a subpart of the regulations of*
21 *the Federal Motor Carrier Safety Administration of*
22 *the Department of Transportation.*

23 *(3) CONTENTS.—The regulations issued under*
24 *this section shall include, at a minimum—*

25 *(A) a requirement to identify intermodal*
26 *equipment providers responsible for the inspec-*

1 *tion and maintenance of intermodal equipment*
2 *that is interchanged or intended for interchange*
3 *to motor carriers in intermodal transportation;*

4 *(B) a requirement to match intermodal*
5 *equipment readily to an intermodal equipment*
6 *provider through a unique identifying number;*

7 *(C) a requirement that an intermodal*
8 *equipment provider identified under the require-*
9 *ment of subparagraph (A) systematically inspect,*
10 *repair, and maintain, or cause to be systemati-*
11 *cally inspected, repaired, and maintained, inter-*
12 *modal equipment described in subparagraph (A)*
13 *that is intended for interchange with a motor*
14 *carrier;*

15 *(D) a requirement to ensure that each inter-*
16 *modal equipment provider identified under the*
17 *requirement of subparagraph (A) maintains a*
18 *system of maintenance and repair records for*
19 *such equipment;*

20 *(E) requirements that—*

21 *(i) a specific list of intermodal equip-*
22 *ment components or items be identified for*
23 *the visual or audible inspection of which a*
24 *driver is responsible before operating the*
25 *equipment over the road; and*

1 (ii) the inspection be conducted as part
2 of the Federal requirement in effect on the
3 date of enactment of this Act that a driver
4 be satisfied that the components are in good
5 working order before operating the equip-
6 ment over the road;

7 (F) a requirement that a facility at which
8 an intermodal equipment provider regularly
9 makes equipment available for interchange have
10 an operational process and space readily avail-
11 able for a motor carrier to have an equipment
12 defect identified pursuant to subparagraph (E)
13 repaired or the equipment replaced prior to de-
14 parture;

15 (G) a provision that establishes a program
16 for the evaluation and audit of compliance by
17 intermodal equipment providers with applicable
18 Federal Motor Carrier Safety Administration
19 regulations;

20 (H) a provision that—

21 (i) establishes a civil penalty structure
22 consistent with section 521(b) of title 49,
23 United States Code, for intermodal equip-
24 ment providers that fail to attain satisfac-

1 *tory compliance with applicable regula-*
2 *tions; and*

3 *(ii) prohibits intermodal equipment*
4 *providers from placing intermodal equip-*
5 *ment in service on the public highways to*
6 *the extent such providers or their equipment*
7 *are found to pose an imminent hazard;*

8 *(I) a provision that establishes a process by*
9 *which motor carriers and agents of motor car-*
10 *riers may request the Federal Motor Carrier*
11 *Safety Administration to undertake an inves-*
12 *tigation of an intermodal equipment provider*
13 *identified under the requirement of subpara-*
14 *graph (A) that is alleged to be not in compliance*
15 *with the regulations established pursuant to this*
16 *section;*

17 *(J) a provision that establishes a process by*
18 *which equipment providers and agents of equip-*
19 *ment providers may request the Federal Motor*
20 *Carrier Safety Administration to undertake an*
21 *investigation of a motor carrier that is alleged to*
22 *be not in compliance with applicable Federal*
23 *motor carrier safety regulations;*

24 *(K) a provision that establishes a process by*
25 *which drivers or motor carriers are required to*

1 *report any actual damage or defect in the inter-*
2 *modal equipment of which the driver or motor*
3 *carrier is aware at the time the intermodal*
4 *equipment is returned to the equipment provider;*

5 *(L) a requirement that any actual damage*
6 *or defect identified in the process established*
7 *under subparagraph (K) be repaired before the*
8 *equipment is made available for interchange to*
9 *a motor carrier, and that repairs of equipment*
10 *made pursuant to the requirements of this sub-*
11 *paragraph and reports made pursuant to sub-*
12 *paragraph (K) process be documented in the*
13 *maintenance records for such equipment; and*

14 *(M) a procedure under which motor car-*
15 *riers, drivers and intermodal equipment pro-*
16 *viders may seek correction of their safety records*
17 *through the deletion from those records of viola-*
18 *tions of safety regulations attributable to defi-*
19 *ciencies in the intermodal chassis or trailer for*
20 *which they should not have been held responsible.*

21 *(4) DEADLINE FOR RULEMAKING PROCEEDING.—*

22 *Within 120 days after the date of enactment of this*
23 *Act, the Secretary shall initiate a rulemaking pro-*
24 *ceeding for regulations under this section.*

1 (b) *JURISDICTION OF DEPARTMENT OF TRANSPORTATION.*—Section 31136 is amended by adding at the end
2 the following:
3

4 “(g) *INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.*—The Secretary or an employee
5 of the Department of Transportation designated by the Secretary may inspect intermodal equipment, and copy related
6 maintenance and repair records for such equipment, on demand and display of proper credentials.
7
8

9 “(h) *OUT-OF-SERVICE UNTIL REPAIR.*—Any intermodal equipment that is determined under this section to
10 fail to comply with applicable safety regulations may be placed out of service and may not be used on a public highway
11 until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment
12 taken out of service shall be documented in the maintenance records for such equipment.”
13
14
15
16
17

18 (c) *PREEMPTION OF STATE LAWS.*—

19 (1) *IN GENERAL.*—Section 31141 is amended by adding at the end the following:
20

21 “(h) *PREEMPTION GENERALLY.*—Except as otherwise authorized by law and as provided in subsection (i), a law,
22 regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization, is pre-
23 empted if such law, regulation, order, or other requirement
24
25

1 *exceeds or is inconsistent with a requirement imposed under*
2 *or pursuant to this chapter.*

3 “(i) *PRE-EXISTING STATE REQUIREMENTS.*—

4 “(1) *IN GENERAL.*—*Except as provided in para-*
5 *graph (2), a State requirement for the periodic in-*
6 *spection of intermodal chassis by intermodal equip-*
7 *ment providers that was in effect on January 1, 2005,*
8 *shall remain in effect only until the date on which re-*
9 *quirements prescribed under section 7127 of the Sur-*
10 *face Transportation Safety Improvement Act of 2005*
11 *take effect.*

12 “(2) *NON-PREEMPTION DETERMINATIONS.*—

13 “(A) *IN GENERAL.*—*A State requirement*
14 *described in paragraph (1) is not preempted by*
15 *a Federal requirement prescribed under section*
16 *7127 of that Act if the Secretary determines that*
17 *the State requirement is as effective as the Fed-*
18 *eral requirement and does not unduly burden*
19 *interstate commerce.*

20 “(B) *APPLICATION REQUIRED.*—*Subpara-*
21 *graph (A) applies to a State requirement only if*
22 *the State applies to the Secretary for a deter-*
23 *mination under this paragraph with respect to*
24 *the requirement before the date on which require-*
25 *ments prescribed under section 7127 of that Act*

1 *take effect. The Secretary shall make a deter-*
2 *mination with respect to any such application*
3 *within 6 months after the date on which the Sec-*
4 *retary receives the application.*

5 “(C) *AMENDED STATE REQUIREMENTS.—*
6 *Any amendment to a State requirement not pre-*
7 *empted under this subsection because of a deter-*
8 *mination by the Secretary under subparagraph*
9 *(A) may not take effect unless—*

10 “(i) *it is submitted to the Secretary be-*
11 *fore the effective date of the amendment;*
12 *and*

13 “(ii) *the Secretary determines that the*
14 *amendment would not cause the State re-*
15 *quirement to be less effective than the Fed-*
16 *eral requirement and would not unduly*
17 *burden interstate commerce.*

18 (2) *CONFORMING AMENDMENT.—Section*
19 *31141(c)(1) is amended by striking “The Secretary”*
20 *the first place it appears and inserting “Except as*
21 *provided by subsection (h), the Secretary”.*

22 (d) *DEFINITIONS.—In this section:*

23 (1) *INTERMODAL EQUIPMENT.—The term “inter-*
24 *modal equipment” means trailing equipment that is*
25 *used in the intermodal transportation of freight over*

1 *public highways in interstate commerce (as defined in*
2 *section 31132 of title 49, United States Code), includ-*
3 *ing trailers and chassis.*

4 (2) *INTERMODAL EQUIPMENT INTERCHANGE*
5 *AGREEMENT.—The term “Intermodal equipment*
6 *interchange agreement” means the Uniform Inter-*
7 *modal Interchange and Facilities Access Agreement or*
8 *any other written document executed by an inter-*
9 *modal equipment provider or its agent and a motor*
10 *carrier or its agent, the primary purpose of which is*
11 *to establish the responsibilities and liabilities of both*
12 *parties with respect to the interchange of the inter-*
13 *modal equipment.*

14 (3) *INTERMODAL EQUIPMENT PROVIDER.—The*
15 *term “intermodal equipment provider” means any*
16 *person that interchanges intermodal equipment with*
17 *a motor carrier pursuant to a written interchange*
18 *agreement or has a contractual responsibility for the*
19 *maintenance of the intermodal equipment.*

20 (4) *INTERCHANGE.—The term “interchange”—*

21 (A) *means the act of providing intermodal*
22 *equipment to a motor carrier pursuant to an*
23 *Intermodal equipment interchange agreement for*
24 *the purpose of transporting the equipment for*
25 *loading or unloading by any person or repo-*

1 *sitioning the equipment for the benefit of the*
2 *equipment provider; but*

3 *(B) does not include the leasing of equip-*
4 *ment to a motor carrier for primary use in the*
5 *motor carrier's freight hauling operations.*

6 **SEC. 7128. MOTOR CARRIER REGULATIONS.**

7 *(a) IN GENERAL.—Section 31149, as amended by sec-*
8 *tion 7108(d), is further amended—*

9 *(1) by striking paragraph (1) of subsection (a)*
10 *and inserting the following:*

11 *“(1) TRANSPORTATION OF AGRICULTURAL COM-*
12 *MODITIES AND FARM SUPPLIES.—Regulations pre-*
13 *scribed by the Secretary under sections 31136 and*
14 *31502 of this title regarding maximum driving and*
15 *on-duty time for drivers used by motor carriers shall*
16 *not apply during planting and harvest periods, as de-*
17 *termined by each State, to drivers transporting agri-*
18 *cultural commodities or farm supplies for agricul-*
19 *tural purposes in a State if such transportation is*
20 *limited to an area within a 100 air mile radius from*
21 *the source of the commodities or the distribution point*
22 *for the farm supplies.”;*

23 *(2) by adding at the end of subsection (e) the fol-*
24 *lowing:*

1 “(7) *AGRICULTURAL COMMODITY*.—The term ‘ag-
2 *ricultural commodity*’ means any agricultural com-
3 *modity, non-processed food, feed, fiber, or livestock*
4 *(including livestock as defined in section 602 of the*
5 *Emergency Livestock Feed Assistance Act of 1988 (7*
6 *U.S.C. 1471) and insects).*”

7 “(8) *FARM SUPPLIES FOR AGRICULTURAL PUR-*
8 *POSES*.—The term ‘farm supplies for agricultural
9 *purposes*’ means products directly related to the grow-
10 *ing or harvesting of agricultural commodities during*
11 *the planting and harvesting seasons within each*
12 *State, as determined by the State, and livestock feed*
13 *at any time of the year.”.*

14 (b) *REGULATIONS FOR MOVIE PRODUCTION SITES*.—
15 *Notwithstanding sections 31136 and 31502 of title 49,*
16 *United States Code, and any other provision of law, the*
17 *maximum daily hours of service for an operator of a com-*
18 *mercial motor vehicle providing transportation of property*
19 *or passengers to or from a theatrical or television motion*
20 *picture production site located within a 100 air mile radius*
21 *of the work reporting location of such operator shall be those*
22 *in effect under the regulations in effect under those sections*
23 *on April 27, 2003.*

24 (c) *UTILITY SERVICE VEHICLES*.—Section 31149(a)(4)
25 *(as so transferred) is amended to read as follows:*

1 “(4) *OPERATORS OF UTILITY SERVICE VEHI-*
2 *CLES.—*—

3 “(A) *INAPPLICABILITY OF FEDERAL REGU-*
4 *LATIONS.—Such regulations may not apply to a*
5 *driver of a utility service vehicle.*

6 “(B) *PROHIBITION ON STATE REGULA-*
7 *TIONS.—A State, a political subdivision of a*
8 *State, an interstate agency, or other entity con-*
9 *sisting of 2 or more States, shall not enact or en-*
10 *force any law, rule, regulation, or standard that*
11 *imposes requirements on a driver of a utility*
12 *service vehicle that are similar to the require-*
13 *ments contained in such regulations.”;*

14 (2) *by striking “Nothing” in subsection (b) and*
15 *inserting “Except as provided in subsection (a)(4),*
16 *nothing”;* and

17 (3) *by striking “paragraph (2)” in the first sen-*
18 *tence of subsection (c) and inserting “an exemption*
19 *under paragraph (1), (2), or (4)”.*

20 **SEC. 7129. VEHICLE TOWING.**

21 (a) *STATE LAWS RELATING TO VEHICLE TOWING.—*
22 *Section 14501(c) is amended by adding at the end the fol-*
23 *lowing:*

24 “(5) *RULE OF CONSTRUCTION.—Nothing in this sec-*
25 *tion shall be construed to prevent a State from requiring*

1 *that, in the case of vehicles towed from private property*
2 *without the consent of the owner or operator of the vehicle,*
3 *towing companies have prior written authorization from*
4 *the property owner or lessee (or an employee or agent there-*
5 *of), or that such owner or lessee (or an employee or agent*
6 *thereof) be present at the time the vehicle is towed from the*
7 *property, or both.”.*

8 (b) *PREDATORY TOW TRUCK OPERATIONS.*—*Within 1*
9 *year after the date of enactment of this Act, the Secretary*
10 *of Transportation, in conjunction with other appropriate*
11 *Federal agencies, shall—*

12 (1) *conduct a review of Federal, State and local*
13 *regulation of the tow truck industry before the date of*
14 *enactment of the ICC Termination Act of 1995; and*

15 (2) *conduct a study to identify issues related to*
16 *the protection of the rights of consumers who are*
17 *towed, to establish the scope and geographic reach of*
18 *any such issues identified, and to identify potential*
19 *remedies for those issues.*

20 **SEC. 7130. CERTIFICATION OF VEHICLE EMISSION PER-**
21 **FORMANCE STANDARDS.**

22 (a) *REGISTRATION OF MOTOR CARRIERS.*—*Section*
23 *13902(a)(1) of title 49, United States Code (as amended*
24 *by section 7117(b)), is amended—*

1 (1) by redesignating subparagraphs (B) and (C)
2 as subparagraphs (C) and (D), respectively; and

3 (2) by inserting after subparagraph (A) the fol-
4 lowing:

5 “(B) a requirement that a motor carrier
6 certify that, beginning on January 1, 2007, any
7 vehicle operated by the motor carrier will comply
8 with the heavy duty vehicle and engine emissions
9 performance standards and related regulations
10 established by the Administrator of the Environ-
11 mental Protection Agency under section
12 202(a)(3) of the Clean Air Act (42 U.S.C.
13 7521(a)(3));”.

14 (b) *STUDY*.—Not later than 180 days after the date
15 of enactment of this Act, the Secretary shall make rec-
16 ommendations to Congress on methods of ensuring that
17 trucks built before January 1, 2007, that are operating in
18 the United States comply with any emissions performance
19 standard under the Clean Air Act (42 U.S.C. 7401 et seq.)
20 that was applicable to the truck on the date on which the
21 engine of the truck was manufactured.

1 **CHAPTER 2—UNIFIED CARRIER**
 2 **REGISTRATION**

3 **SEC. 7131. SHORT TITLE.**

4 *This chapter may be cited as the “Unified Carrier Reg-*
 5 *istration Act of 2005”.*

6 **SEC. 7132. RELATIONSHIP TO OTHER LAWS.**

7 *Except as provided in section 14504 of title 49, United*
 8 *States Code, and sections 14504a and 14506 of title 49,*
 9 *United States Code, as added by this chapter, this chapter*
 10 *is not intended to prohibit any State or any political sub-*
 11 *division of any State from enacting, imposing, or enforcing*
 12 *any law or regulation with respect to a motor carrier,*
 13 *motor private carrier, broker, freight forwarder, or leasing*
 14 *company that is not otherwise prohibited by law.*

15 **SEC. 7133. INCLUSION OF MOTOR PRIVATE AND EXEMPT**
 16 **CARRIERS.**

17 *(a) PERSONS REGISTERED TO PROVIDE TRANSPOR-*
 18 *TATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRI-*
 19 *VATE CARRIER.—Section 13905 is amended by—*

20 *(1) redesignating subsections (b), (c), (d), and (e)*
 21 *as subsections (c), (d), (e), and (f), respectively; and*

22 *(2) inserting after subsection (a) the following:*

23 “*(b) PERSON REGISTERED WITH SECRETARY.—*

24 “*(1) IN GENERAL.—Except as provided in para-*
 25 *graph (2), any person having registered with the Sec-*

1 *retary to provide transportation or service as a motor*
2 *carrier or motor private carrier under this title, as in*
3 *effect on January 1, 2005, but not having registered*
4 *pursuant to section 13902(a) of this title, shall be*
5 *deemed, for purposes of this part, to be registered to*
6 *provide such transportation or service for purposes of*
7 *sections 13908 and 14504a of this title.*

8 *“(2) EXCLUSIVELY INTRASTATE OPERATORS.—*
9 *Paragraph (1) does not apply to a motor carrier or*
10 *motor private carrier (including a transporter of*
11 *waste or recyclable materials) engaged exclusively in*
12 *intrastate transportation operations.”.*

13 *(b) SECURITY REQUIREMENT.—Section 13906(a) is*
14 *amended by—*

15 *(1) redesignating paragraphs (2) and (3) as*
16 *paragraphs (3) and (4), respectively; and*

17 *(2) inserting the following:*

18 *“(2) SECURITY REQUIREMENT.—Not later than*
19 *120 days after the date of enactment of the Unified*
20 *Carrier Registration Act of 2005, any person, other*
21 *than a motor private carrier, registered with the Sec-*
22 *retary to provide transportation or service as a motor*
23 *carrier under section 13905(b) of this title shall file*
24 *with the Secretary a bond, insurance policy, or other*
25 *type of security approved by the Secretary, in an*

1 *amount not less than required by sections 31138 and*
2 *31139 of this title.”.*

3 (c) *TERMINATION OF TRANSITION RULE.—Section*
4 *13902 is amended—*

5 (1) *by adding at the end of subsection (d) the fol-*
6 *lowing:*

7 “(3) *TERMINATION.—This subsection shall cease*
8 *to be in effect on the transition termination date.”;*
9 *and*

10 (2) *by redesignating subsection (f) as subsection*
11 *(g), and inserting after subsection (e) the following:*

12 “(f) *MODIFICATION OF CARRIER REGISTRATION.—*

13 (1) *IN GENERAL.—On and after the transition*
14 *termination date, the Secretary—*

15 “(A) *may not register a motor carrier*
16 *under this section as a motor common carrier or*
17 *a motor contract carrier;*

18 “(B) *shall register applicants under this*
19 *section as motor carriers; and*

20 “(C) *shall issue any motor carrier registered*
21 *under this section after that date a motor carrier*
22 *certificate of registration that specifies whether*
23 *the holder of the certificate may provide trans-*
24 *portation of persons, household goods, other prop-*
25 *erty, or any combination thereof.*

1 “(2) *PRE-EXISTING CERTIFICATES AND PER-*
2 *MITS.—The Secretary shall redesignate any motor*
3 *carrier certificate or permit issued before the transi-*
4 *tion termination date as a motor carrier certificate of*
5 *registration. On and after the transition termination*
6 *date, any person holding a motor carrier certificate*
7 *of registration redesignated under this paragraph*
8 *may provide both contract carriage (as defined in sec-*
9 *tion 13102(4)(B) of this title) and transportation*
10 *under terms and conditions meeting the requirements*
11 *of section 13710(a)(1) of this title. The Secretary may*
12 *not, pursuant to any regulation or form issued before*
13 *or after the transition termination date, make any*
14 *distinction among holders of motor carrier certificates*
15 *of registration on the basis of whether the holder*
16 *would have been classified as a common carrier or as*
17 *a contract carrier under—*

18 “(A) *subsection (d) of this section, as that*
19 *section was in effect before the transition termi-*
20 *nation date; or*

21 “(B) *any other provision of this title that*
22 *was in effect before the transition termination*
23 *date.*

24 “(3) *TRANSITION TERMINATION DATE DE-*
25 *FINED.—In subsection (d) and this subsection, the*

1 term ‘transition termination date’ means the first day
2 of January occurring more than 12 months after the
3 date of enactment of the Unified Carrier Registration
4 Act of 2005.”.

5 (d) CONFORMING AMENDMENTS.—

6 (1) CAPTION OF SECTION 13906.—The section
7 caption for section 13906 is amended by inserting
8 “**motor private carriers,**” after “**motor car-**
9 **riers,**”.

10 (2) CHAPTER ANALYSIS.—The chapter analysis
11 for chapter 139 is amended by striking the item relat-
12 ing to section 13906 and inserting the following:

“13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.”.

13 **SEC. 7134. UNIFIED CARRIER REGISTRATION SYSTEM.**

14 (a) Section 13908 is amended to read as follows:

15 “**§ 13908. Registration and other reforms**

16 “(a) ESTABLISHMENT OF UNIFIED CARRIER REG-
17 ISTRATION SYSTEM.—The Secretary, in cooperation with
18 the States, representatives of the motor carrier, motor pri-
19 vate carrier, freight forwarder and broker industries, and
20 after notice and opportunity for public comment, shall issue
21 within 1 year after the date of enactment of the Unified
22 Carrier Registration Act of 2005 regulations to establish,
23 an online, Federal registration system to be named the Uni-
24 fied Carrier Registration System to replace—

1 “(1) *the current Department of Transportation*
2 *identification number system, the Single State Reg-*
3 *istration System under section 14504 of this title;*

4 “(2) *the registration system contained in this*
5 *chapter and the financial responsibility information*
6 *system under section 13906; and*

7 “(3) *the service of process agent systems under*
8 *sections 503 and 13304 of this title.*

9 “(b) *ROLE AS CLEARINGHOUSE AND DEPOSITORY OF*
10 *INFORMATION.—The Unified Carrier Registration System*
11 *shall serve as a clearinghouse and depository of information*
12 *on, and identification of, all foreign and domestic motor*
13 *carriers, motor private carriers, brokers, and freight for-*
14 *warders, and others required to register with the Depart-*
15 *ment, including information with respect to a carrier’s safe-*
16 *ty rating, compliance with required levels of financial re-*
17 *sponsibility, and compliance with the provisions of section*
18 *14504a of this title. The Secretary shall ensure that Federal*
19 *agencies, States, representatives of the motor carrier indus-*
20 *try, and the public have access to the Unified Carrier Reg-*
21 *istration System, including the records and information*
22 *contained in the System.*

23 “(c) *PROCEDURES FOR CORRECTING INFORMATION.—*
24 *Not later than 60 days after the effective date of this section,*
25 *the Secretary shall prescribe regulations establishing proce-*

1 *dures that enable a motor carrier to correct erroneous infor-*
2 *mation contained in any part of the Unified Carrier Reg-*
3 *istration System.*

4 “(d) *FEE SYSTEM.—The Secretary shall establish,*
5 *under section 9701 of title 31, a fee system for the Unified*
6 *Carrier Registration System according to the following*
7 *guidelines:*

8 “(1) *REGISTRATION AND FILING EVIDENCE OF*
9 *FINANCIAL RESPONSIBILITY.—The fee for new reg-*
10 *istrants shall as nearly as possible cover the costs of*
11 *processing the registration and conducting the safety*
12 *audit or examination, if required, but shall not exceed*
13 *\$300.*

14 “(2) *EVIDENCE OF FINANCIAL RESPONSI-*
15 *BILITY.—The fee for filing evidence of financial re-*
16 *sponsibility pursuant to this section shall not exceed*
17 *\$10 per filing. No fee shall be charged for a filing for*
18 *purposes of designating an agent for service of process*
19 *or the filing of other information relating to financial*
20 *responsibility.*

21 “(3) *ACCESS AND RETRIEVAL FEES.—*

22 “(A) *IN GENERAL.—Except as provided in*
23 *subparagraph (B), the fee system shall include a*
24 *nominal fee for the access to or retrieval of infor-*
25 *mation from the Unified Carrier Registration*

1 *System to cover the costs of operating and up-*
2 *grading the System, including the personnel*
3 *costs incurred by the Department and the costs*
4 *of administration of the Unified Carrier Reg-*
5 *istration Agreement.*

6 “(B) *EXCEPTIONS.—There shall be no fee*
7 *charged—*

8 “(i) *to any agency of the Federal Gov-*
9 *ernment or a State government or any po-*
10 *litical subdivision of any such government*
11 *for the access to or retrieval of information*
12 *and data from the Unified Carrier Reg-*
13 *istration System for its own use; or*

14 “(ii) *to any representative of a motor*
15 *carrier, motor private carrier, leasing com-*
16 *pany, broker, or freight forwarder (as each*
17 *is defined in section 14504a of this title) for*
18 *the access to or retrieval of the individual*
19 *information related to such entity from the*
20 *Unified Carrier Registration System for the*
21 *individual use of such entity.*

22 “(e) *APPLICATION TO CERTAIN INTRASTATE OPER-*
23 *ATIONS.—Nothing in this section requires the registration*
24 *of a motor carrier, a motor private carrier of property, or*
25 *a transporter of waste or recyclable materials operating ex-*

1 *clusively in intrastate transportation not otherwise re-*
 2 *quired to register with the Secretary under another provi-*
 3 *sion of this title.”.*

4 **SEC. 7135. REGISTRATION OF MOTOR CARRIERS BY STATES.**

5 (a) *TERMINATION OF REGISTRATION PROVISIONS.—*
 6 *Section 14504 is amended by adding at the end the fol-*
 7 *lowing:*

8 “(d) *TERMINATION OF PROVISIONS.—Subsections (b)*
 9 *and (c) shall cease to be effective on the first January 1st*
 10 *occurring more than 12 months after the date of enactment*
 11 *of the Unified Carrier Registration Act of 2005.”.*

12 (b) *UNIFIED CARRIER REGISTRATION SYSTEM PLAN*
 13 *AND AGREEMENT.—Chapter 145 is amended by inserting*
 14 *after section 14504 the following:*

15 “**§ 14504a. Unified carrier registration system plan**
 16 **and agreement**

17 “(a) *DEFINITIONS.—In this section and section 14506*
 18 *of this title:*

19 “(1) *COMMERCIAL MOTOR VEHICLE.—*

20 “(A) *IN GENERAL.—Except as provided in*
 21 *subparagraph (B), the term ‘commercial motor*
 22 *vehicle’ has the meaning given the term in sec-*
 23 *tion 31101 of this title.*

24 “(B) *EXCEPTION.—With respect to motor*
 25 *carriers required to make any filing or pay any*

1 *fee to a State with respect to the motor carrier's*
2 *authority or insurance related to operation with-*
3 *in such State, the term 'commercial motor vehi-*
4 *cle' means any self-propelled vehicle used on the*
5 *highway in commerce to transport passengers or*
6 *property for compensation regardless of the gross*
7 *vehicle weight rating of the vehicle or the number*
8 *of passengers transported by such vehicle.*

9 “(2) *BASE-STATE.*—

10 “(A) *IN GENERAL.*—*The term 'Base-State'*
11 *means, with respect to the Unified Carrier Reg-*
12 *istration Agreement, a State—*

13 “(i) *that is in compliance with the re-*
14 *quirements of subsection (e); and*

15 “(ii) *in which the motor carrier, motor*
16 *private carrier, broker, freight forwarder or*
17 *leasing company maintains its principal*
18 *place of business.*

19 “(B) *DESIGNATION OF BASE-STATE.*—*A*
20 *motor carrier, motor private carrier, broker,*
21 *freight forwarder or leasing company may des-*
22 *ignate another State in which it maintains an*
23 *office or operating facility as its Base-State in*
24 *the event that—*

1 “(i) the State in which the motor car-
2 rier, motor private carrier, broker, freight
3 forwarder or leasing company maintains its
4 principal place of business is not in compli-
5 ance with the requirements of subsection (e);
6 or

7 “(ii) the motor carrier, motor private
8 carrier, broker, freight forwarder or leasing
9 company does not have a principal place of
10 business in the United States.

11 “(3) *INTRASTATE FEE.*—The term ‘intrastate fee’
12 means any fee, tax, or other type of assessment, in-
13 cluding per vehicle fees and gross receipts taxes, im-
14 posed on a motor carrier or motor private carrier for
15 the renewal of the intrastate authority or insurance
16 filings of such carrier with a State.

17 “(4) *LEASING COMPANY.*—The term ‘leasing com-
18 pany’ means a lessor that is engaged in the business
19 of leasing or renting for compensation motor vehicles
20 without drivers to a motor carrier, motor private car-
21 rier, or freight forwarder.

22 “(5) *MOTOR CARRIER.*—The term ‘motor carrier’
23 has the meaning given the term in section 13102(12)
24 of this title, but shall include all carriers that are oth-
25 erwise exempt from the provisions of part B of this

1 *title pursuant to the provisions of chapter 135 of this*
2 *title or exemption actions by the former Interstate*
3 *Commerce Commission under this title.*

4 “(6) *PARTICIPATING STATE.*—*The term ‘participating state’ means a State that has complied with*
5 *the requirements of subsection (e) of this section.*

7 “(7) *SSRS.*—*The term ‘SSRS’ means the Single*
8 *State Registration System in effect on the date of en-*
9 *actment of the Unified Carrier Registration Act of*
10 *2005.*

11 “(8) *UNIFIED CARRIER REGISTRATION AGREEMENT.*—*The terms ‘Unified Carrier Registration*
12 *Agreement’ and ‘UCR Agreement’ mean the interstate*
13 *agreement developed under the Unified Carrier Reg-*
14 *istration Plan governing the collection and distribu-*
15 *tion of registration and financial responsibility infor-*
16 *mation provided and fees paid by motor carriers,*
17 *motor private carriers, brokers, freight forwarders and*
18 *leasing companies pursuant to this section.*

20 “(9) *UNIFIED CARRIER REGISTRATION PLAN.*—
21 *The terms ‘Unified Carrier Registration Plan’ and*
22 *‘UCR Plan’ mean the organization of State, Federal*
23 *and industry representatives responsible for devel-*
24 *oping, implementing and administering the Unified*
25 *Carrier Registration Agreement.*

1 “(10) *VEHICLE REGISTRATION*.—The term ‘*vehicle registration*’ means the registration of any commercial motor vehicle under the International Registration Plan or any other registration law or regulation of a jurisdiction.

6 “(b) *APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS*.—A Freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) of this title shall be subject to the provisions of this section as if a motor carrier.

11 “(c) *UNREASONABLE BURDEN*.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of 2 or more States—

16 “(1) to enact, impose, or enforce any requirement or standards, or levy any fee or charge on any interstate motor carrier or interstate motor private carrier in connection with—

20 “(A) the registration with the State of the interstate operations of a motor carrier or motor private carrier;

23 “(B) the filing with the State of information relating to the financial responsibility of a

1 *motor carrier or motor private carrier pursuant*
2 *to sections 31138 or 31139 of this title;*

3 “(C) *the filing with the State of the name*
4 *of the local agent for service of process of a motor*
5 *carrier or motor private carrier pursuant to sec-*
6 *tions 503 or 13304 of this title; or*

7 “(D) *the annual renewal of the intrastate*
8 *authority, or the insurance filings, of a motor*
9 *carrier or motor private carrier, or other intra-*
10 *state filing requirement necessary to operate*
11 *within the State, if the motor carrier or motor*
12 *private carrier is—*

13 “(i) *registered in compliance with sec-*
14 *tion 13902 or section 13905(b) of this title;*
15 *and*

16 “(ii) *in compliance with the laws and*
17 *regulations of the State authorizing the car-*
18 *rier to operate in the State pursuant to sec-*
19 *tion 14501(c)(2)(A) of this title*

20 *except with respect to—*

21 “(I) *intrastate service provided by*
22 *motor carriers of passengers that is not*
23 *subject to the preemptive provisions of*
24 *section 14501(a) of this title,*

1 “(II) motor carriers of property,
2 motor private carriers, brokers, or
3 freight forwarders, or their services or
4 operations, that are described in sub-
5 paragraphs (B) and (C) of section
6 14501(c)(2) and section 14506(c)(3) or
7 permitted pursuant to section 14506(b)
8 of this title, and

9 “(III) the intrastate transpor-
10 tation of waste or recyclable materials
11 by any carrier); or

12 “(2) to require any interstate motor carrier or
13 motor private carrier to pay any fee or tax, not pro-
14 scribed by paragraph (1)(D) of this subsection, that
15 a motor carrier or motor private carrier that pays a
16 fee which is proscribed by that paragraph is not re-
17 quired to pay.

18 “(d) UNIFIED CARRIER REGISTRATION PLAN.—

19 “(1) BOARD OF DIRECTORS.—

20 “(A) GOVERNANCE OF PLAN.—The Unified
21 Carrier Registration Plan shall be governed by a
22 Board of Directors consisting of representatives
23 of the Department of Transportation, Partici-
24 pating States, and the motor carrier industry.

1 “(B) *NUMBER.*—*The Board shall consist of*
2 *15 directors.*

3 “(C) *COMPOSITION.*—*The Board shall be*
4 *composed of directors appointed as follows:*

5 “(i) *FEDERAL MOTOR CARRIER SAFETY*
6 *ADMINISTRATION.*—*The Secretary shall ap-*
7 *point 1 director from each of the Federal*
8 *Motor Carrier Safety Administration’s 4*
9 *Service Areas (as those areas were defined*
10 *by the Federal Motor Carrier Safety Ad-*
11 *ministration on January 1, 2005), from*
12 *among the chief administrative officers of*
13 *the State agencies responsible for overseeing*
14 *the administration of the UCR Agreement.*

15 “(ii) *STATE AGENCIES.*—*The Secretary*
16 *shall appoint 5 directors from the profes-*
17 *sional staffs of State agencies responsible for*
18 *overseeing the administration of the UCR*
19 *Agreement in their respective States. Nomi-*
20 *nees for these 5 directorships shall be sub-*
21 *mitted to the Secretary by the national as-*
22 *sociation of professional employees of the*
23 *State agencies responsible for overseeing the*
24 *administration of the UCR Agreement in*
25 *their respective States.*

1 “(iii) *MOTOR CARRIER INDUSTRY.*—
2 *The Secretary shall appoint 5 directors*
3 *from the motor carrier industry. At least 1*
4 *of the appointees shall be an employee of the*
5 *national trade association representing the*
6 *general motor carrier of property industry.*

7 “(iv) *DEPARTMENT OF TRANSPORTATION.*—
8 *The Secretary shall appoint the*
9 *Deputy Administrator of the Federal Motor*
10 *Carrier Safety Administration, or such*
11 *other presidential appointee from the*
12 *United States Department of Transportation,*
13 *as the Secretary may designate, to*
14 *serve as a director.*

15 “(D) *CHAIRPERSON AND VICE-CHAIRPERSON.*—
16 *The Secretary shall designate 1 direc-*
17 *tor as Chairperson and 1 director as Vice-Chair-*
18 *person of the Board. The Chairperson and Vice-*
19 *Chairperson shall serve in such capacity for the*
20 *term of their appointment as directors.*

21 “(E) *TERM.*—*In appointing the initial*
22 *Board, the Secretary shall designate 5 of the ap-*
23 *pointed directors for initial terms of 3 years, 5*
24 *of the appointed directors for initial terms of 2*
25 *years, and 5 of the appointed directors for ini-*

1 *tial terms of 1 year. Thereafter, all directors*
2 *shall be appointed for terms of 3 years, except*
3 *that the term of the Deputy Administrator or*
4 *other individual designated by the Secretary*
5 *under subparagraph (C)(iv) shall be at the dis-*
6 *cretion of the Secretary. A director may be ap-*
7 *pointed to succeed himself or herself. A director*
8 *may continue to serve on the Board until his or*
9 *her successor is appointed.*

10 “(2) *RULES AND REGULATIONS GOVERNING THE*
11 *UCR AGREEMENT.—The Board of Directors shall issue*
12 *rules and regulations to govern the UCR Agreement.*
13 *The rules and regulations shall—*

14 “(A) *prescribe uniform forms and formats,*
15 *for—*

16 “(i) *the annual submission of the in-*
17 *formation required by a Base-State of a*
18 *motor carrier, motor private carrier, leasing*
19 *company, broker, or freight forwarder;*

20 “(ii) *the transmission of information*
21 *by a Participating State to the Unified*
22 *Carrier Registration System;*

23 “(iii) *the payment of excess fees by a*
24 *State to the designated depository and the*

1 *distribution of fees by the depository to*
2 *those States so entitled; and*

3 “(iv) *the providing of notice by a*
4 *motor carrier, motor private carrier, broker,*
5 *freight forwarder, or leasing company to the*
6 *Board of the intent of such entity to change*
7 *its Base-State, and the procedures for a*
8 *State to object to such a change under sub-*
9 *paragraph (C) of this paragraph;*

10 “(B) *provide for the administration of the*
11 *Unified Carrier Registration Agreement, includ-*
12 *ing procedures for amending the Agreement and*
13 *obtaining clarification of any provision of the*
14 *Agreement;*

15 “(C) *provide procedures for dispute resolu-*
16 *tion that provide due process for all involved*
17 *parties; and*

18 “(D) *designate a depository.*

19 “(3) *COMPENSATION AND EXPENSES.—Except for*
20 *the representative of the Department of Transpor-*
21 *tation appointed pursuant to paragraph (1)(D), no*
22 *director shall receive any compensation or other bene-*
23 *fits from the Federal Government for serving on the*
24 *Board or be considered a Federal employee as a result*
25 *of such service. All Directors shall be reimbursed for*

1 *expenses they incur attending duly called meetings of*
2 *the Board. In addition, the Board may approve the*
3 *reimbursement of expenses incurred by members of*
4 *any subcommittee or task force appointed pursuant to*
5 *paragraph (5). The reimbursement of expenses to di-*
6 *rectors and subcommittee and task force members*
7 *shall be based on the then applicable rules of the Gen-*
8 *eral Service Administration governing reimbursement*
9 *of expenses for travel by Federal employees.*

10 “(4) *MEETINGS.*—

11 “(A) *IN GENERAL.*—*The Board shall meet*
12 *at least once per year. Additional meetings may*
13 *be called, as needed, by the Chairperson of the*
14 *Board, a majority of the directors, or the Sec-*
15 *retary.*

16 “(B) *QUORUM.*—*A majority of directors*
17 *shall constitute a quorum.*

18 “(C) *VOTING.*—*Approval of any matter be-*
19 *fore the Board shall require the approval of a*
20 *majority of all directors present at the meeting.*

21 “(D) *OPEN MEETINGS.*—*Meetings of the*
22 *Board and any subcommittees or task forces ap-*
23 *pointed pursuant to paragraph (5) of this sec-*
24 *tion shall be subject to the provisions of section*
25 *552b of title 5.*

1 “(5) *SUBCOMMITTEES.*—

2 “(A) *INDUSTRY ADVISORY SUB-*
3 *COMMITTEE.*—*The Chairperson shall appoint an*
4 *Industry Advisory Subcommittee. The Industry*
5 *Advisory Subcommittee shall consider any mat-*
6 *ter before the Board and make recommendations*
7 *to the Board.*

8 “(B) *OTHER SUBCOMMITTEES.*—*The Chair-*
9 *person shall appoint an Audit Subcommittee, a*
10 *Dispute Resolution Subcommittee, and any ad-*
11 *ditional subcommittees and task forces that the*
12 *Board determines to be necessary.*

13 “(C) *MEMBERSHIP.*—*The chairperson of*
14 *each subcommittee shall be a director. The other*
15 *members of subcommittees and task forces may*
16 *be directors or non-directors.*

17 “(D) *REPRESENTATION ON SUBCOMMIT-*
18 *TEES.*—*Except for the Industry Advisory Sub-*
19 *committee (the membership of which shall consist*
20 *solely of representatives of entities subject to the*
21 *fee requirements of subsection (f) of this section),*
22 *each subcommittee and task force shall include*
23 *representatives of the Participating States and*
24 *the motor carrier industry.*

1 “(6) *DELEGATION OF AUTHORITY.*—*The Board*
2 *may contract with any private commercial or non-*
3 *profit entity or any agency of a State to perform ad-*
4 *ministrative functions required under the Unified*
5 *Carrier Registration Agreement, but may not delegate*
6 *its decision or policy-making responsibilities.*

7 “(7) *DETERMINATION OF FEES.*—

8 “(A) *RECOMMENDATION BY BOARD.*—*The*
9 *Board shall recommend to the Secretary the ini-*
10 *tial annual fees to be assessed carriers, leasing*
11 *companies, brokers, and freight forwarders pur-*
12 *suant to the Unified Carrier Registration Agree-*
13 *ment. In making its recommendation to the Sec-*
14 *retary for the level of fees to be assessed in any*
15 *Agreement year, and in setting the fee level, the*
16 *Board and the Secretary shall consider—*

17 “(i) *the administrative costs associated*
18 *with the Unified Carrier Registration Plan*
19 *and the Agreement;*

20 “(ii) *whether the revenues generated in*
21 *the previous year and any surplus or short-*
22 *age from that or prior years enable the Par-*
23 *ticipating States to achieve the revenue lev-*
24 *els set by the Board; and*

1 “(iii) the parameters for fees set forth
2 in subsection (f)(1).

3 “(B) *SETTING FEES.*—The Secretary shall
4 set the initial annual fees for the next Agreement
5 year and any subsequent adjustment of those
6 fees—

7 “(i) within 90 days after receiving the
8 Board’s recommendation under subpara-
9 graph (A); and

10 “(ii) after notice and opportunity for
11 public comment.

12 “(8) *LIABILITY PROTECTIONS FOR DIRECTORS.*—
13 No individual appointed to serve on the Board shall
14 be liable to any other director or to any other party
15 for harm, either economic or non-economic, caused by
16 an act or omission of the individual arising from the
17 individual’s service on the Board if—

18 “(A) the individual was acting within the
19 scope of his or her responsibilities as a director;
20 and

21 “(B) the harm was not caused by willful or
22 criminal misconduct, gross negligence, reckless
23 misconduct, or a conscious, flagrant indifference
24 to the right or safety of the party harmed by the
25 individual.

1 “(9) *INAPPLICABILITY OF FEDERAL ADVISORY*
2 *COMMITTEE ACT.*—*The Federal Advisory Committee*
3 *Act (5 U.S.C. App.) shall not apply to the Unified*
4 *Carrier Registration Plan or its committees.*

5 “(10) *CERTAIN FEES NOT AFFECTED.*—*This sec-*
6 *tion does not limit the amount of money a State may*
7 *charge for vehicle registration or the amount of any*
8 *fuel use tax a State may impose pursuant to the*
9 *International Fuel Tax Agreement.*

10 “(e) *STATE PARTICIPATION.*—

11 “(1) *STATE PLAN.*—*No State shall be eligible to*
12 *participate in the Unified Carrier Registration Plan*
13 *or to receive any revenues derived under the Agree-*
14 *ment, unless the State submits to the Secretary, not*
15 *later than 3 years after the date of enactment of the*
16 *Unified Carrier Registration Act of 2005, a plan—*

17 “(A) *identifying the State agency that has*
18 *or will have the legal authority, resources, and*
19 *qualified personnel necessary to administer the*
20 *Unified Carrier Registration Agreement in ac-*
21 *cordance with the rules and regulations promul-*
22 *gated by the Board of Directors of the Unified*
23 *Carrier Registration Plan; and*

24 “(B) *containing assurances that an amount*
25 *at least equal to the revenue derived by the State*

1 *from the Unified Carrier Registration Agreement*
2 *shall be used for motor carrier safety programs,*
3 *enforcement, and financial responsibility, or the*
4 *administration of the UCR Plan and UCR*
5 *Agreement.*

6 “(2) *AMENDED PLANS.*—*A State may change the*
7 *agency designated in the plan submitted under this*
8 *subsection by filing an amended plan with the Sec-*
9 *retary and the Chairperson of the Unified Carrier*
10 *Registration Plan.*

11 “(3) *WITHDRAWAL OF PLAN.*—*If a State with-*
12 *draws, or notifies the Secretary that it is with-*
13 *drawing, the plan submitted under this subsection,*
14 *then the State may no longer participate in the Uni-*
15 *fied Carrier Registration Agreement or receive any*
16 *portion of the revenues derived under the Agreement.*
17 *The Secretary shall notify the Chairperson upon re-*
18 *ceiving notice from a State that it is withdrawing its*
19 *plan or withdrawing from the Agreement.*

20 “(4) *TERMINATION OF ELIGIBILITY.*—*If a State*
21 *fails to submit a plan to the Secretary as required by*
22 *paragraph (1) or withdraws its plan under para-*
23 *graph (3), the State shall be prohibited from subse-*
24 *quently submitting or resubmitting a plan or partici-*
25 *pating in the Agreement.*

1 “(5) *PROVISION OF PLAN TO CHAIRPERSON.*—
2 *The Secretary shall provide a copy of each plan sub-*
3 *mitted under this subsection to the initial Chair-*
4 *person of the Board of Directors of the Unified Car-*
5 *rier Registration Plan not later than 90 days of ap-*
6 *pointing the Chairperson.*

7 “(f) *CONTENTS OF UNIFIED CARRIER REGISTRATION*
8 *AGREEMENT.*—*The Unified Carrier Registration Agree-*
9 *ment shall provide the following:*

10 “(1) *DETERMINATION OF FEES.*—

11 “(A) *Fees charged motor carriers, motor*
12 *private carriers, or freight forwarders in connec-*
13 *tion with the filing of proof of financial respon-*
14 *sibility under the UCR Agreement shall be based*
15 *on the number of commercial motor vehicles*
16 *owned or operated by the motor carrier, motor*
17 *private carrier, or freight forwarder. Brokers*
18 *and leasing companies shall pay the same fees as*
19 *the smallest bracket of motor carriers, motor pri-*
20 *ate carriers, and freight forwarders.*

21 “(B) *The fees shall be determined by the*
22 *Secretary based upon the recommendation of the*
23 *Board under subsection (d)(7).*

1 “(C) *The Board shall develop no more than*
2 *6 and no less than 4 brackets of carriers by size*
3 *of fleet.*

4 “(D) *The fee scale shall be progressive and*
5 *use different vehicle ratios for each bracket of*
6 *carrier fleet size.*

7 “(E) *The Board may ask the Secretary to*
8 *adjust the fees within a reasonable range on an*
9 *annual basis if the revenues derived from the*
10 *fees—*

11 “(i) *are insufficient to provide the rev-*
12 *enues to which the States are entitled under*
13 *this section; or*

14 “(ii) *exceed those revenues.*

15 “(2) *DETERMINATION OF OWNERSHIP OR OPER-*
16 *ATION.—Commercial motor vehicles owned or oper-*
17 *ated by a motor carrier, motor private carrier, or*
18 *freight forwarder shall mean those commercial motor*
19 *vehicles registered in the name of the motor carrier,*
20 *motor private carrier, or freight forwarder or con-*
21 *trolled by the motor carrier, motor private carrier, or*
22 *freight forwarder under a long term lease during a*
23 *vehicle registration year.*

24 “(3) *CALCULATION OF NUMBER OF COMMERCIAL*
25 *MOTOR VEHICLES OWNED OR OPERATED.—The num-*

1 *ber of commercial motor vehicles owned or operated*
2 *by a motor carrier, motor private carrier, or freight*
3 *forwarder for purposes of paragraph (1) of this sub-*
4 *section shall be based either on the number of com-*
5 *mmercial motor vehicles the motor carrier, motor pri-*
6 *vate carrier, or freight forwarder has indicated it op-*
7 *erates on its most recently filed MCS-150 or the total*
8 *number of such vehicles it owned or operated for the*
9 *12-month period ending on June 30 of the year im-*
10 *mediately prior to the each registration year of the*
11 *Unified Carrier Registration System. Commercial*
12 *motor vehicles used exclusively in the intrastate trans-*
13 *portation of property, waste, or recyclable material*
14 *may not be included in determining the number of*
15 *commercial motor vehicles owned or operated by a*
16 *motor carrier or motor private carrier for purposes of*
17 *paragraph (1) of this subsection.*

18 *“(4) PAYMENT OF FEES.—Motor carriers, motor*
19 *private carriers, leasing companies, brokers, and*
20 *freight forwarders shall pay all fees required under*
21 *this section to their Base-State pursuant to the UCR*
22 *Agreement.*

23 *“(g) PAYMENT OF FEES.—Revenues derived under the*
24 *UCR Agreement shall be allocated to Participating States*
25 *as follows:*

1 “(1) A State that participated in the Single
2 State Registration System in the last SSRS registra-
3 tion year ending before the date of enactment of the
4 Unified Carrier Registration Act of 2005 and com-
5 plies with the requirements of subsection (e) of this
6 section is entitled to receive a portion of the UCR
7 Agreement revenues generated under the Agreement
8 equivalent to the revenues it received under the SSRS
9 in the last SSRS registration year ending before the
10 date of enactment of the Unified Carrier Registration
11 Act of 2005, as long as the State continues to comply
12 with the provisions of subsection (e).

13 “(2) A State that collected intrastate registration
14 fees from interstate motor carriers, interstate motor
15 private carriers, or interstate exempt carriers and
16 complies with the requirements of subsection (e) of
17 this section is entitled to receive an additional por-
18 tion of the UCR Agreement revenues generated under
19 the Agreement equivalent to the revenues it received
20 from such interstate carriers in the last calendar year
21 ending before the date of enactment of the Unified
22 Carrier Registration Act of 2005, as long as the State
23 continues to comply with the provisions of subsection
24 (e).

1 “(3) States that comply with the requirements of
2 subsection (e) of this section but did not participate
3 in SSRS during the last SSRS registration year end-
4 ing before the date of enactment of the Unified Car-
5 rier Registration Act of 2005 shall be entitled to an
6 annual allotment not to exceed \$500,000 from the
7 UCR Agreement revenues generated under the Agree-
8 ment as long as the State continues to comply with
9 the provisions of subsection (e).

10 “(4) The amount of UCR Agreement revenues to
11 which a State is entitled under this section shall be
12 calculated by the Board and approved by the Sec-
13 retary.

14 “(h) *DISTRIBUTION OF UCR AGREEMENT REVE-*
15 *NUES.—*

16 “(1) *ELIGIBILITY.—*Each State that is in com-
17 pliance with the provisions of subsection (e) shall be
18 entitled to a portion of the revenues derived from the
19 UCR Agreement in accordance with subsection (g).

20 “(2) *ENTITLEMENT TO REVENUES.—*A State that
21 is in compliance with the provisions of subsection (e)
22 may retain an amount of the gross revenues it collects
23 from motor carriers, motor private carriers, brokers,
24 freight forwarders and leasing companies under the
25 UCR Agreement equivalent to the portion of revenues

1 to which the State is entitled under subsection (g). All
2 revenues a Participating State collects in excess of the
3 amount to which the State is so entitled shall be for-
4 warded to the depository designated by the Board
5 under subsection (d)(2)(D).

6 “(3) *DISTRIBUTION OF FUNDS FROM DEPOSI-*
7 *TORY.—The excess funds collected in the depository*
8 *shall be distributed as follows:*

9 “(A) *Excess funds shall be distributed on a*
10 *pro rata basis to each Participating State that*
11 *did not collect revenues under the UCR Agree-*
12 *ment equivalent to the amount such State is en-*
13 *titled under subsection (g), except that the sum*
14 *of the gross UCR Agreement revenues collected by*
15 *a Participating State and the amount distrib-*
16 *uted to it from the depository shall not exceed the*
17 *amount to which the State is entitled under sub-*
18 *section (g).*

19 “(B) *Any excess funds held by the deposi-*
20 *tory after all distributions under subparagraph*
21 *(A) have been made shall be used to pay the ad-*
22 *ministrative costs of the UCR Plan and the UCR*
23 *Agreement.*

24 “(C) *Any excess funds held by the deposi-*
25 *tory after distributions and payments under sub-*

1 *paragraphs (A) and (B) shall be retained in the*
2 *depository, and the UCR Agreement fees for*
3 *motor carriers, motor private carriers, leasing*
4 *companies, freight forwarders, and brokers for*
5 *the next fee year shall be reduced by the Sec-*
6 *retary accordingly.*

7 “(i) *ENFORCEMENT.*—

8 “(1) *CIVIL ACTIONS.*—*Upon request by the Sec-*
9 *retary of Transportation, the Attorney General may*
10 *bring a civil action in a court of competent jurisdic-*
11 *tion to enforce compliance with this section and with*
12 *the terms of the Unified Carrier Registration Agree-*
13 *ment.*

14 “(2) *VENUE.*—*An action under this section may*
15 *be brought only in the Federal court sitting in the*
16 *State in which an order is required to enforce such*
17 *compliance.*

18 “(3) *RELIEF.*—*Subject to section 1341 of title*
19 *28, the court, on a proper showing—*

20 “(A) *shall issue a temporary restraining*
21 *order or a preliminary or permanent injunction;*
22 *and*

23 “(B) *may issue an injunction requiring*
24 *that the State or any person comply with this*
25 *section.*

1 “(4) *ENFORCEMENT BY STATES.*—*Nothing in*
2 *this section—*

3 “(A) *prohibits a Participating State from*
4 *issuing citations and imposing reasonable fines*
5 *and penalties pursuant to applicable State laws*
6 *and regulations on any motor carrier, motor pri-*
7 *rate carrier, freight forwarder, broker, or leasing*
8 *company for failure to—*

9 “(i) *submit documents as required*
10 *under subsection (d)(2); or*

11 “(ii) *pay the fees required under sub-*
12 *section (f); or*

13 “(B) *authorizes a State to require a motor*
14 *carrier, motor private carrier, or freight for-*
15 *warder to display as evidence of compliance any*
16 *form of identification in excess of those permitted*
17 *under section 14506 of this title on or in a com-*
18 *mercial motor vehicle.*

19 “(j) *APPLICATION TO INTRASTATE CARRIERS.*—*Not-*
20 *withstanding any other provision of this section, a State*
21 *may elect to apply the provisions of the UCR Agreement*
22 *to motor carriers and motor private carriers subject to its*
23 *jurisdiction that operate solely in intrastate commerce*
24 *within the borders of the State.”.*

1 (c) *CONFORMING AMENDMENT.*—*The chapter analysis*
 2 *for chapter 145 is amended by inserting after the item relat-*
 3 *ing to section 14504 the following:*

“14504a. Unified carrier registration system plan and agreement”.

4 **SEC. 7136. IDENTIFICATION OF VEHICLES.**

5 (a) *IN GENERAL.*—*Chapter 145 is amended by adding*
 6 *at the end the following:*

7 **“§ 14506. Identification of vehicles**

8 “(a) *RESTRICTION ON REQUIREMENTS.*—*No State, po-*
 9 *litical subdivision of a State, interstate agency, or other po-*
 10 *litical agency of 2 or more States may enact or enforce any*
 11 *law, rule, regulation standard, or other provision having*
 12 *the force and effect of law that requires a motor carrier,*
 13 *motor private carrier, freight forwarder, or leasing com-*
 14 *pany to display any form of identification on or in a com-*
 15 *mercial motor vehicle, other than forms of identification re-*
 16 *quired by the Secretary of Transportation under section*
 17 *390.21 of title 49, Code of Federal Regulations.*

18 “(b) *EXCEPTION.*—*Notwithstanding paragraph (a), a*
 19 *State may continue to require display of credentials that*
 20 *are required—*

21 “(1) *under the International Registration Plan*
 22 *under section 31704 of this title;*

23 “(2) *under the International Fuel Tax Agree-*
 24 *ment under section 31705 of this title;*

1 “(3) *in connection with Federal requirements for*
2 *hazardous materials transportation under section*
3 *5103 of this title; or*

4 “(4) *in connection with the Federal vehicle in-*
5 *spection standards under section 31136 of this title.”.*

6 **(b) CONFORMING AMENDMENT.**—*The chapter analysis*
7 *for chapter 145 is amended by inserting after the item relat-*
8 *ing to section 14505 the following:*

 “14506. *Identification of vehicles*”.

9 **SEC. 7137. USE OF UCR AGREEMENT REVENUES AS MATCH-**
10 **ING FUNDS.**

11 *Section 31103(a) is amended by inserting “Amounts*
12 *generated by the Unified Carrier Registration Agreement,*
13 *under section 14504a of this title and received by a State*
14 *and used for motor carrier safety purposes may be included*
15 *as part of the State’s share not provided by the United*
16 *States.” after “United States Government.”.*

17 **SEC. 7138. FACILITATION OF INTERNATIONAL REGISTRA-**
18 **TION PLANS AND INTERNATIONAL FUEL TAX**
19 **AGREEMENTS.**

20 **(a) IN GENERAL.**—*Chapter 317 is amended by adding*
21 *at the end the following:*

1 **“§31708. Facilitation of international registration**
2 **plans and international fuel tax agree-**
3 **ments**

4 *“The Secretary may provide assistance to any State*
5 *that is participating in the International Registration Plan*
6 *and International Fuel Tax Agreement, as provided in sec-*
7 *tions 31704 and 31705, respectively, and that serves as a*
8 *base jurisdiction for motor carriers that are domiciled in*
9 *Mexico, to assist the State with administrative costs result-*
10 *ing from serving as a base jurisdiction for motor carriers*
11 *from Mexico.”.*

12 (b) *CONFORMING AMENDMENT.—The analysis for*
13 *chapter 317 of title 49, United States Code, is amended by*
14 *adding at the end the following:*

“31708. Facilitation of international registration plans and international fuel tax
agreements.”.

15 **SEC. 7139. IDENTITY AUTHENTICATION STANDARDS.**

16 (a) *IN GENERAL.—Subchapter I of chapter 1 of title*
17 *23, United States Code (as amended by section 1824(a)),*
18 *is amended by adding at the end the following:*

19 **“§ 179. Identity authentication standards**

20 *“(a) DEFINITION OF INFORMATION-BASED IDENTITY*
21 *AUTHENTICATION.—In this section, the term ‘information-*
22 *based identity authentication’ means the determination of*
23 *the identity of an individual, through the comparison of*
24 *information provided by a person, with other information*

1 *previously verified as accurate pertaining to that indi-*
2 *vidual.*

3 “(b) *STANDARDS.*—*Not later than 180 days after the*
4 *date of enactment of this section, the Secretary, in consulta-*
5 *tion with the Secretary of Homeland Security and the Fed-*
6 *eral Motor Carrier Safety Administration, shall promulgate*
7 *regulations establishing minimum standards for State de-*
8 *partments of motor vehicles regarding the use of informa-*
9 *tion-based identity authentication to determine the identity*
10 *of an applicant for a commercial driver’s license, or the*
11 *renewal, transfer or upgrading, of a commercial driver’s li-*
12 *cence.*

13 “(c) *MINIMUM STANDARDS.*—*The regulations shall, at*
14 *a minimum, require State departments of motor vehicles*
15 *to implement, and applicants for commercial driver’s li-*
16 *censes, (or the renewal, transfer, or upgrading of commer-*
17 *cial driver’s licenses), to comply with, reasonable procedures*
18 *for operating an information-based identity authentication*
19 *program before issuing, renewing, transferring, or upgrad-*
20 *ing a commercial driver’s license.*

21 “(d) *KEY FACTORS.*—*In promulgating regulations*
22 *under this section, the Secretary shall require that an infor-*
23 *mation-based identity authentication program carried out*
24 *under this section establish processes that—*

1 “(1) ensure accurate sources of matching infor-
2 mation;

3 “(2) enable the measurement of the accuracy of
4 the determination of an applicant’s identity;

5 “(3) support continuous auditing of compliance
6 with applicable laws, policies, and practices gov-
7 erning the collection, use, and distribution of infor-
8 mation in the operation of the program;

9 “(4) incorporate a comprehensive program en-
10 suring administrative, technical, and physical safe-
11 guards to protect the privacy and security of means
12 of identification (as defined in section 1028(d) of title
13 18, United States Code), against unauthorized and
14 fraudulent access or uses;

15 “(5) impose limitations to ensure that any infor-
16 mation containing means of identification transferred
17 or shared with third-party vendors for the purposes of
18 the information-based identity authentication de-
19 scribed in this section is only used by the third-party
20 vendors for the specific purposes authorized under this
21 section;

22 “(6) include procedures to ensure accuracy and
23 enable applicants for commercial driver’s licenses who
24 are denied licenses as a result of the information-
25 based identity authentication described in this sec-

1 *tion, to appeal the determination and correct infor-*
2 *mation upon which the comparison described in sub-*
3 *section (a) is based;*

4 *“(7) ensure that the information-based identity*
5 *authentication described in this section—*

6 *“(A) can accurately assess and authenticate*
7 *identities; and*

8 *“(B) will not produce a large number of*
9 *false positives or unjustified adverse con-*
10 *sequences;*

11 *“(8) create penalties for knowing use of inac-*
12 *curate information as a basis for comparison in au-*
13 *thenticating identity; and*

14 *“(9) adopt policies and procedures establishing*
15 *effective oversight of the information-based identity*
16 *authentication systems of State departments of motor*
17 *vehicles.”.*

18 *(b) CONFORMING AMENDMENT.—The analysis for sub-*
19 *chapter I of chapter I of title 23, United States Code (as*
20 *amended by section 1824(b)), is amended by adding at the*
21 *end the following:*

“179. Identity authentication standards.”.

22 **SEC. 7140. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL**
23 **VEHICLES.**

24 *Paragraph (2) of section 31149(a), as transferred by*
25 *section 7108, is amended by adding at the end the following:*

1 “No additional off-duty time for a driver of such a vehicle
2 shall be required in order for the driver to operate the vehi-
3 cle.”.

4 **CHAPTER 3—COMMERCIAL DRIVER’S**
5 **LICENSES**

6 **SEC. 7151. CDL TASK FORCE.**

7 (a) *IN GENERAL.*—The Secretary of Transportation
8 shall convene a task force to study and address current im-
9 pediments and foreseeable challenges to the commercial
10 driver’s license program’s effectiveness and measures needed
11 to realize the full safety potential of the commercial driver’s
12 license program. The task force shall address such issues as
13 State enforcement practices, operational procedures to de-
14 tect and deter fraud, needed improvements for seamless in-
15 formation sharing between States, effective methods for ac-
16 curately sharing electronic data between States, adequate
17 proof of citizenship, updated technology, and timely notifi-
18 cation from judicial bodies concerning traffic and criminal
19 convictions of commercial driver’s license holders.

20 (b) *MEMBERSHIP.*—Members of the task force should
21 include State motor vehicle administrators, organizations
22 representing government agencies or officials, members of
23 the Judicial Conference, representatives of the trucking in-
24 dustry, representatives of labor organizations, safety advo-
25 cates, and other significant stakeholders.

1 (c) *REPORT.*—Within 2 years after the date of enact-
2 ment of this Act, the Secretary, on behalf of the task force,
3 shall complete a report of the task force’s findings and rec-
4 ommendations for legislative, regulatory, and enforcement
5 changes to improve the commercial driver’s license pro-
6 gram. The Secretary shall promptly transmit the report to
7 the Senate Committee on Commerce, Science, and Trans-
8 portation and the House of Representatives Committee on
9 Transportation and Infrastructure.

10 (d) *FUNDING.*—From the funds authorized by section
11 7103(b)(3) of this subtitle, \$200,000 shall be made available
12 for each of fiscal years 2006 and 2007 to carry out this
13 section.

14 **SEC. 7152. CDL LEARNER’S PERMIT PROGRAM.**

15 Chapter 313 is amended—

16 (1) by striking “time.” in section 31302 and in-
17 serting “license, and may have only 1 learner’s per-
18 mit at any time.”;

19 (2) by inserting “and learners’ permits” after
20 “licenses” the first place it appears in section 31308;

21 (3) by striking “licenses.” in section 31308 and
22 inserting “licenses and permits.”;

23 (4) by redesignating paragraphs (2) and (3) of
24 section 31308 as paragraphs (3) and (4), respectively,
25 and inserting after paragraph (1) the following:

1 “(2) before a commercial driver’s license learn-
 2 er’s permit can be issued to an individual, the indi-
 3 vidual must pass a written test on the operation of
 4 a commercial motor vehicle that complies with the
 5 minimum standards prescribed by the Secretary
 6 under section 31305(a) of this title;”;

7 (5) by inserting “or learner’s permit” after “li-
 8 cense” each place it appears in paragraphs (3) and
 9 (4), as redesignated, of section 31308; and

10 (6) by inserting “or learner’s permit” after “li-
 11 cense” each place it appears in section 31309(b).

12 **SEC. 7153. GRANTS TO STATES FOR COMMERCIAL DRIVER’S**
 13 **LICENSE IMPROVEMENTS.**

14 (a) *IN GENERAL.*—Chapter 313 is amended by adding
 15 at the end the following:

16 **“§31318. Grants for commercial driver’s license pro-**
 17 **gram improvements**

18 “(a) *GENERAL AUTHORITY.*—From the funds author-
 19 ized by section 7103(b)(3) of the Motor Carrier Safety Re-
 20 authorization Act of 2005, the Secretary may make a grant
 21 to a State, except as otherwise provided in subsection (e),
 22 in a fiscal year to improve its implementation of the com-
 23 mercial driver’s license program, providing the State is
 24 making a good faith effort toward substantial compliance
 25 with the requirements of section 31311 and this section. The

1 *Secretary shall establish criteria for the distribution of*
2 *grants and notify the States annually of such criteria.*

3 “(b) *CONDITIONS.—Except as otherwise provided in*
4 *subsection (e), a State may use a grant under this section*
5 *only for expenses related to its commercial driver’s license*
6 *program, including, but not limited to, computer hardware*
7 *and software, publications, testing, personnel, training, and*
8 *quality control. The grant may not be used to rent, lease,*
9 *or buy land or buildings. The Secretary shall give priority*
10 *to grants that will be used to achieve compliance with the*
11 *requirements of the Motor Carrier Safety Improvement Act*
12 *of 1999. The Secretary may allocate the funds appropriated*
13 *for such grants in a fiscal year among the eligible States*
14 *whose applications for grants have been approved, under*
15 *criteria established by the Secretary.*

16 “(c) *MAINTENANCE OF EXPENDITURES.—Except as*
17 *otherwise provided in subsection (e), the Secretary may*
18 *make a grant to a State under this section only if the State*
19 *agrees that the total expenditure of amounts of the State*
20 *and political subdivisions of the State, exclusive of United*
21 *States Government amounts, for the operation of the com-*
22 *mercial driver’s license program will be maintained at a*
23 *level at least equal to the average level of that expenditure*
24 *by the State and political subdivisions of the State for the*
25 *last 2 fiscal years before October 1, 2005.*

1 “(d) *GOVERNMENT SHARE.*—*Except as otherwise pro-*
2 *vided in subsection (e), the Secretary shall reimburse a*
3 *State, from a grant made under this section, an amount*
4 *that is not more than 80 percent of the costs incurred by*
5 *the State in a fiscal year in implementing the commercial*
6 *driver’s license improvements described in subsection (b).*
7 *In determining those costs, the Secretary shall include in-*
8 *kind contributions by the State.*

9 “(e) *HIGH-PRIORITY ACTIVITIES.*—

10 “(1) *The Secretary may make a grant to a State*
11 *agency, local government, or organization rep-*
12 *resenting government agencies or officials for the full*
13 *cost of research, development, demonstration projects,*
14 *public education, or other special activities and*
15 *projects relating to commercial driver licensing and*
16 *motor vehicle safety that are of benefit to all jurisdic-*
17 *tions or designed to address national safety concerns*
18 *and circumstances.*

19 “(2) *The Secretary may designate up to 10 per-*
20 *cent of the amounts made available under section*
21 *7103(b)(3) of the Motor Carrier Safety Reauthoriza-*
22 *tion Act of 2005 in a fiscal year for high-priority ac-*
23 *tivities under subsection (e)(1).*

24 “(f) *EMERGING ISSUES.*—*The Secretary may des-*
25 *ignate up to 10 percent of the amounts made available*

1 *under section 7103(b)(3) of the Motor Carrier Safety Reau-*
2 *thorization Act of 2005 in a fiscal year for allocation to*
3 *a State agency, local government, or other person at the*
4 *discretion of the Secretary to address emerging issues relat-*
5 *ing to commercial driver’s license improvements.*

6 “(g) *APPORTIONMENT.*—*Except as otherwise provided*
7 *in subsections (e) and (f), all amounts available in a fiscal*
8 *year to carry out this section shall be apportioned to States*
9 *according to a formula prescribed by the Secretary.*

10 “(h) *DEDUCTION FOR ADMINISTRATIVE EXPENSES.*—
11 *On October 1 of each fiscal year or as soon after that date*
12 *as practicable, the Secretary may deduct, from amounts*
13 *made available under section 7103(b)(3) of the Motor Car-*
14 *rier Safety Reauthorization Act of 2005 for that fiscal year,*
15 *up to 0.75 percent of those amounts for administrative ex-*
16 *penses incurred in carrying out this section in that fiscal*
17 *year.”.*

18 (b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
19 *chapter 313 is amended by inserting the following after the*
20 *item relating to section 31317:*

“31318. Grants for commercial driver’s license program improvements.”.

21 **SEC. 7154. MODERNIZATION OF CDL INFORMATION SYSTEM.**

22 (a) *INFORMATION SYSTEM MODERNIZATION AC-*
23 *COUNT.*—*Section 31309 of title 49, United States Code, is*
24 *amended—*

1 (1) *by striking “The Secretary” in the last sen-*
2 *tence and inserting “Except as provided in subsection*
3 *(e), the Secretary”; and*

4 (2) *by adding at the end the following:*

5 “(e) *INFORMATION SYSTEM MODERNIZATION AC-*
6 *COUNT.—*

7 “(1) *ESTABLISHMENT.—The Secretary of Trans-*
8 *portation shall establish an account to be known as*
9 *the Information System Modernization Account with-*
10 *in the Department of Transportation.*

11 “(2) *CREDITS.—Fees collected for any fiscal year*
12 *beginning after fiscal year 2006 under subsection (d)*
13 *by the Secretary of Transportation, or an organiza-*
14 *tion that represents the interests of the States, in ex-*
15 *cess of the costs of operating the information system*
16 *in that fiscal year shall be and credited to the Infor-*
17 *mation System Modernization Account.*

18 “(3) *USE OF FUNDS.—Amounts credited to the*
19 *Information System Modernization Account shall be*
20 *available exclusively for the purpose of modernizing*
21 *the information system under subsection (f). At the*
22 *end of fiscal year 2008, the Inspector General of the*
23 *Department of Transportation shall complete an as-*
24 *essment of whether the fees collected in excess of the*
25 *costs of operating the information system are prop-*

1 *erty credited to the Information System Moderniza-*
2 *tion Account.”.*

3 *(b) MODERNIZATION PLAN.—Section 31309 of title 49,*
4 *United States Code, is further amended by adding at the*
5 *end the following:*

6 *“(f) MODERNIZATION PLAN.—*

7 *“(1) IN GENERAL.—The Secretary shall develop*
8 *a comprehensive plan for modernization of the infor-*
9 *mation system that—*

10 *“(A) complies with applicable Federal in-*
11 *formation technology security standards;*

12 *“(B) provides for the electronic exchange of*
13 *all information including the posting of convic-*
14 *tions;*

15 *“(C) contains self auditing features to en-*
16 *sure that data is being posted correctly and con-*
17 *sistently by the States;*

18 *“(D) integrates the commercial driver’s li-*
19 *cence and the medical certificate; and*

20 *“(E) provides a schedule for modernization*
21 *of the system.*

22 *“(2) COMPETITIVE CONTRACTING.—The Sec-*
23 *retary may use non-Federal entities selected by an*
24 *open, merit-based, competitive process to develop and*
25 *implement the modernization plan.*

1 “(3) *STATE PARTICIPATION.*—

2 “(A) *DEADLINE.*—*The Secretary shall es-*
3 *tablish a date by which each State must convert*
4 *to the new information system.*

5 “(B) *FUNDING.*—*A State may use funds*
6 *made available under section 31318 of this title*
7 *to develop or modify its system to be compatible*
8 *with the modernized information system devel-*
9 *oped by the Secretary under this subsection.”.*

10 (c) *BASELINE AUDIT.*—*Within 1 year after the date*
11 *of enactment of this Act, the Secretary of Transportation,*
12 *in consultation with the Inspector General of the Depart-*
13 *ment of Transportation, shall perform a baseline audit of*
14 *the information system maintained under section 31309 of*
15 *title 49, United States Code. The audit shall include—*

16 (1) *an assessment of the validity of data in the*
17 *information system on a State-by-State basis;*

18 (2) *an assessment of the extent to which convic-*
19 *tions are validly posted on a driver’s record;*

20 (3) *recommendations to the Secretary of Trans-*
21 *portation on how to update the baseline audit annu-*
22 *ally to ensure that any shortcomings in the informa-*
23 *tion system are addressed, and a methodology for con-*
24 *ducting the update; and*

1 (4) *identification, on a State-by-State basis, of*
 2 *any actions that the Inspector General finds necessary*
 3 *to improve the integrity of data collected by the sys-*
 4 *tem and to ensure the proper posting of convictions.*

5 **SEC. 7155. SCHOOL BUS ENDORSEMENT KNOWLEDGE TEST**
 6 **REQUIREMENT.**

7 *The Secretary shall recognize any driver who passes*
 8 *a test approved by the Federal Motor Carrier Safety Ad-*
 9 *ministration as meeting the knowledge test requirement for*
 10 *a school bus endorsement under section 383.123 of title 49,*
 11 *Code of Federal Regulations.*

12 **Subtitle B—Highway and Vehicular**
 13 **Safety**

14 **SEC. 7201. SHORT TITLE.**

15 *This subtitle may be cited as the “Highway and Vehic-*
 16 *ular Safety Reauthorization Act of 2005”.*

17 **CHAPTER 1—HIGHWAY SAFETY GRANT**
 18 **PROGRAM**

19 **SEC. 7211. SHORT TITLE.**

20 *This chapter may be cited as the “Highway Safety*
 21 *Grant Program Reauthorization Act of 2005”.*

22 **SEC. 7212. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) *AMOUNTS FOR FISCAL YEARS 2006 THROUGH*
 24 *2009.—There are authorized to be appropriated from the*
 25 *Highway Trust Fund (other than the Mass Transit Ac-*

1 count) to the Secretary of Transportation for the National
2 Highway Traffic Safety Administration the following:

3 (1) To carry out the Highway Safety Programs
4 under section 402 of title 23, United States Code,
5 \$209,217,985 in fiscal year 2006, \$210,224,035 in fis-
6 cal year 2007, \$221,906,185 in fiscal year 2008, and
7 \$226,969,685 in fiscal year 2009.

8 (2) To carry out the Highway Safety Research
9 and Outreach Programs under section 403 of title 23,
10 United States Code, \$141,852,000 in fiscal year 2006,
11 \$142,323,000 in fiscal year 2007, \$141,560,000 in fis-
12 cal year 2008, and \$141,952,000 in fiscal year 2009.

13 (3) To carry out the Occupant Protection Pro-
14 grams under section 405 of title 23, United States
15 Code, \$149,667,110 in fiscal year 2006, \$149,787,000
16 in fiscal year 2007, \$149,509,185 in fiscal year 2008,
17 and \$149,006,000 in fiscal year 2009.

18 (4) To carry out the Demonstration Programs
19 related to older drivers, law enforcement, and motor-
20 cycle training under section 406 of title 23, United
21 States Code, \$7,400,000 in each of fiscal years 2006
22 through 2009.

23 (5) To carry out the Emergency Medical Services
24 Program under section 407A of title 23, United States

1 Code, \$5,000,000 in each of fiscal years 2006 through
2 2009.

3 (6) To carry out the Impaired Driving Program
4 under section 410 of title 23, United States Code,
5 \$115,721,000 in fiscal year 2006, \$129,065,000 in fis-
6 cal year 2007, \$134,819,000 in fiscal year 2008, and
7 \$147,615,000 in fiscal year 2009.

8 (7) To carry out the State Traffic Safety Infor-
9 mation System Improvements under section 412 of
10 title 23, United States Code, \$45,000,000 in each of
11 fiscal years 2006 through 2009.

12 (8) To carry out chapter 303 of title 49, United
13 States Code, \$4,000,000 for each of fiscal years 2006
14 through 2009, to be available for obligation in the
15 same manner as if such funds were apportioned
16 under chapter 1 of title 23, United States Code.

17 (9) To pay administrative and related operating
18 expenses under section 402, section 405, section 406,
19 section 407A, section 410, section 412, section 413,
20 and section 414 of title 23, United States Code, and
21 section 223 of the Highway Safety Grant Program
22 Reauthorization Act of 2005, \$17,868,000 for fiscal
23 year 2006, \$18,150,000 for fiscal year 2007,
24 \$18,837,000 for fiscal year 2008, and \$19,350,000 for
25 fiscal year 2009.

1 (b) *PROHIBITION ON OTHER USES.*—*Except as other-*
2 *wise provided in this chapter, the amounts allocated from*
3 *the Highway Trust Fund for programs provided for in*
4 *chapter 4 of title 23, United States Code, shall only be used*
5 *for such programs and may not be used by States or local*
6 *governments for construction purposes.*

7 (c) *PROPORTIONAL INCREASES.*—*For each fiscal year*
8 *from 2006 through 2009, if revenue to the Highway Trust*
9 *Fund increases above the amounts for each such fiscal year*
10 *assumed in the fiscal year 2006 joint budget resolution, then*
11 *the amounts made available in such year for the programs*
12 *in sections 402, 403, 405, and 410 shall increase by the*
13 *same percentage. If revenue to the Highway Trust Fund*
14 *for a fiscal year is lower than the amounts for such fiscal*
15 *year assumed in the fiscal year 2006 joint budget resolu-*
16 *tion, then the amounts authorized to be made available in*
17 *such year for those programs shall not decrease.*

18 **SEC. 7213. HIGHWAY SAFETY PROGRAMS.**

19 (a) *PROGRAMS TO BE INCLUDED.*—

20 (1) *MOTOR VEHICLE AIRBAGS PUBLIC AWARE-*
21 *NESS.*—*Section 402(a)(2) is amended by striking “ve-*
22 *hicles and to increase public awareness of the benefit*
23 *of motor vehicles equipped with airbags” and insert-*
24 *ing “vehicles,”.*

1 (2) *AGGRESSIVE DRIVING*.—Section 402(a) is fur-
2 *ther amended—*

3 (A) *by redesignating clause (6) as clause*
4 *(8);*

5 (B) *by inserting after “involving school*
6 *buses,” at the end of clause (5) the following:*
7 *“(6) to reduce aggressive driving and to educate*
8 *drivers about defensive driving, (7) to reduce ac-*
9 *cidents resulting from fatigued and distracted*
10 *drivers, including distractions arising from the*
11 *use of electronic devices in vehicles,”; and*

12 (C) *by inserting “aggressive driving, dis-*
13 *tracted driving,” after “school bus accidents,”.*

14 (3) *ADMINISTRATION OF STATE PROGRAMS*.—
15 *Section 402(b)(1) is amended—*

16 (A) *by striking “and” after the semicolon in*
17 *subparagraph (C);*

18 (B) *by striking “State.” in subparagraph*
19 *(D) and inserting “State; and”;* and

20 (C) *by adding at the end the following:*

21 “(E) *provide satisfactory assurances that the*
22 *State will implement activities in support of national*
23 *highway safety priorities and performance goals,*
24 *including—*

1 “(i) mobilizations, including high visibility
2 enforcement and paid media, in support of ef-
3 forts to improve occupant protection and reduce
4 impaired driving;

5 “(ii) sustained enforcement of statutes ad-
6 dressing impaired driving, occupant protection,
7 and driving in excess of posted speed limits;

8 “(iii) an annual statewide safety belt use
9 survey in accordance with criteria established by
10 the Secretary for the measurement of State safety
11 belt use rates to ensure that the measurements
12 are accurate and representative;

13 “(iv) development of statewide data systems
14 to provide timely and effective data analysis to
15 support allocation of highway safety resources;

16 “(v) effective efforts to adopt Model Min-
17 imum Uniform Crash Criteria and National
18 Emergency Medical System Information System
19 data elements; and

20 “(vi) safety priority programs identified by
21 the Secretary based on national data trends un-
22 less a State can demonstrate with data that any
23 such safety priority program is not a matter of
24 significant concern in its jurisdiction.

25 (b) APPORTIONMENT.—

1 (1) *TRIBAL GOVERNMENT PROGRAMS.*—Section
2 402(c) is amended—

3 (A) by striking the second sentence; and

4 (B) by striking “three-fourths of 1 percent”
5 and inserting “2 percent”.

6 (c) *LAW ENFORCEMENT CHASE TRAINING.*—Section
7 402 is amended by adding at the end the following:

8 “(l) *LIMITATION RELATING TO LAW ENFORCEMENT*
9 *VEHICULAR PURSUIT TRAINING.*—No State may receive
10 any funds available for fiscal years after fiscal year 2007
11 for programs under this chapter until the State submits to
12 the Secretary a written statement that the State actively
13 encourages all relevant law enforcement agencies in that
14 State to follow the guidelines established for vehicular pur-
15 suits issued by the International Association of Chiefs of
16 Police that are in effect on the date of enactment of the
17 Highway Safety Grant Program Reauthorization Act of
18 2005, or as revised and in effect after that date as deter-
19 mined by the Secretary.

20 “(m) *CONSOLIDATION OF GRANT APPLICATIONS.*—The
21 Secretary shall establish an approval process by which a
22 State may apply for all grants included under this chapter
23 through a single application with a single annual deadline.
24 The Bureau of Indian Affairs shall establish a similarly
25 simplified process for applications from Indian tribes.”.

1 **SEC. 7214. HIGHWAY SAFETY RESEARCH AND OUTREACH**
2 **PROGRAMS.**

3 (a) *REVISED AUTHORITY AND REQUIREMENTS.*—Sec-
4 *tion 403 is amended to read as follows:*

5 **“§ 403. Highway safety research and development**

6 *“(a) AUTHORITY OF THE SECRETARY.—The Secretary*
7 *is authorized to use funds appropriated to carry out this*
8 *section to—*

9 *“(1) conduct research on all phases of highway*
10 *safety and traffic conditions, including accident cau-*
11 *sation, highway or driver characteristics, communica-*
12 *tions, and emergency care;*

13 *“(2) conduct ongoing research into driver behav-*
14 *ior and its effect on traffic safety;*

15 *“(3) conduct research on, launch initiatives to*
16 *counter, and conduct demonstration projects on fa-*
17 *tigued driving by drivers of motor vehicles and dis-*
18 *tracted driving in such vehicles, including the effect*
19 *that the use of electronic devices and other factors*
20 *deemed relevant by the Secretary have on driving;*

21 *“(4) conduct training or education programs in*
22 *cooperation with other Federal departments and*
23 *agencies, States, private sector persons, highway safe-*
24 *ty personnel, and law enforcement personnel;*

1 “(5) conduct research on, and evaluate the effec-
2 tiveness of, traffic safety countermeasures, including
3 seat belts and impaired driving initiatives;

4 “(6) conduct research on, evaluate, and develop
5 best practices related to driver education programs,
6 including driver education curricula, instructor
7 training and certification, program administration
8 and delivery mechanisms, and make recommendations
9 for harmonizing driver education and multistage
10 graduated licensing systems;

11 “(7) conduct research, training, and education
12 programs related to older drivers; and

13 “(8) conduct demonstration projects.

14 “(b) *NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.*—

15 “(1) *REQUIREMENT FOR CAMPAIGNS.*—*The Ad-*
16 *ministrator of the National Highway Traffic Safety*
17 *Administration shall establish and administer a pro-*
18 *gram under which at least 2 high-visibility traffic*
19 *safety law enforcement campaigns will be carried out*
20 *for the purposes specified in paragraph (2) in each of*
21 *years 2006 through 2009.*

22 “(2) *PURPOSE.*—*The purpose of each law en-*
23 *forcement campaign is to achieve either or both of the*
24 *following objectives:*

1 “(A) *Reduce alcohol-impaired or drug-im-*
2 *paired operation of motor vehicles.*

3 “(B) *Increase use of seat belts by occupants*
4 *of motor vehicles.*

5 “(3) *ADVERTISING.—The Administrator may*
6 *use, or authorize the use of, funds available under this*
7 *section to pay for the development, production, and*
8 *use of broadcast and print media advertising in car-*
9 *rying out traffic safety law enforcement campaigns*
10 *under this subsection. Consideration shall be given to*
11 *advertising directed at non-English speaking popu-*
12 *lations, including those who listen, read, or watch*
13 *nontraditional media.*

14 “(4) *COORDINATION WITH STATES.—The Admin-*
15 *istrator shall coordinate with the States in carrying*
16 *out the traffic safety law enforcement campaigns*
17 *under this subsection, including advertising funded*
18 *under paragraph (3), with a view to—*

19 “(A) *relying on States to provide the law*
20 *enforcement resources for the campaigns out of*
21 *funding available under this section and sections*
22 *402, 405, and 410 of this title; and*

23 “(B) *providing out of National Highway*
24 *Traffic Safety Administration resources most of*
25 *the means necessary for national advertising and*

1 *education efforts associated with the law enforce-*
2 *ment campaigns.*

3 “(5) *ANNUAL EVALUATION.*—*The Secretary shall*
4 *conduct an annual evaluation of the effectiveness of*
5 *such initiatives.*

6 “(6) *FUNDING.*—*The Secretary shall use*
7 *\$24,000,000 in each of fiscal years 2006 through 2009*
8 *for advertising and educational initiatives to be car-*
9 *ried out nationwide in support of the campaigns*
10 *under this section.*

11 “(c) *INTERNATIONAL COOPERATION.*—

12 “(1) *AUTHORITY.*—*The Administrator of the Na-*
13 *tional Highway Traffic Safety Administration may*
14 *participate and cooperate in international activities*
15 *to enhance highway safety.*

16 “(2) *AMOUNT FOR PROGRAM.*—*Of the amount*
17 *available for a fiscal year to carry out this section,*
18 *\$200,000 may be used for activities authorized under*
19 *paragraph (1).”.*

20 “(b) *SPECIFIC RESEARCH PROGRAMS.*—

21 “(1) *REQUIRED PROGRAMS.*—*The Secretary shall*
22 *conduct research under section 403 of title 23, United*
23 *States Code, on the following:*

24 “(A) *EFFECTS OF USE OF CONTROLLED SUB-*
25 *STANCES.*—*A study on the effects of the use of*

1 *controlled substances on driver behavior to*
2 *determine—*

3 *(i) methodologies for measuring driver*
4 *impairment resulting from use of the most*
5 *common controlled substances (including the*
6 *use of such substances in combination with*
7 *alcohol); and*

8 *(ii) effective and efficient methods for*
9 *training law enforcement personnel to detect*
10 *or measure the level of impairment of a*
11 *driver who is under the influence of a con-*
12 *trolled substance by the use of technology or*
13 *otherwise.*

14 *The Secretary may develop model State legisla-*
15 *tion based on research conducted under this sub-*
16 *paragraph.*

17 *(B) ON-SCENE MOTOR VEHICLE COLLISION*
18 *CAUSATION.—A nationally representative study*
19 *to collect on-scene motor vehicle collision data,*
20 *and to determine crash causation, for which the*
21 *Secretary shall enter into a contract with the*
22 *National Academy of Sciences to conduct a re-*
23 *view of the research, design, methodology, and*
24 *implementation of the study.*

1 (C) *TOLL FACILITIES WORKPLACE SAFE-*
2 *TY.—A study on the safety of highway toll collec-*
3 *tion facilities, including toll booths, conducted in*
4 *cooperation with State and local highway safety*
5 *organizations to determine the safety of highway*
6 *toll collection facilities for the toll collectors who*
7 *work in and around such facilities and to de-*
8 *velop best practices that would be of benefit to*
9 *State and local highway safety organizations.*
10 *The study shall consider—*

11 (i) *any problems resulting from design*
12 *or construction of facilities that contribute*
13 *to the occurrence of vehicle collisions with*
14 *the facilities;*

15 (ii) *the safety of crosswalks used by toll*
16 *collectors in transit to and from toll booths;*

17 (iii) *the extent of the enforcement of*
18 *speed limits at and in the vicinity of toll*
19 *facilities;*

20 (iv) *the use of warning devices, such as*
21 *vibration and rumble strips, to alert drivers*
22 *approaching toll facilities;*

23 (v) *the use of cameras to record traffic*
24 *violations in the vicinity of toll facilities;*

1 (vi) the use of traffic control arms in
2 the vicinity of toll facilities;

3 (vii) law enforcement practices and ju-
4 risdictional issues that affect safety at and
5 in the vicinity of toll facilities; and

6 (viii) data (which shall be collected in
7 conducting the research) regarding the inci-
8 dence of accidents and injuries at and
9 around toll booth facilities.

10 (2) *TIME FOR COMPLETION OF STUDIES.*—The
11 studies conducted in subparagraphs (A), (B), and (C)
12 of paragraph (1) may be conducted in concert with
13 other Federal departments and agencies with relevant
14 expertise. The Secretary shall submit an annual re-
15 port to the Senate Committee on Commerce, Science,
16 and Transportation and the House of Representatives
17 Committee on Transportation and Infrastructure on
18 the progress of each study conducted under this sub-
19 section.

20 (3) *REPORTS.*—Not later than 2 years after the
21 date of enactment of this Act, the Secretary shall sub-
22 mit a report on the studies to the Senate Committee
23 on Commerce, Science, and Transportation and the
24 House of Representatives Committee on Transpor-
25 tation and Infrastructure.

1 (4) *RESEARCH ON DISTRACTED, INATTENTIVE,*
2 *AND FATIGUED DRIVERS.*—*In conducting research*
3 *under section 403(a)(3) of title 23, United States*
4 *Code, the Secretary shall carry out not less than 2*
5 *demonstration projects to evaluate new and innova-*
6 *tive means of combating traffic system problems*
7 *caused by distracted, inattentive, or fatigued drivers.*
8 *The demonstration projects shall be in addition to*
9 *any other research carried out under this subsection.*

10 (5) *PEDESTRIAN SAFETY.*—

11 (A) *IN GENERAL.*—*The Secretary of Trans-*
12 *portation shall—*

13 (i) *produce a comprehensive report on*
14 *pedestrian safety that builds on the current*
15 *level of knowledge of pedestrian safety coun-*
16 *termeasures by identifying the most effective*
17 *advanced technology and intelligent trans-*
18 *portation systems, such as automated pedes-*
19 *trian detection and warning systems (infra-*
20 *structure-based and vehicle-based), road de-*
21 *sign, and vehicle structural design that*
22 *could potentially mitigate the crash forces*
23 *on pedestrians in the event of a crash; and*

24 (ii) *include in the report recommenda-*
25 *tions on how new technological develop-*

1 *ments could be incorporated into edu-*
2 *cational and enforcement efforts and how*
3 *they could be integrated into national de-*
4 *sign guidelines developed by the American*
5 *Association of State Highway and Trans-*
6 *portation Officials.*

7 *(B) DUE DATE.—The Secretary shall com-*
8 *plete the report not less than 2 years after the*
9 *date of enactment of this Act and transmit a*
10 *copy of the report to the Senate Committee on*
11 *Commerce, Science, and Transportation and the*
12 *House of Representatives Committee on Trans-*
13 *portation and Infrastructure.*

14 *(6) STUDY ON REFUSAL OF INTOXICATION TEST-*
15 *ING.—*

16 *(A) REQUIREMENT FOR STUDY.—In addi-*
17 *tion to studies under section 403 of title 23,*
18 *United States Code, the Secretary of Transpor-*
19 *tation shall carry out a study of the frequency*
20 *with which persons arrested for the offense of op-*
21 *erating a motor vehicle under the influence of al-*
22 *cohol and persons arrested for the offense of oper-*
23 *ating a motor vehicle while intoxicated refuse to*
24 *take a test to determine blood alcohol concentra-*
25 *tion levels and the effect such refusals have on*

1 *the ability of States to prosecute such persons for*
2 *those offenses.*

3 *(B) CONSULTATION.—In carrying out the*
4 *study under this paragraph, the Secretary shall*
5 *consult with the Governors of the States, the*
6 *States' Attorneys General, and the United States*
7 *Sentencing Commission.*

8 *(C) REPORT.—*

9 *(i) REQUIREMENT FOR REPORT.—Not*
10 *later than 1 year after the date of the enact-*
11 *ment of this Act, the Secretary shall submit*
12 *a report on the results of the study to the*
13 *Senate Committee on Commerce, Science,*
14 *and Transportation and the House of Rep-*
15 *resentatives Committee on Transportation*
16 *and Infrastructure.*

17 *(ii) CONTENT.—The report shall in-*
18 *clude any recommendation for legislation,*
19 *including any recommended model State*
20 *legislation, and any other recommendations*
21 *that the Secretary considers appropriate for*
22 *implementing a program designed to de-*
23 *crease the occurrence refusals by arrested*
24 *persons to submit to a test to determine*
25 *blood alcohol concentration levels.*

1 **SEC. 7215. NATIONAL HIGHWAY SAFETY ADVISORY COM-**
2 **MITTEE TECHNICAL CORRECTION.**

3 *Section 404(d) is amended by striking “Commerce”*
4 *and inserting “Transportation”.*

5 **SEC. 7216. OCCUPANT PROTECTION GRANTS.**

6 *(a) IN GENERAL.—Section 405 is amended to read as*
7 *follows:*

8 **“§ 405. Safety belt performance grants**

9 *“(a) IN GENERAL.—The Secretary of Transportation*
10 *shall make grants to States in accordance with the provi-*
11 *sions of this section to encourage the enactment and enforce-*
12 *ment of laws requiring the use of safety belts in passenger*
13 *motor vehicles.*

14 *“(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT*
15 *USE LAWS.—*

16 *“(1) IN GENERAL.—The Secretary shall make a*
17 *single grant to each State that either—*

18 *“(A) enacts for the first time after December*
19 *31, 2002, and has in effect and is enforcing a*
20 *conforming primary safety belt use law for all*
21 *passenger motor vehicles; or*

22 *“(B) in the case of a State that does not*
23 *have such a primary safety belt use law, has a*
24 *State safety belt use rate for each of the 2 cal-*
25 *endar years immediately preceding the fiscal*

1 year of a grant of 90 percent or more, as meas-
2 ured under criteria determined by the Secretary.

3 “(2) *AMOUNT.*—*The amount of a grant available*
4 *to a State in fiscal year 2006 or in a subsequent fis-*
5 *cal year under paragraph (1) of this subsection is*
6 *equal to 500 percent of the amount apportioned to the*
7 *State for fiscal year 2003 under section 402(c) of this*
8 *title.*

9 “(3) *JULY 1 CUT-OFF.*—*For the purpose of deter-*
10 *mining the eligibility of a State for a grant under*
11 *paragraph (1)(A), a primary safety belt use law en-*
12 *acted after June 30th of any year shall—*

13 “(A) *not be considered to have been enacted*
14 *in the Federal fiscal year in which that June*
15 *30th falls; but*

16 “(B) *be considered as if it were enacted*
17 *after the beginning of the next Federal fiscal*
18 *year.*

19 “(4) *SHORTFALL.*—*If the total amount of grants*
20 *provided for by this subsection for a fiscal year ex-*
21 *ceeds the amount of funds available for such grants*
22 *for that fiscal year, then the Secretary shall make*
23 *grants under this subsection to States in the order in*
24 *which—*

1 “(A) the primary safety belt use law came
2 into effect; or

3 “(B) the State’s safety belt use rate was 90
4 percent or more for 2 consecutive calendar years
5 (as measured by criteria determined by the Sec-
6 retary),

7 whichever first occurs.

8 “(5) CATCH-UP GRANTS.—The Secretary shall
9 make a grant to any State eligible for a grant under
10 this subsection that did not receive a grant for a fis-
11 cal year because of the application of paragraph (4),
12 in the next fiscal year if the State’s primary safety
13 belt use law remains in effect or its safety belt use
14 rate is 90 percent or more for the 2 consecutive cal-
15 endar years preceding such next fiscal year (subject to
16 paragraph (4)).

17 “(c) GRANTS FOR PRE-2003 LAWS.—To the extent that
18 amounts made available for any of fiscal years 2006
19 through 2009 exceed the total amounts to be awarded under
20 subsection (b) for the fiscal year, including amounts to be
21 awarded for catch-up grants under subsection (b)(5), the
22 Secretary shall make a single grant to each State that en-
23 acted, has in effect, and is enforcing a primary safety belt
24 use law for all passenger motor vehicles that was in effect
25 before January 1, 2003. The amount of a grant available

1 to a State under this subsection shall be equal to 250 per-
2 cent of the amount of funds apportioned to the State under
3 section 402(c) of this title for fiscal year 2003. The Sec-
4 retary may award the grant in up to 4 installments over
5 a period of 4 fiscal years beginning with fiscal year 2006.

6 “(d) *ALLOCATION OF UNUSED GRANT FUNDS.*—The
7 Secretary shall make additional grants under this section
8 of any amounts available for grants under this section that,
9 on July 1, 2009, are neither obligated nor expended. The
10 additional grants made under this subsection shall be allo-
11 cated among all States that, as of that date, have enacted,
12 have in effect, and are enforcing primary safety belt laws
13 for all passenger motor vehicles. The allocations shall be
14 made in accordance with the formula for apportioning
15 funds among the States under section 402(c) of this title.

16 “(e) *USE OF GRANT FUNDS.*—

17 “(1) *IN GENERAL.*—Subject to paragraph (2), a
18 State may use a grant under this section for any safe-
19 ty purpose under this title or for any project that cor-
20 rects or improves a hazardous roadway location or
21 feature or proactively addresses highway safety prob-
22 lems, including—

23 “(A) intersection improvements;

24 “(B) pavement and shoulder widening;

1 “(C) installation of rumble strips and other
2 warning devices;

3 “(D) improving skid resistance;

4 “(E) improvements for pedestrian or bicy-
5 clist safety;

6 “(F) railway-highway crossing safety;

7 “(G) traffic calming;

8 “(H) the elimination of roadside obstacles;

9 “(I) improving highway signage and pave-
10 ment marking;

11 “(J) installing priority control systems for
12 emergency vehicles at signalized intersections;

13 “(K) installing traffic control or warning
14 devices at locations with high accident potential;

15 “(L) safety-conscious planning; and

16 “(M) improving crash data collection and
17 analysis.

18 “(2) SAFETY ACTIVITY REQUIREMENT.—Notwith-
19 standing paragraph (1), the Secretary shall ensure
20 that at least \$1,000,000 of amounts received by States
21 under this section are obligated or expended for safety
22 activities under this chapter.

23 “(3) SUPPORT ACTIVITY.—The Secretary or his
24 designee may engage in activities with States and

1 *State legislators to consider proposals related to safety*
 2 *belt use laws.*

3 “(f) *CARRY-FORWARD OF EXCESS FUNDS.—If the*
 4 *amount available for grants under this section for any fiscal*
 5 *year exceeds the sum of the grants made under this section*
 6 *for that fiscal year, the excess amount and obligational au-*
 7 *thority shall be carried forward and made available for*
 8 *grants under this section in the succeeding fiscal year.*

9 “(g) *FEDERAL SHARE.—The Federal share payable for*
 10 *grants under this subsection is 100 percent.*

11 “(h) *PASSENGER MOTOR VEHICLE DEFINED.—In this*
 12 *section, the term ‘passenger motor vehicle’ means—*

13 “(1) *a passenger car,*

14 “(2) *a pickup truck,*

15 “(3) *a van, minivan, or sport utility vehicle,*

16 *with a gross vehicle weight rating of less than 10,000*
 17 *pounds.”.*

18 “(b) *CONFORMING AMENDMENT.—The chapter analysis*
 19 *for chapter 4 is amended by striking the item relating to*
 20 *section 405 and inserting the following:*

 “405. *Safety belt performance grants”.*

21 **SEC. 7217. OLDER DRIVER SAFETY; LAW ENFORCEMENT**
 22 **TRAINING.**

23 “(a) *IN GENERAL.—Section 406 is amended to read as*
 24 *follows:*

1 **“§ 406. Older driver safety; law enforcement training**

2 “(a) *IMPROVING OLDER DRIVER SAFETY.*—

3 “(1) *IN GENERAL.*—*Of the funds made available*
4 *under this section, the Secretary shall allocate*
5 *\$2,000,000 in each of fiscal years 2006 through 2009*
6 *to conduct a comprehensive research and demonstra-*
7 *tion program to improve traffic safety pertaining to*
8 *older drivers. The program shall—*

9 “(A) *provide information and guidelines to*
10 *assist physicians and other related medical per-*
11 *sonnel, families, licensing agencies, enforcement*
12 *officers, and various public and transit agencies*
13 *in enhancing the safety of older drivers;*

14 “(B) *improve the scientific basis of medical*
15 *standards and screenings strategies used in the*
16 *licensing of all drivers in a non-discriminatory*
17 *manner;*

18 “(C) *conduct field tests to assess the safety*
19 *benefits and mobility impacts of different driver*
20 *licensing strategies and driver assessment and*
21 *rehabilitation methods;*

22 “(D) *assess the value and improve the safety*
23 *potential of driver retraining courses of par-*
24 *ticular benefit to older drivers; and*

25 “(E) *conduct other activities to accomplish*
26 *the objectives of this section.*

1 “(2) *FORMULATION OF PLAN.*—*After consultation*
2 *with affected parties, the Secretary shall formulate an*
3 *older driver traffic safety plan to guide the design*
4 *and implementation of this program. The plan shall*
5 *be submitted to the House of Representatives Com-*
6 *mittee on Transportation and Infrastructure and the*
7 *Senate Committee on Commerce, Science, and Trans-*
8 *portation within 1 year after the date of enactment*
9 *of the Highway Safety Grant Program Reauthoriza-*
10 *tion Act of 2005.*

11 “(b) *LAW ENFORCEMENT TRAINING.*—

12 “(1) *REQUIREMENT FOR PROGRAM.*—*The Ad-*
13 *ministrator of the National Highway Traffic Safety*
14 *Administration shall carry out a program to train*
15 *law enforcement personnel of each State and political*
16 *subdivision thereof in police chase techniques that are*
17 *consistent with the police chase guidelines issued by*
18 *the International Association of Chiefs of Police.*

19 “(2) *AMOUNT FOR PROGRAM.*—*Of the amount*
20 *available for a fiscal year to carry out this section,*
21 *\$200,000 shall be available for carrying out this sub-*
22 *section.”.*

23 “(b) *CONFORMING AMENDMENT.*—*The chapter analysis*
24 *for chapter 4 is amended by striking the item relating to*
25 *section 406 and inserting the following:*

 “406. *Older driver safety; law enforcement training*”.

1 **SEC. 7218. EMERGENCY MEDICAL SERVICES.**

2 (a) *FEDERAL COORDINATION AND ENHANCED SUP-*
3 *PORT OF EMERGENCY MEDICAL SERVICES.*—Chapter 4 is
4 *amended by inserting after section 407 the following:*

5 **“§407A. Federal coordination and enhanced support**
6 ***of emergency medical services***

7 “(a) *FEDERAL INTERAGENCY COMMITTEE ON EMER-*
8 *GENCY MEDICAL SERVICES.*—

9 “(1) *ESTABLISHMENT.*—The Secretary of Trans-
10 *portation and the Secretary of Homeland Security,*
11 *through the Under Secretary for Emergency Pre-*
12 *paredness and Response, shall establish a Federal*
13 *Interagency Committee on Emergency Medical Serv-*
14 *ices. In establishing the Interagency Committee, the*
15 *Secretary of Transportation and the Secretary of*
16 *Homeland Security through the Under Secretary for*
17 *Emergency Preparedness and Response shall consult*
18 *with the Secretary of Health and Human Services.*

19 “(2) *MEMBERSHIP.*—The Interagency Committee
20 *shall consist of the following officials, or their des-*
21 *ignees:*

22 “(A) *The Administrator, National Highway*
23 *Traffic Safety Administration.*

24 “(B) *The Director, Preparedness Division,*
25 *Emergency Preparedness and Response Direc-*
26 *torate, Department of Homeland Security.*

1 “(C) *The Administrator, Health Resources*
2 *and Services Administration, Department of*
3 *Health and Human Services.*

4 “(D) *The Director, Centers for Disease Con-*
5 *trol and Prevention, Department of Health and*
6 *Human Services.*

7 “(E) *The Administrator, United States Fire*
8 *Administration, Emergency Preparedness and*
9 *Response Directorate, Department of Homeland*
10 *Security.*

11 “(F) *The Director, Center for Medicare and*
12 *Medicaid Services, Department of Health and*
13 *Human Services.*

14 “(G) *The Undersecretary of Defense for Per-*
15 *sonnel and Readiness.*

16 “(H) *The Director, Indian Health Service,*
17 *Department of Health and Human Services.*

18 “(I) *The Chief, Wireless Telecom Bureau,*
19 *Federal Communications Commission.*

20 “(J) *A representative of any other Federal*
21 *agency identified by the Secretary of Transpor-*
22 *tation or 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, as*

1 *having a significant role in relation to the pur-*
2 *poses of the Interagency Committee.*

3 “(K) *A State Emergency Medical Services*
4 *Director.*

5 “(3) *PURPOSES.—The purposes of the Inter-*
6 *agency Committee are as follows:*

7 “(A) *To ensure coordination among the*
8 *Federal agencies involved with State, local, trib-*
9 *al, or regional emergency medical services and*
10 *9–1–1 systems.*

11 “(B) *To identify State, local, tribal, or re-*
12 *gional emergency medical services and 9–1–1*
13 *needs.*

14 “(C) *To recommend new or expanded pro-*
15 *grams, including grant programs, for improving*
16 *State, local, tribal, or regional emergency med-*
17 *ical services and implementing improved emer-*
18 *gency medical services communications tech-*
19 *nologies, including wireless 9–1–1.*

20 “(D) *To identify ways to streamline the*
21 *process through which Federal agencies support*
22 *State, local, tribal or regional emergency medical*
23 *services.*

1 “(E) To assist State, local, tribal or re-
2 gional emergency medical services in setting pri-
3 orities based on identified needs.

4 “(F) To advise, consult, and make rec-
5 ommendations on matters relating to the imple-
6 mentation of the coordinated State emergency
7 medical services programs.

8 “(4) ADMINISTRATION.—The Administrator of
9 the National Highway Traffic Safety Administration,
10 in cooperation with the Director, Preparedness Divi-
11 sion, Emergency Preparedness and Response Direc-
12 torate, Department of Homeland Security, shall pro-
13 vide administrative support to the Interagency Com-
14 mittee, including scheduling meetings, setting agen-
15 das, keeping minutes and records, and producing re-
16 ports.

17 “(5) LEADERSHIP.—The members of the Inter-
18 agency Committee shall select a chairperson of the
19 Committee annually.

20 “(6) MEETINGS.—The Interagency Committee
21 shall meet as frequently as is determined necessary by
22 the chairperson of the Committee.

23 “(7) ANNUAL REPORTS.—The Interagency Com-
24 mittee shall prepare an annual report to Congress on

1 *the Committee’s activities, actions, and recommenda-*
2 *tions.*

3 “(b) *COORDINATED NATIONWIDE EMERGENCY MED-*
4 *ICAL SERVICES PROGRAM.—*

5 “(1) *PROGRAM REQUIREMENT.—The Secretary of*
6 *Transportation, acting through the Administrator of*
7 *the National Highway Traffic Safety Administration,*
8 *shall coordinate with officials of other Federal depart-*
9 *ments and agencies, and may assist State and local*
10 *governments and emergency medical services organi-*
11 *zations (whether or not a firefighter organization),*
12 *private industry, and other interested parties, to en-*
13 *sure the development and implementation of a coordi-*
14 *nated nationwide emergency medical services pro-*
15 *gram that is designed to strengthen transportation*
16 *safety and public health and to implement improved*
17 *emergency medical services communication systems,*
18 *including 9–1–1.*

19 “(2) *COORDINATED STATE EMERGENCY MEDICAL*
20 *SERVICES PROGRAM.—Each State shall establish a*
21 *program, to be approved by the Secretary, to coordi-*
22 *nate the emergency medical services and resources de-*
23 *ployed throughout the State, so as to ensure—*

24 “(A) *improved emergency medical services*
25 *communication systems, including 9–1–1;*

1 “(B) utilization of established best practices
2 in system design and operations;

3 “(C) implementation of quality assurance
4 programs; and

5 “(D) incorporation of data collection and
6 analysis programs that facilitate system develop-
7 ment and data linkages with other systems and
8 programs useful to emergency medical services.

9 “(3) ADMINISTRATION OF STATE PROGRAMS.—
10 *The Secretary may not approve a coordinated State*
11 *emergency medical services program under this sub-*
12 *section unless the program—*

13 “(A) provides that the Governor of the State
14 is responsible for its administration through a
15 State office of emergency medical services that
16 has adequate powers and is suitably equipped
17 and organized to carry out such program and
18 coordinates such program with the highway safe-
19 ty office of the State; and

20 “(B) authorizes political subdivisions of the
21 State to participate in and receive funds under
22 such program, consistent with a goal of achiev-
23 ing statewide coordination of emergency medical
24 services and 9–1–1 activities.

25 “(4) FUNDING.—

1 “(A) *USE OF FUNDS.*—*Funds authorized to*
2 *be appropriated to carry out this subsection shall*
3 *be used to aid the States in conducting coordi-*
4 *nated emergency medical services and 9–1–1*
5 *programs as described in paragraph (2).*

6 “(B) *APPORTIONMENT.*—

7 “(i) *APPORTIONMENT FORMULA.*—*The*
8 *funds shall be apportioned as follows: 75*
9 *percent in the ratio that the population of*
10 *each State bears to the total population of*
11 *all the States, as shown by the latest avail-*
12 *able Federal census, and 25 percent in the*
13 *ratio that the public road mileage in each*
14 *State bears to the total public road mileage*
15 *in all States. For the purpose of this sub-*
16 *paragraph, a ‘public road’ means any road*
17 *under the jurisdiction of and maintained by*
18 *a public authority and open to public trav-*
19 *el. Public road mileage as used in this sub-*
20 *section shall be determined as of the end of*
21 *the calendar year prior to the year in which*
22 *the funds are apportioned and shall be cer-*
23 *tified by the Governor of the State and sub-*
24 *ject to approval by the Secretary.*

1 “(i) *MINIMUM APPORTIONMENT.*—*The*
2 *annual apportionment to each State shall*
3 *not be less than 1/2 of 1 percent of the total*
4 *apportionment, except that the apportion-*
5 *ment to the Secretary of the Interior on be-*
6 *half of Indian tribes shall not be less than*
7 *3/4 of 1 percent of the total apportionment,*
8 *and the apportionments to the Virgin Is-*
9 *lands, Guam, American Samoa, and the*
10 *Commonwealth of the Northern Mariana Is-*
11 *lands shall not be less than 1/4 of 1 percent*
12 *of the total apportionment.*

13 “(5) *APPLICABILITY OF CHAPTER 1.*—*Section*
14 *402(d) of this title shall apply in the administration*
15 *of this subsection.*

16 “(6) *FEDERAL SHARE.*—*The Federal share of the*
17 *cost of a project or program funded under this sub-*
18 *section shall be 80 percent.*

19 “(7) *APPLICATION IN INDIAN COUNTRY.*—

20 “(A) *USE OF TERMS.*—*For the purpose of*
21 *application of this subsection in Indian country,*
22 *the terms ‘State’ and ‘Governor of the State’ in-*
23 *clude the Secretary of the Interior and the term*
24 *‘political subdivisions of the State’ includes an*
25 *Indian tribe.*

1 “(B) *INDIAN COUNTRY DEFINED.*—*In this*
2 *subsection, the term ‘Indian country’ means—*

3 “(i) *all land within the limits of any*
4 *Indian reservation under the jurisdiction of*
5 *the United States, notwithstanding the*
6 *issuance of any patent and including*
7 *rights-of-way running through the reserva-*
8 *tion;*

9 “(ii) *all dependent Indian commu-*
10 *nities within the borders of the United*
11 *States, whether within the original or subse-*
12 *quently acquired territory thereof and*
13 *whether within or without the limits of a*
14 *State; and*

15 “(iii) *all Indian allotments, the Indian*
16 *titles to which have not been extinguished,*
17 *including rights-of-way running through*
18 *such allotments.*

19 “(c) *STATE DEFINED.*—*In this section, the term ‘State’*
20 *means each of the 50 States, the District of Columbia, Puer-*
21 *to Rico, the Virgin Islands, Guam, American Samoa, the*
22 *Commonwealth of the Northern Mariana Islands, and the*
23 *Secretary of the Interior on behalf of Indian tribes.*

24 “(d) *CONSTRUCTION WITH RESPECT TO DISTRICT OF*
25 *COLUMBIA.*—*In the administration of this section with re-*

1 *spect to the District of Columbia, a reference in this section*
 2 *to the Governor of a State shall refer to the Mayor of the*
 3 *District of Columbia.”.*

4 (b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
 5 *chapter 4 is amended by inserting after the item relating*
 6 *to section 407 the following:*

“407A. Federal coordination and enhanced support of emergency medical services.”.

7 **SEC. 7219. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC**
 8 **SAFETY PROGRAMS.**

9 (a) *REPEAL.*—*Section 408 is repealed.*

10 (b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
 11 *chapter 4 is amended by striking the item relating to sec-*
 12 *tion 408.*

13 **SEC. 7220. IMPAIRED DRIVING PROGRAM.**

14 (a) *MAINTENANCE OF EFFORT.*—*Section 410(a)(2) is*
 15 *amended by striking “the Transportation Equity Act for*
 16 *the 21st Century” and inserting “the Highway Safety*
 17 *Grant Program Reauthorization Act of 2005”.*

18 (b) *REVISED GRANT AUTHORITY.*—*Section 410 is*
 19 *amended—*

20 (1) *by striking paragraph (3) of subsection (a)*
 21 *and redesignating paragraph (4) as paragraph (3);*
 22 *and*

23 (2) *by striking subsections (b) through (f) and*
 24 *inserting the following:*

1 “(b) *PROGRAM-RELATED ELIGIBILITY REQUIRE-*
2 *MENTS.—To be eligible for a grant under this section, a*
3 *State shall—*

4 “(1) *for fiscal year 2006 or 2007, carry out 4 of*
5 *the programs required under subsection (c);*

6 “(2) *for fiscal year 2008 or 2009, carry out 5 of*
7 *the programs required under subsection (c); and*

8 “(3) *for any such fiscal year—*

9 “(A) *comply with the additional require-*
10 *ments set forth in subsection (d) with respect to*
11 *such programs and activities; and*

12 “(B) *comply with any additional require-*
13 *ments of the Secretary.*

14 “(c) *STATE PROGRAMS AND ACTIVITIES.—To qualify*
15 *for a grant under this subsection, a State shall select pro-*
16 *grams from among the following:*

17 “(1) *CHECK-POINT, SATURATION PATROL PRO-*
18 *GRAM.—*

19 “(A) *A State program to conduct a series of*
20 *high-visibility, Statewide law enforcement cam-*
21 *paigns in which law enforcement personnel mon-*
22 *itor for impaired driving, either through use of*
23 *sobriety check-points or saturation patrols, on a*
24 *nondiscriminatory, lawful basis for the purpose*
25 *of determining whether the operators of the*

1 *motor vehicles are driving while under the influ-*
2 *ence of alcohol or controlled substances that*
3 *meets the requirements of subparagraphs (B) and*
4 *(C).*

5 *“(B) A program meets the requirements of*
6 *this subparagraph only if a State organizes the*
7 *campaigns in cooperation with related periodic*
8 *national campaigns organized by the National*
9 *Highway Traffic Safety Administration, but this*
10 *subparagraph does not preclude a State from*
11 *initiating sustained high-visibility, Statewide*
12 *law enforcement campaigns independently of the*
13 *cooperative efforts.*

14 *“(C) A program meets the requirements of*
15 *this subparagraph only if, for each fiscal year, a*
16 *State demonstrates to the Secretary that the*
17 *State and the political subdivisions of the State*
18 *that receive funds under this section have in-*
19 *creased, in the aggregate, the total number of im-*
20 *paired driving law enforcement activities at high*
21 *incident locations, as described in subparagraph*
22 *(A) (or any other similar activity approved by*
23 *the Secretary), initiated in such State during the*
24 *preceding fiscal year by a factor that the Sec-*
25 *retary determines meaningful for the State over*

1 *the number of such activities initiated in such*
2 *State during the preceding fiscal year, which*
3 *shall not be less than 5 percent.*

4 “(2) *PROSECUTION AND ADJUDICATION PRO-*
5 *GRAM.—A State prosecution and adjudication pro-*
6 *gram under which—*

7 “(A) *judges and prosecutors are actively en-*
8 *couraged to prosecute and adjudicate cases of de-*
9 *fendants who repeatedly commit impaired driv-*
10 *ing offenses by reducing the use of State diver-*
11 *sion programs, or other means that have the ef-*
12 *fect of avoiding or expunging a permanent*
13 *record of impaired driving in such cases;*

14 “(B) *the courts in a majority of the judicial*
15 *jurisdictions of the State are monitored on the*
16 *courts’ adjudication of cases of impaired driving*
17 *offenses; or*

18 “(C) *annual Statewide outreach is provided*
19 *for judges and prosecutors on innovative ap-*
20 *proaches to the prosecution and adjudication of*
21 *cases of impaired driving offenses that have the*
22 *potential for significantly improving the pros-*
23 *ecution and adjudication of such cases.*

24 “(3) *IMPAIRED OPERATOR INFORMATION SYS-*
25 *TEM.—*

1 “(A) A State impaired operator informa-
2 tion system that—

3 “(i) tracks drivers who are arrested or
4 convicted for violation of laws prohibiting
5 impaired operation of motor vehicles;

6 “(ii) includes information about each
7 case of an impaired driver beginning at the
8 time of arrest through case disposition, in-
9 cluding information about any trial, plea,
10 plea agreement, conviction or other disposi-
11 tion, sentencing or other imposition of sanc-
12 tions, and substance abuse treatment;

13 “(iii) provides—

14 “(I) accessibility to the informa-
15 tion for law enforcement personnel
16 Statewide and for United States law
17 enforcement personnel; and

18 “(II) linkage for the sharing of the
19 information and of the information in
20 State traffic record systems among ju-
21 risdictions and appropriate agencies,
22 court systems and offices of the States;

23 “(iv) shares information with the Na-
24 tional Highway Traffic Safety Administra-
25 tion for compilation and use for the track-

1 *ing of impaired operators of motor vehicles*
2 *who move from State to State; and*

3 *“(v) meets the requirements of sub-*
4 *paragraphs (B), (C), and (D) of this para-*
5 *graph, as applicable.*

6 *“(B) A program meets the requirements of*
7 *this subparagraph only if, during fiscal years*
8 *2006 and 2007, a State—*

9 *“(i) assesses the system used by the*
10 *State for tracking drivers who are arrested*
11 *or convicted for violation of laws prohib-*
12 *iting impaired operation of motor vehicles;*

13 *“(ii) identifies ways to improve the*
14 *system, as well as to enhance the capability*
15 *of the system to provide information in co-*
16 *ordination with impaired operator informa-*
17 *tion systems of other States; and*

18 *“(iii) develops a strategic plan that*
19 *sets forth the actions to be taken and the re-*
20 *sources necessary to achieve the identified*
21 *improvements and to enhance the capability*
22 *for coordination with the systems of other*
23 *States.*

24 *“(C) A program meets the requirements of*
25 *this subparagraph only if, in each of fiscal years*

1 2008 and 2009, a State demonstrates to the Sec-
2 retary that the State has made substantial and
3 meaningful progress in improving the State's
4 impaired operator information system, and
5 makes public a report on the progress of the in-
6 formation system.

7 “(4) *IMPAIRED DRIVING PERFORMANCE.*—The
8 percentage of fatally-injured drivers with 0.08 percent
9 or greater blood alcohol concentration in the State has
10 decreased in each of the 2 most recent calendar years
11 for which data are available.

12 “(5) *SELF-SUSTAINING IMPAIRED DRIVING PRE-*
13 *VENTION PROGRAM.*—A program under which a sig-
14 nificant portion of the fines or surcharges collected
15 from individuals who are fined for operating a motor
16 vehicle while under the influence of alcohol are re-
17 turned to communities for comprehensive programs
18 for the prevention of impaired driving.

19 “(6) *LAWS FOR HIGH RISK DRIVERS.*—A law
20 that establishes stronger sanctions or additional pen-
21 alties for individuals convicted of operating a motor
22 vehicle while under the influence of alcohol whose
23 blood alcohol concentration is 0.15 percent or more
24 than for individuals convicted of the same offense but
25 with a lower blood alcohol concentration. For pur-

1 poses of this paragraph, the term ‘additional pen-
2 alties’ includes—

3 “(A) a 1-year suspension of a driver’s li-
4 cense, but with the individual whose license is
5 suspended becoming eligible after 45 days of such
6 suspension to obtain a provisional driver’s li-
7 cense that would permit the individual to
8 drive—

9 “(i) only to and from the individual’s
10 place of employment or school; and

11 “(ii) only an automobile equipped with
12 a certified alcohol ignition interlock device;
13 and

14 “(B) a mandatory assessment by a certified
15 substance abuse official of whether the individual
16 has an alcohol abuse problem that includes the
17 possibility of a referral to counseling if the offi-
18 cial determines that such a referral is appro-
19 priate.

20 “(7) *IMPAIRED DRIVING COURTS.*—

21 “(A) *IN GENERAL.*—A program to consoli-
22 date and coordinate impaired driving cases into
23 courts that specialize in impaired driving cases,
24 with the emphasis on tracking and processing of-
25 fenders of impaired driving laws, (hereinafter re-

1 ferred to as DWI courts) that meets the require-
2 ments of this paragraph.

3 “(B) *CHARACTERISTICS.*—A DWI Court is
4 a distinct function performed by a court system
5 for the purpose of changing the behavior of alco-
6 hol or drug dependent offenders arrested for driv-
7 ing while impaired. A DWI Court can be a dedi-
8 cated court with dedicated personnel, including
9 judges, prosecutors and probation officers. A
10 DWI court may be an existing court system that
11 serves the following essential DWI Court func-
12 tions:

13 “(i) A DWI Court performs an assess-
14 ment of high-risk offenders utilizing a team
15 headed by the judge and including all
16 criminal justice stakeholders (prosecutors,
17 defense attorneys, probations officers, law
18 enforcement personnel and others) along
19 with alcohol/drug treatment professionals.

20 “(ii) The DWI Court team recommends
21 a specific plea agreement or contract for
22 each offender that can include incarceration,
23 treatment, and close community su-
24 pervision. The agreement maximizes the

1 *probability of rehabilitation and minimizes*
2 *the likelihood of recidivism.*

3 “(iii) *Compliance with the agreement*
4 *is verified with thorough monitoring and*
5 *frequent alcohol testing. Periodic status*
6 *hearings assess offender progress and allow*
7 *an opportunity for modifying the sentence*
8 *if necessary.*

9 “(C) *ASSESSMENT.*—*In the first year of op-*
10 *eration, the States shall assess the number of*
11 *court systems in its jurisdiction that are consist-*
12 *ently performing the DWI Court functions.*

13 “(D) *PLAN.*—*In the second year of oper-*
14 *ation, the State shall develop a strategic plan for*
15 *increasing the number of courts performing the*
16 *DWI function.*

17 “(E) *PROGRESS.*—*In subsequent years of*
18 *operation, the State shall demonstrate progress*
19 *in increasing the number of DWI Courts and in*
20 *increasing the number of high-risk offenders par-*
21 *ticipating in and successfully completing DWI*
22 *Court agreements.*

23 “(d) *USES OF GRANTS.*—*Grants made under this sec-*
24 *tion may be used for programs and activities described in*
25 *subsection (c) and to defray the following costs:*

1 “(1) *Labor costs, management costs, and equip-*
2 *ment procurement costs for the high-visibility, State-*
3 *wide law enforcement campaigns under subsection*
4 *(c)(1).*

5 “(2) *The costs of the training of law enforcement*
6 *personnel and the procurement of technology and*
7 *equipment, such as and including video equipment*
8 *and passive alcohol sensors, to counter directly im-*
9 *paired operation of motor vehicles.*

10 “(3) *The costs of public awareness, advertising,*
11 *and educational campaigns that publicize use of so-*
12 *briety check points or increased law enforcement ef-*
13 *forts to counter impaired operation of motor vehicles.*

14 “(4) *The costs of public awareness, advertising,*
15 *and educational campaigns that target impaired op-*
16 *eration of motor vehicles by persons under 34 years*
17 *of age.*

18 “(5) *The costs of the development and implemen-*
19 *tation of a State impaired operator information sys-*
20 *tem described in subsection (c)(3).*

21 “(6) *The costs of operating programs that result*
22 *in vehicle forfeiture or impoundment or license plate*
23 *impoundment.*

24 “(e) *ADDITIONAL AUTHORITIES FOR CERTAIN AU-*
25 *THORIZED USES.—*

1 “(1) *COMBINATION OF GRANT PROCEEDS.*—
2 *Grant funds used for a campaign under subsection*
3 *(d)(3) may be combined, or expended in coordination,*
4 *with proceeds of grants under section 402 of this title.*

5 “(2) *COORDINATION OF USES.*—*Grant funds*
6 *used for a campaign under paragraph (3) or (4) of*
7 *subsection (d) may be expended—*

8 “(A) *in coordination with employers,*
9 *schools, entities in the hospitality industry, and*
10 *nonprofit traffic safety groups; and*

11 “(B) *in coordination with sporting events*
12 *and concerts and other entertainment events.*

13 “(f) *FUNDING.*—

14 “(1) *IN GENERAL.*—*Grant funding under this*
15 *section shall be allocated among States that meet the*
16 *eligibility criteria in subsection (b) on the basis of the*
17 *apportionment formula that applies for apportion-*
18 *ments under section 402(c) of this title.*

19 “(2) *HIGH FATALITY-RATE STATES.*—*A State*
20 *that is among the 10 States with the highest impaired*
21 *driving-related fatality rates for the calendar year*
22 *immediately preceding the fiscal year in which the*
23 *grant may be made shall be eligible for a grant under*
24 *this section if the State meets the requirements of sub-*
25 *section (g). A State that receives a grant based upon*

1 *its eligibility under this paragraph may also receive*
2 *a grant under subsection (b) if it meets the eligibility*
3 *requirements of that subsection.*

4 *“(g) USE OF FUNDS BY HIGH FATALITY-RATE*
5 *STATES.—*

6 *“(1) REQUIRED USES.—At least $\frac{1}{2}$ of the*
7 *amounts allocated to States under subsection (f)(2)*
8 *shall be used for the program described in subsection*
9 *(c)(1).*

10 *“(2) REQUIREMENT FOR PLAN.—A State receiv-*
11 *ing an allocation of grant funds under subsection*
12 *(f)(2) shall expend those funds only after receiving*
13 *approval from the Administrator of the National*
14 *Highway Traffic Safety Administration for a plan*
15 *regarding such expenditures.*

16 *“(h) DEFINITIONS.—In this section:*

17 *“(1) IMPAIRED OPERATOR.—The term ‘impaired*
18 *operator’ means a person who, while operating a*
19 *motor vehicle—*

20 *“(A) has a blood alcohol content of 0.08 per-*
21 *cent or higher; or*

22 *“(B) is under the influence of a controlled*
23 *substance.*

24 *“(2) IMPAIRED DRIVING-RELATED FATALITY*
25 *RATE.—The term ‘impaired driving-related fatality*

1 *rate’ means the rate of alcohol-related fatalities, as*
 2 *calculated in accordance with regulations which the*
 3 *Administrator of the National Highway Traffic Safe-*
 4 *ty Administration shall prescribe.”.*

5 *(c) NHTSA TO ISSUE REGULATIONS.—Not later than*
 6 *12 months after the date of enactment of the Highway Safe-*
 7 *ty Grant Program Reauthorization Act of 2005, the Na-*
 8 *tional Highway Traffic Safety Administration shall issue*
 9 *guidelines to the States specifying the types and formats*
 10 *of data that States should collect relating to drivers who*
 11 *are arrested or convicted for violation of laws prohibiting*
 12 *the impaired operation of motor vehicles.*

13 **SEC. 7221. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
 14 **IMPROVEMENTS.**

15 *(a) GRANT PROGRAM AUTHORITY.—Chapter 4 is*
 16 *amended by adding at the end the following:*

17 **“§412. State traffic safety information system im-**
 18 **provements**

19 *“(a) GRANT AUTHORITY.—Subject to the requirements*
 20 *of this section, the Secretary shall make grants of financial*
 21 *assistance to eligible States to support the development and*
 22 *implementation of effective programs by such States to—*
 23 *“(1) improve the timeliness, accuracy, complete-*
 24 *ness, uniformity, integration, and accessibility of the*
 25 *safety data of the State that is needed to identify pri-*

1 *orities for national, State, and local highway and*
2 *traffic safety programs;*

3 *“(2) evaluate the effectiveness of efforts to make*
4 *such improvements;*

5 *“(3) link the State data systems, including traf-*
6 *fic records, with other data systems within the State,*
7 *such as systems that contain medical, roadway, and*
8 *economic data; and*

9 *“(4) improve the compatibility and interoper-*
10 *ability of the data systems of the State with national*
11 *data systems and data systems of other States and en-*
12 *hance the ability of the Secretary to observe and ana-*
13 *lyze national trends in crash occurrences, rates, out-*
14 *comes, and circumstances.*

15 *“(b) FIRST-YEAR GRANTS.—*

16 *“(1) ELIGIBILITY.—To be eligible for a first-year*
17 *grant under this section in a fiscal year, a State shall*
18 *demonstrate to the satisfaction of the Secretary that*
19 *the State has—*

20 *“(A) established a highway safety data and*
21 *traffic records coordinating committee with a*
22 *multidisciplinary membership that includes,*
23 *among others, managers, collectors, and users of*
24 *traffic records and public health and injury con-*
25 *trol data systems;*

1 “(B) completed or updated, within the pre-
2 ceding 5 years, an assessment or an audit of the
3 highway safety data and traffic records system of
4 the State; and

5 “(C) developed a multiyear highway safety
6 data and traffic records system strategic plan
7 that addresses existing deficiencies in the State’s
8 highway safety data and traffic records system,
9 is approved by the highway safety data and traf-
10 fic records coordinating committee, and—

11 “(i) specifies how existing deficiencies
12 in the State’s highway safety data and traf-
13 fic records system were identified;

14 “(ii) prioritizes, on the basis of the
15 identified highway safety data and traffic
16 records system deficiencies, the highway
17 safety data and traffic records system needs
18 and goals of the State, including the activi-
19 ties under subsection (a);

20 “(iii) identifies performance-based
21 measures by which progress toward those
22 goals will be determined; and

23 “(iv) specifies how the grant funds and
24 any other funds of the State are to be used

1 to address needs and goals identified in the
2 multiyear plan.

3 “(2) *GRANT AMOUNT.*—Subject to subsection
4 (d)(3), the amount of a first-year grant to a State for
5 a fiscal year shall be the higher of—

6 “(A) the amount determined by
7 multiplying—

8 “(i) the amount appropriated to carry
9 out this section for such fiscal year, by

10 “(ii) the ratio that the funds appor-
11 tioned to the State under section 402 of this
12 title for fiscal year 2003 bears to the funds
13 apportioned to all States under such section
14 for fiscal year 2003; or

15 “(B) \$300,000.

16 “(c) *SUCCESSIVE YEAR GRANTS.*—

17 “(1) *ELIGIBILITY.*—A State shall be eligible for
18 a grant under this subsection in a fiscal year suc-
19 ceeding the first fiscal year in which the State re-
20 ceives a grant under subsection (b) if the State, to the
21 satisfaction of the Secretary—

22 “(A) certifies that an assessment or audit of
23 the State’s highway safety data and traffic
24 records system has been conducted or updated
25 within the preceding 5 years;

1 “(B) submits an updated multiyear plan
2 that meets the requirements of subsection
3 (b)(1)(C);

4 “(C) certifies that its highway safety data
5 and traffic records coordinating committee con-
6 tinues to operate and supports the multiyear
7 plan;

8 “(D) specifies how the grant funds and any
9 other funds of the State are to be used to address
10 needs and goals identified in the multiyear plan;

11 “(E) demonstrates measurable progress to-
12 ward achieving the goals and objectives identi-
13 fied in the multiyear plan; and

14 “(F) includes a current report on the
15 progress in implementing the multiyear plan.

16 “(2) GRANT AMOUNT.—Subject to subsection
17 (d)(3), the amount of a year grant made to a State
18 for a fiscal year under this subsection shall equal the
19 higher of—

20 “(A) the amount determined by
21 multiplying—

22 “(i) the amount appropriated to carry
23 out this section for such fiscal year, by

24 “(ii) the ratio that the funds appor-
25 tioned to the State under section 402 of this

1 *title for fiscal year 2003 bears to the funds*
2 *apportioned to all States under such section*
3 *for fiscal year 2003; or*

4 “(B) \$500,000.

5 “(d) *ADDITIONAL REQUIREMENTS AND LIMITA-*
6 *TIONS.—*

7 “(1) *MODEL DATA ELEMENTS.—The Secretary,*
8 *in consultation with States and other appropriate*
9 *parties, shall determine the model data elements that*
10 *are useful for the observation and analysis of State*
11 *and national trends in occurrences, rates, outcomes,*
12 *and circumstances of motor vehicle traffic accidents.*
13 *In order to be eligible for a grant under this section,*
14 *a State shall submit to the Secretary a certification*
15 *that the State has adopted and uses such model data*
16 *elements, or a certification that the State will use*
17 *grant funds provided under this section toward*
18 *adopting and using the maximum number of such*
19 *model data elements as soon as practicable.*

20 “(2) *DATA ON USE OF ELECTRONIC DEVICES.—*
21 *The model data elements required under paragraph*
22 *(1) shall include data elements, as determined appro-*
23 *priate by the Secretary in consultation with the*
24 *States and with appropriate elements of the law en-*

1 *forcement community, on the impact on traffic safety*
2 *of the use of electronic devices while driving.*

3 “(3) *MAINTENANCE OF EFFORT.*—No grant may
4 *be made to a State under this section in any fiscal*
5 *year unless the State enters into such agreements with*
6 *the Secretary as the Secretary may require to ensure*
7 *that the State will maintain its aggregate expendi-*
8 *tures from all other sources for highway safety data*
9 *programs at or above the average level of such expendi-*
10 *tures maintained by such State in the 2 fiscal years*
11 *preceding the date of enactment of the Highway Safe-*
12 *ty Grant Program Reauthorization Act of 2005.*

13 “(4) *FEDERAL SHARE.*—The Federal share of the
14 *cost of adopting and implementing in a fiscal year a*
15 *State program described in subsection (a) may not*
16 *exceed 80 percent.*

17 “(5) *LIMITATION ON USE OF GRANT PRO-*
18 *CEEDS.*—A State may use the proceeds of a grant re-
19 *ceived under this section only to implement the pro-*
20 *gram described in subsection (a) for which the grant*
21 *is made.*

22 “(e) *APPLICABILITY OF CHAPTER 1.*—Section 402(d)
23 *of this title shall apply in the administration of this sec-*
24 *tion.”.*

1 (b) *CLERICAL AMENDMENT.*—*The chapter analysis for*
 2 *chapter 4 is amended by adding at the end the following:*

“412. State traffic safety information system improvements.”.

3 **SEC. 7222. NHTSA ACCOUNTABILITY.**

4 (a) *IN GENERAL.*—*Chapter 4, as amended by section*
 5 *7221, is amended by adding at the end the following:*

6 **“§ 413. Agency accountability**

7 “(a) *TRIENNIAL STATE MANAGEMENT REVIEWS.*—*At*
 8 *least once every 3 years the National Highway Traffic Safe-*
 9 *ty Administration shall conduct a review of each State*
 10 *highway safety program. The review shall include a man-*
 11 *agement evaluation of all grant programs partially or fully*
 12 *funded under this title. The Administrator shall provide re-*
 13 *view-based recommendations on how each State may im-*
 14 *prove the management and oversight of its grant activities*
 15 *and may provide a management and oversight plan.*

16 “(b) *RECOMMENDATIONS BEFORE SUBMISSION.*—*In*
 17 *order to provide guidance to State highway safety agencies*
 18 *on matters that should be addressed in the State highway*
 19 *safety program goals and initiatives as part of its highway*
 20 *safety plan before the plan is submitted for review, the Ad-*
 21 *ministrator shall provide data-based recommendations to*
 22 *each State at least 90 days before the date on which the*
 23 *plan is to be submitted for approval.*

24 “(c) *STATE PROGRAM REVIEW.*—*The Administrator*
 25 *shall—*

1 “(1) conduct a program improvement review of
2 any State that does not make substantial progress
3 over a 3-year period in meeting its priority program
4 goals; and

5 “(2) provide technical assistance and safety pro-
6 gram requirements to be incorporated in a State’s
7 highway safety plan for any goal not achieved.

8 “(d) *REGIONAL HARMONIZATION.*—*The Administra-*
9 *tion and the Inspector General of the Department of Trans-*
10 *portation shall undertake a State grant administrative re-*
11 *view of the practices and procedures of the management re-*
12 *views and program reviews conducted by Administration*
13 *regional offices and formulate a report of best practices to*
14 *be completed within 180 days after the date of enactment*
15 *of the Highway Safety Grant Program Reauthorization Act*
16 *of 2005.*

17 “(e) *BEST PRACTICES GUIDELINES.*—

18 “(1) *UNIFORM GUIDELINES.*—*The Administrator*
19 *shall issue uniform management review guidelines*
20 *and program review guidelines based on the report*
21 *under subsection (d). Each regional office shall use*
22 *the guidelines in executing its State administrative*
23 *review duties.*

1 “(2) *PUBLICATION.*—*The Administrator shall*
2 *make the following documents available via the Inter-*
3 *net upon their completion:*

4 “(A) *The Administrator’s management re-*
5 *view guidelines and the program review guide-*
6 *lines.*

7 “(B) *State highway safety plans.*

8 “(C) *State annual accomplishment reports.*

9 “(D) *The Administration’s Summary report*
10 *of findings from Management Reviews and Im-*
11 *provement Plans.*

12 “(3) *REPORTS TO STATE HIGHWAY SAFETY*
13 *AGENCIES.*—*The Administrator may not make a*
14 *plan, report, or review available under paragraph (2)*
15 *that is directed to a State highway safety agency*
16 *until after it has been submitted to that agency.*

17 “(f) *GENERAL ACCOUNTING OFFICE REVIEW.*—*The*
18 *General Accounting Office shall analyze the effectiveness of*
19 *the National Highway Traffic Safety Administration’s*
20 *oversight of traffic safety grants by determining the useful-*
21 *ness of the Administration’s advice to the States regarding*
22 *grants administration and State activities, the extent to*
23 *which the States incorporate the Administration’s rec-*
24 *ommendation into their highway safety plans and pro-*
25 *grams, and improvements that result in a State’s highway*

1 *safety program that may be attributable to the Administra-*
 2 *tion’s recommendations. Based on this analysis, the General*
 3 *Accounting Office shall submit a report by not later than*
 4 *the end of fiscal year 2008 to the House of Representatives*
 5 *Committee on Transportation and Infrastructure and the*
 6 *Senate Committee on Commerce, Science, and Transpor-*
 7 *tation.”.*

8 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 9 *for chapter 4, as amended by section 7221, is amended by*
 10 *inserting after the item relating to section 412 the following:*
 “413. *Agency accountability.*”

11 **SEC. 7223. GRANTS FOR IMPROVING CHILD PASSENGER**
 12 **SAFETY PROGRAMS.**

13 (a) *IN GENERAL.*—*The Secretary of Transportation*
 14 *shall establish a program to provide grants to States to as-*
 15 *sist in the enactment and enforcement of laws implementing*
 16 *Anton’s Law (49 U.S.C. 30127 note).*

17 (b) *ELIGIBILITY REQUIREMENTS.*—

18 (1) *IN GENERAL.*—*The Secretary shall make a*
 19 *grant to each State that, as determined by the Sec-*
 20 *retary, enacts or has enacted, has in effect, and is en-*
 21 *forcing a law requiring that children riding in pas-*
 22 *senger motor vehicles (as defined in section 405(f)(4))*
 23 *of title 23, United States Code, who are too large to*
 24 *be secured in a child safety seat be secured in a child*
 25 *restraint (as defined in section 7(1) of Anton’s Law*

1 (49 U.S.C. 30127 note)) that meets requirements pre-
2 scribed by the Secretary under section 3 of Anton's
3 Law.

4 (2) YEAR IN WHICH FIRST ELIGIBLE.—

5 (A) EARLY QUALIFICATION.—A State that
6 has enacted a law described in paragraph (1)
7 that is in effect before October 1, 2005, is first
8 eligible to receive a grant under subsection (a) in
9 fiscal year 2006.

10 (B) SUBSEQUENT QUALIFICATION.—A State
11 that enacts a law described in paragraph (1)
12 that takes effect after September 30, 2005, is first
13 eligible to receive a grant under subsection (a) in
14 the first fiscal year beginning after the date on
15 which the law is enacted.

16 (3) CONTINUING ELIGIBILITY.—A State that is
17 eligible under paragraph (1) to receive a grant may
18 receive a grant during each fiscal year listed in sub-
19 section (f) in which it is eligible.

20 (4) MAXIMUM NUMBER OF GRANTS.—A State
21 may not receive more than 4 grants under this sec-
22 tion.

23 (c) GRANT AMOUNT.—Amounts available for grants
24 under this section in any fiscal year shall be apportioned
25 among the eligible States on the basis of population.

1 (d) *USE OF GRANT AMOUNTS.*—

2 (1) *IN GENERAL.*—*Of the amounts received by a*
3 *State under this section for any fiscal year—*

4 (A) *50 percent shall be used for the enforce-*
5 *ment of, and education to promote public aware-*
6 *ness of, State child passenger protection laws;*
7 *and*

8 (B) *50 percent shall be used to fund pro-*
9 *grams that purchase and distribute child booster*
10 *seats, child safety seats, and other appropriate*
11 *passenger motor vehicle child restraints to indi-*
12 *gent families without charge.*

13 (2) *REPORT.*—*Within 60 days after the State*
14 *fiscal year in which a State receives a grant under*
15 *this section, the State shall transmit to the Secretary*
16 *a report documenting the manner in which grant*
17 *amounts were obligated or expended and identifying*
18 *the specific programs supports by grant funds. The*
19 *report shall be in a form prescribed by the Secretary*
20 *and may be combined with other State grant report-*
21 *ing requirements under this chapter.*

22 (e) *DEFINITION OF CHILD SAFETY SEAT.*—*The term*
23 *“child safety seat” means any device (except safety belts (as*
24 *such term is defined in section 405(f)(6)) of title 23, United*
25 *States Code, designed for use in a motor vehicle (as such*

1 *term is defined in section 405(f)(4) of that title) to restrain,*
2 *seat, or position a child who weighs 50 pounds or less.*

3 (f) *AUTHORIZATION OF APPROPRIATIONS.—There are*
4 *authorized to be appropriated to the Secretary of*
5 *Transportation—*

6 (1) *\$18,000,000 for fiscal year 2006;*

7 (2) *\$20,000,000 for fiscal year 2007;*

8 (3) *\$25,000,000 for fiscal year 2008; and*

9 (4) *\$30,000,000 for fiscal year 2009.*

10 **SEC. 7224. MOTORCYCLIST SAFETY TRAINING AND MOTOR-**
11 **IST AWARENESS PROGRAMS.**

12 (a) *IN GENERAL.—Chapter 4 of title 23, United States*
13 *Code, as amended by section 7222, is amended by adding*
14 *at the end the following:*

15 **“§414. Motorcyclist safety training and motorist**
16 **awareness programs**

17 *“(a) DEFINITIONS.—In this section:*

18 *“(1) MOTORCYCLIST SAFETY TRAINING.—The*
19 *term ‘motorcyclist safety training’ means any formal*
20 *program of instruction that—*

21 *“(A) provides accident avoidance and other*
22 *safety-oriented operational skills to motorcyclists,*
23 *including innovative training opportunities to*
24 *meet unique regional needs; and*

1 “(B) is approved for use in a State by the
2 designated State authority having jurisdiction
3 over motorcyclist safety issues, which may in-
4 clude the State Motorcycle Safety Administrator
5 or a motorcycle advisory council appointed by
6 the Governor of the State.

7 “(2) *MOTORIST AWARENESS*.—The term ‘motor-
8 ist awareness’ means individual or collective motorist
9 awareness of—

10 “(A) the presence of motorcycles on or near
11 roadways; and

12 “(B) safe driving practices that avoid in-
13 jury to motorcyclists, bicyclists, and pedestrians.

14 “(3) *MOTORIST AWARENESS PROGRAM*.—The
15 term ‘motorist awareness program’ means any infor-
16 mational or public awareness program designed to
17 enhance motorist awareness that is developed by or in
18 coordination with the designated State authority hav-
19 ing jurisdiction over motorcyclist safety issues, which
20 may include the State Motorcycle Safety Adminis-
21 trator or, in the absence of a State Administrator, a
22 motorcycle advisory council appointed by a Governor
23 of the State.

24 “(4) *STATE*.—The term ‘State’ means—

25 “(A) a State;

1 “(B) *the District of Columbia; and*

2 “(C) *the Commonwealth of Puerto Rico.*

3 “(b) *ELIGIBILITY.—Not later than 90 days after the*
4 *date of enactment of this section and on September 1 of*
5 *each fiscal year thereafter, based on a letter of certification*
6 *provided by the Governor of each State, the Secretary shall*
7 *develop and publish a list of States that, as of the date of*
8 *publication of the list, have established motorcyclist safety*
9 *training programs and motorist awareness programs, in-*
10 *cluding information that indicates—*

11 “(1) *the level of base funding provided for each*
12 *such program for the applicable fiscal year; and*

13 “(2) *whether the level of base funding provided*
14 *for each such program for the applicable fiscal year*
15 *was increased, decreased, or maintained from the level*
16 *of funding provided for the program for the previous*
17 *fiscal year.*

18 “(c) *ALLOCATION.—Not later than 120 days after the*
19 *date of enactment of this section, on October 1 of each fiscal*
20 *year, the Secretary shall allocate to each State for which*
21 *the base funding allocated for motorcyclist safety training*
22 *and motorist awareness programs was not less than the*
23 *amount allocated for the previous year, not less than*
24 *\$100,000, to be used only for motorcyclist safety training*
25 *and motorist awareness programs, including—*

1 “(1) *improvements to motorcyclist safety train-*
2 *ing curricula;*

3 “(2) *improvements in program delivery to both*
4 *urban and rural areas, including—*

5 “(A) *procurement or repair of practice mo-*
6 *torcycles;*

7 “(B) *instructional aides; and*

8 “(C) *mobile training units;*

9 “(3) *an increase in the recruitment or retention*
10 *of motorcyclist safety training instructors certified by*
11 *a State Motorcycle Safety Administrator or motor-*
12 *cycle advisory council appointed by the Governor;*
13 *and*

14 “(4) *public awareness, public service announce-*
15 *ments, and other outreach programs to enhance mo-*
16 *torist awareness, such as the ‘share-the-road’ safety*
17 *messages developed in subsection (f).*

18 “(d) *CONTRACTS WITH ORGANIZATIONS.—The Sec-*
19 *retary may enter into an agreement with an organization*
20 *that is recommended by and represents the interests of State*
21 *Motorcycle Safety Administrators to review, determine, and*
22 *disseminate a description of best practices in motorcycle*
23 *safety training and motorist awareness, and to recommend*
24 *such practices, to State administrators, governors, State*
25 *legislative bodies, and chief licensing officers of States.*

1 “(e) *AUTHORIZATION OF APPROPRIATIONS.—From*
 2 *funds available to carry out section 406 of this title,*
 3 *\$5,200,000 shall be made available for each of fiscal years*
 4 *2006 through 2009 to carry out this section.*

5 “(f) *SHARE-THE-ROAD MODEL LANGUAGE.—Not later*
 6 *than 1 year after the date of enactment of the Highway*
 7 *Safety Grant Program Reauthorization Act of 2005, the*
 8 *Secretary, in consultation with the Administrator of the*
 9 *National Highway Traffic Safety Administration, shall*
 10 *develop and provide to the States model language for use*
 11 *in traffic safety education courses, driver’s manuals, and*
 12 *other driver’s training materials instructing the drivers of*
 13 *motor vehicles on the importance of sharing the roads safely*
 14 *with motorcyclists.”.*

15 (b) *CONFORMING AMENDMENT.—The chapter analysis*
 16 *for chapter 4 of title 23, United States Code, as amended*
 17 *by section 7222, is amended by adding at the end the fol-*
 18 *lowing:*

“414. Motorcyclist safety training and motorist awareness programs.”.

19 **CHAPTER 2—SPECIFIC VEHICLE SAFETY-**
 20 **RELATED RULINGS**

21 **SEC. 7251. VEHICLE ROLLOVER PREVENTION AND CRASH**
 22 **MITIGATION.**

23 (a) *IN GENERAL.—Subchapter II of chapter 301 is*
 24 *amended by adding at the end the following:*

1 **“§30128. Vehicle rollover prevention and crash miti-**
2 **gation**

3 (a) *IN GENERAL.*—*The Secretary shall initiate rule-*
4 *making proceedings, for the purpose of establishing rules*
5 *or standards that will reduce vehicle rollover crashes and*
6 *mitigate deaths and injuries associated with such crashes*
7 *for motor vehicles with a gross vehicle weight rating of not*
8 *more than 10,000 pounds.*

9 “(b) *ROLLOVER PREVENTION.*—*One of the rulemaking*
10 *proceedings initiated under subsection (a) shall be to estab-*
11 *lish performance criteria to reduce the occurrence of roll-*
12 *overs consistent with stability enhancing technologies. The*
13 *Secretary shall issue a proposed rule in this proceeding by*
14 *rule by October 1, 2006, and a final rule by April 1, 2009.*

15 “(c) *OCCUPANT EJECTION PREVENTION.*—

16 “(1) *IN GENERAL.*—*The Secretary shall also ini-*
17 *tiate a rulemaking proceeding to establish perform-*
18 *ance standards to reduce complete and partial ejec-*
19 *tions of vehicle occupants from outboard seating posi-*
20 *tions. In formulating the standards the Secretary*
21 *shall consider various ejection mitigation systems.*
22 *The Secretary shall issue a final rule under this*
23 *paragraph no later than October 1, 2009.*

24 “(2) *DOOR LOCKS AND DOOR RETENTION.*—*The*
25 *Secretary shall complete the rulemaking proceeding*
26 *initiated to upgrade Federal Motor Vehicle Safety*

1 *Standard No. 206, relating to door locks and door re-*
2 *tention, no later than 30 months after the date of en-*
3 *actment of this Act.*

4 “(d) *PROTECTION OF OCCUPANTS.*—*One of the rule-*
5 *making proceedings initiated under subsection (a) shall be*
6 *to establish performance criteria to upgrade Federal Motor*
7 *Vehicle Safety Standard No. 216 relating to roof strength*
8 *for driver and passenger sides. The Secretary may consider*
9 *industry and independent dynamic tests that realistically*
10 *duplicate the actual forces transmitted during a rollover*
11 *crash. The Secretary shall issue a proposed rule by Decem-*
12 *ber 31, 2005, and a final rule by July 1, 2008.*

13 “(e) *DEADLINES.*—*If the Secretary determines that the*
14 *deadline for a final rule under this section cannot be met,*
15 *the Secretary shall—*

16 “(1) *notify the Senate Committee on Commerce,*
17 *Science, and Transportation and the House of Rep-*
18 *resentatives Committee on Energy and Commerce and*
19 *explain why that deadline cannot be met; and*

20 “(2) *establish a new deadline.*”

21 **SEC. 7252. SIDE-IMPACT CRASH PROTECTION RULEMAKING.**

22 *The Secretary of Transportation shall complete a rule-*
23 *making proceeding under chapter 301 of title 49, United*
24 *States Code, to establish a standard designed to enhance*
25 *passenger motor vehicle occupant protection, in all seating*

1 *positions, in side impact crashes. The Secretary shall issue*
2 *a final rule by July 1, 2008.*

3 **SEC. 7253. TIRE RESEARCH.**

4 *Within 2 years after the date of enactment of this Act,*
5 *the Secretary shall transmit a report to the Senate Com-*
6 *mittee on Commerce, Science, and Transportation and the*
7 *House of Representatives Committee on Energy and Com-*
8 *merce on research conducted to address tire aging. The re-*
9 *port shall include a summary of any Federal agency find-*
10 *ings, activities, conclusions, and recommendations con-*
11 *cerning tire aging and recommendations for potential rule-*
12 *making regarding tire aging.*

13 *(b) CONFORMING AMENDMENT.—The chapter analysis*
14 *for chapter 301 is amended by inserting after the item relat-*
15 *ing to section 30127 the following:*

“30128. Vehicle accident ejection protection”.

16 **SEC. 7254. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY**
17 **STUDY.**

18 *(a) IN GENERAL.—The Administrator of the National*
19 *Highway Traffic Safety Administration shall conduct a*
20 *study of effective methods for reducing the incidence of in-*
21 *jury and death outside of parked passenger motor vehicles*
22 *with a gross vehicle weight rating of not more than 10,000*
23 *pounds attributable to movement of such vehicles. The Ad-*
24 *ministrator shall complete the study within 1 year after*
25 *the date of enactment of this Act and report its findings*

1 *to the Senate Committee on Commerce, Science, and Trans-*
2 *portation and the House of Representatives Committee on*
3 *Energy and Commerce not later than 15 months after the*
4 *date of enactment of this Act.*

5 (b) *SPECIFIC ISSUES TO BE COVERED.*—*The study re-*
6 *quired by subsection (a) shall—*

7 (1) *include an analysis of backover prevention*
8 *technology;*

9 (2) *identify, evaluate, and compare the available*
10 *technologies for detecting people or objects behind a*
11 *motor vehicle with a gross vehicle weight rating of not*
12 *more than 10,000 pounds for their accuracy, effective-*
13 *ness, cost, and feasibility for installation; and*

14 (3) *provide an estimate of cost savings that*
15 *would result from widespread use of backover preven-*
16 *tion devices and technologies in motor vehicles with a*
17 *gross vehicle weight rating of not more than 10,000*
18 *pounds, including savings attributable to the preven-*
19 *tion of—*

20 (A) *injuries and fatalities; and*

21 (B) *damage to bumpers and other motor ve-*
22 *hicle parts and damage to other objects.*

23 **SEC. 7255. NONTRAFFIC INCIDENT DATA COLLECTION.**

24 (a) *IN GENERAL.*—*In conjunction with the study re-*
25 *quired in section 7254, the National Highway Traffic Safe-*

1 *ty Administration shall establish a method to collect and*
2 *maintain data on the number and types of injuries and*
3 *deaths involving motor vehicles with a gross vehicle weight*
4 *rating of not more than 10,000 pounds in non-traffic inci-*
5 *dents.*

6 (b) *DATA COLLECTION AND PUBLICATION.—The Sec-*
7 *retary of Transportation shall publish the data collected*
8 *under subsection (a) no less frequently than biennially.*

9 **SEC. 7256. SAFETY BELT USE REMINDERS.**

10 (a) *BUZZER LAW.—*

11 (1) *IN GENERAL.—Section 30124 is amended—*

12 (A) *by striking “not” the first place it ap-*
13 *pears; and*

14 (B) *by striking “except” and inserting “in-*
15 *cluding”.*

16 (2) *CONFORMING AMENDMENT.—Section 30122*
17 *is amended by striking subsection (d).*

18 (b) *STUDY OF SAFETY BELT USE TECHNOLOGIES.—*
19 *The Secretary of Transportation shall conduct a review of*
20 *safety belt use technologies to evaluate progress and to con-*
21 *sider possible revisions in strategies for achieving further*
22 *gains in safety belt use. The Secretary shall complete the*
23 *study by July 1, 2008.*

1 **SEC. 7257. AMENDMENT OF AUTOMOBILE INFORMATION**
2 **DISCLOSURE ACT.**

3 (a) *SAFETY LABELING REQUIREMENT.*—Section 3 of
4 *the Automobile Information Disclosure Act (15 U.S.C.*
5 *1232) is amended—*

6 (1) *by striking “and” after the semicolon in sub-*
7 *section (e);*

8 (2) *by inserting “and” after the semicolon in*
9 *subsection (f)(3);*

10 (3) *by striking “(3).” in subsection (f)(4) and in-*
11 *serting “(3);”;* and

12 (4) *by adding at the end the following:*

13 “(g) *if 1 or more safety ratings for such automobile*
14 *have been assigned and formally published or released by*
15 *the National Highway Traffic Safety Administration under*
16 *the New Car Assessment Program, information about safety*
17 *ratings that—*

18 “(1) *includes a graphic depiction of the number*
19 *of stars, or other applicable rating, that corresponds*
20 *to each such assigned safety rating displayed in a*
21 *clearly differentiated fashion indicating the max-*
22 *imum possible safety rating;*

23 “(2) *refers to frontal impact crash tests, side im-*
24 *impact crash tests, and rollover resistance tests (whether*
25 *or not such automobile has been assigned a safety rat-*
26 *ing for such tests);*

1 “(3) contains information describing the nature
2 and meaning of the crash test data presented and a
3 reference to additional vehicle safety resources, includ-
4 ing <http://www.safercar.gov>; and

5 “(4) is presented in a legible, visible, and promi-
6 nent fashion and covers at least—

7 “(A) 8 percent of the total area of the label;

8 or

9 “(B) an area with a minimum length of 4
10 $\frac{1}{2}$ inches and a minimum height of 3 $\frac{1}{2}$ inches;
11 and

12 “(h) if an automobile has not been tested by the Na-
13 tional Highway Traffic Safety Administration under the
14 New Car Assessment Program, or safety ratings for such
15 automobile have not been assigned in one or more rating
16 categories, a statement to that effect.”.

17 (b) REGULATIONS.—Not later than January 1, 2006,
18 the Secretary of Transportation shall issue regulations to
19 implement the labeling requirements under subsections (g)
20 and (h) of section 3 of the Automobile Information Disclo-
21 sure Act, as added by subsection (a).

22 (c) APPLICABILITY.—The labeling requirements under
23 subsection (g) and (h) of section 3 of such Act (as added
24 by subsection (a)), and the regulations prescribed under

1 subsection (b), shall apply to new automobiles delivered on
2 or after—

3 (1) September 1, 2006, if the regulations under
4 subsection (b) are prescribed not later than August
5 31, 2005; or

6 (2) September 1, 2007, if the regulations under
7 subsection (b) are prescribed after August 31, 2005.

8 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There are
9 authorized to be appropriated to the Secretary of Transpor-
10 tation, to accelerate the testing processes and increasing the
11 number of vehicles tested under the New Car Assessment
12 Program of the National Highway Traffic Safety
13 Administration—

14 (1) \$15,000,000 for fiscal year 2006;

15 (2) \$8,134,065 for fiscal year 2007;

16 (3) \$8,418,760 for fiscal year 2008;

17 (4) \$8,713,410 for fiscal year 2009; and

18 (5) \$9,018,385 for fiscal year 2010.

19 **SEC. 7258. POWER WINDOW SWITCHES.**

20 The Secretary of Transportation shall upgrade Federal
21 Motor Vehicle Safety Standard 118 to require that power
22 windows in motor vehicles not in excess of 10,000 pounds
23 have switches that raise the window only when the switch
24 is pulled up or out. The Secretary shall issue a final rule
25 implementing this section by April 1, 2007.

1 **SEC. 7259. 15-PASSENGER VAN SAFETY.**

2 (a) *TESTING.*—

3 (1) *IN GENERAL.*—*The Secretary of Transpor-*
4 *tation shall require the testing of 15-passenger vans*
5 *as part of the rollover resistance program of the Na-*
6 *tional Highway Traffic Safety Administration’s new*
7 *car assessment program.*

8 (2) *15-PASSENGER VAN DEFINED.*—*In this sub-*
9 *section, the term “15-passenger van” means a vehicle*
10 *that seats 10 to 14 passengers, not including the driv-*
11 *er.*

12 (b) *PROHIBITION OF PURCHASE, RENTAL, OR LEASE*
13 *OF NONCOMPLYING 15-PASSENGER VANS FOR SCHOOL*
14 *USE.*—*Section 30112(a) is amended—*

15 (1) *by inserting “(1)” before “Except as pro-*
16 *vided”;* and

17 (2) *by adding at the end the following:*

18 “(2) *Except as provided in this section, sections 30113*
19 *and 30114 of this title, and subchapter III of this chapter,*
20 *a school or school system may not purchase or lease a new*
21 *15-passenger van if it will be used significantly by, or on*
22 *behalf of, the school or school system to transport*
23 *preprimary, primary, or secondary school students to or*
24 *from school or an event related to school, unless the 15-pas-*
25 *senger van complies with the motor vehicle standards pre-*
26 *scribed for school buses and multifunction school activity*

1 *buses under this title. This paragraph does not apply to*
2 *the purchase or lease of a 15-passenger van under a contract*
3 *executed before the date of enactment of the Surface Trans-*
4 *portation Safety Improvement Act of 2005.”.*

5 *(c) PENALTY.—Section 30165(a) is amended—*

6 *(1) by redesignating paragraph (2) as para-*
7 *graph (3); and*

8 *(2) by inserting after paragraph (1) the fol-*
9 *lowing:*

10 *“(2) SCHOOL BUSES.—*

11 *“(A) IN GENERAL.—Notwithstanding para-*
12 *graph (1), the maximum amount of a civil pen-*
13 *alty under this paragraph shall be \$10,000 in*
14 *the case of—*

15 *“(i) the manufacture, sale, offer for sale, in-*
16 *troduction or delivery for introduction into*
17 *interstate commerce, or importation of a school*
18 *bus or school bus equipment (as those terms are*
19 *defined in section 30125(a) of this title) in viola-*
20 *tion of section 30112(a)(1) of this title; or*

21 *“(ii) a violation of section 30112(a)(2) of*
22 *this title.*

23 *“(B) RELATED SERIES OF VIOLATIONS.—A*
24 *separate violation occurs for each motor vehicle*
25 *or item of motor vehicle equipment and for each*

1 *failure or refusal to allow or perform an act re-*
2 *quired by that section. The maximum penalty*
3 *under this paragraph for a related series of vio-*
4 *lations is \$15,000,000.”.*

5 **SEC. 7260. UPDATED FUEL ECONOMY LABELING PROCE-**
6 **DURES.**

7 (a) *IN GENERAL.*—*The Administrator of the Environ-*
8 *mental Protection Agency shall, as appropriate and in con-*
9 *sultation with the Administrator of the National Highway*
10 *Traffic Safety Administration, update and revise the proc-*
11 *ess used to determine fuel economy values for labeling pur-*
12 *poses as set forth in sections 600.209–85 and 600.209.95*
13 *(40 C.F.R. 600.209–85 and 600.209.95) to take into consid-*
14 *eration current factors such as speed limits, acceleration*
15 *rates, braking, variations in weather and temperature, ve-*
16 *hicle load, use of air conditioning, driving patterns, and*
17 *the use of other fuel consuming features. The Administrator*
18 *shall use existing emissions test cycles and, or, updated ad-*
19 *justment factors to implement the requirements of this sub-*
20 *section.*

21 (b) *DEADLINE.*—*The Administrator of the Environ-*
22 *mental Protection Agency shall promulgate a notice of pro-*
23 *posed rulemaking by December 31, 2005, and a final rule*
24 *within 18 months after the date on which the Administrator*
25 *issues the notice.*

1 (c) *REPORT.*—Three years after issuing the final rule
2 required by subsection (b) and every 3 years thereafter the
3 Administrator of the Environmental Protection Agency
4 shall reconsider the fuel economy labeling procedures re-
5 quired under subsection (a) to determine if the changes in
6 the factors require revisiting the process. The administrator
7 shall report to the Senate Committee on Commerce, Science
8 and Transportation and to the House of Representatives
9 Committee on Energy and Commerce on the outcome of the
10 reconsideration process.

11 **SEC. 7261. IDENTIFICATION OF CERTAIN ALTERNATIVE**
12 **FUELED VEHICLES.**

13 (a) *IN GENERAL.*—Section 32908 of title 49, United
14 States Code, is amended—

15 (1) by redesignating subsections (e) and (f) as
16 subsection (f) and (g), respectively; and

17 (2) by inserting after subsection (d) the following
18 new subsection:

19 “(e) *IDENTIFICATION OF CERTAIN ALTERNATIVE*
20 *FUELED VEHICLES.*—A manufacturer shall affix, or have
21 affixed, to each dual fueled automobile manufactured by the
22 manufacturer (including each light duty truck) that may
23 be operated on the alternative fuel described in section
24 32901(a)(1)(D)—

1 “(1) a permanent label inside the automobile’s
2 fuel door compartment that—

3 “(A) meets the requirements of the regula-
4 tions prescribed by the Administrator for such
5 label; and

6 “(B) states that the automobile may be op-
7 erated on the alternative fuel described in section
8 32901(a)(1)(D) and identifies such alternative
9 fuel; and

10 “(2) a temporary label to the window or wind-
11 shield of the automobile that—

12 “(A) meets the requirements of the regula-
13 tions prescribed by the Administrator for such
14 label; and

15 “(B) identifies the automobile as capable of
16 operating on such alternative fuel.”.

17 (b) REGULATIONS.—Not later than March 1, 2006, the
18 Administrator of the Environmental Protection Agency
19 shall promulgate regulations—

20 (1) for the label referred to in paragraph (1) of
21 section 32908(e) of title 49, United States Code, as
22 amended by subsection (a), that describe—

23 (A) the language that shall be set out on the
24 label, including a statement that the vehicle is

1 *capable of operating on a mixture of 85 percent*
2 *ethanol blended with gasoline; and*

3 *(B) the appropriate size and color of the*
4 *font of such language so that it is conspicuous to*
5 *the individual introducing fuel into the vehicle;*
6 *and*

7 *(2) for the temporary window or windshield*
8 *label referred to in paragraph (2) of such section*
9 *32908(e), that—*

10 *(A) prohibit the label from being removed*
11 *by any seller prior to the final sale of the vehicle*
12 *to a consumer; and*

13 *(B) describe the specifications of the label,*
14 *including that the label shall be—*

15 *(i) prominently displayed and con-*
16 *spicuous on the vehicle; and*

17 *(ii) separate from any other window or*
18 *windshield sticker, decal, or label.*

19 *(c) COMPLIANCE.—*

20 *(1) IN GENERAL.—A manufacturer shall be re-*
21 *quired to comply with the requirements of section*
22 *32908(e) of title 49, United State Code, as amended*
23 *by subsection (a), for a vehicle that is manufactured*
24 *for a model year after model year 2006.*

1 (2) *MODEL YEAR DEFINED.*—*In this subsection,*
2 *the term “model year” shall have the meaning given*
3 *such term in section 32901(a) of such title.*

4 (d) *VIOLATIONS.*—

5 (1) *IN GENERAL.*—*Section 32908(f) of title 49,*
6 *United States Code, as redesignated by subsection (a),*
7 *is amended by inserting “or (e)” after “subsection*
8 *(b)”.*

9 (2) *CONFORMING AMENDMENT.*—*Section*
10 *32911(a) of such title is amended by inserting*
11 *“32908(e),” after “32908(b),”.*

12 **SEC. 7262. AUTHORIZATION OF APPROPRIATIONS.**

13 *There are authorized to be appropriated to the Sec-*
14 *retary of Transportation to carry out this chapter and*
15 *chapter 301 of title 49, United States Code—*

16 (1) *\$136,000,000 for fiscal year 2006;*

17 (2) *\$142,800,000 for fiscal year 2007;*

18 (3) *\$149,900,000 for fiscal year 2008; and*

19 (4) *\$157,400,000 for fiscal year 2009.*

20 ***Subtitle C—Hazardous Materials***

21 **SEC. 7301. SHORT TITLE.**

22 *This subtitle may be cited as the “Hazardous Material*
23 *Transportation Safety and Security Reauthorization Act of*
24 *2005”.*

1 **CHAPTER 1—GENERAL AUTHORITIES ON**
2 **TRANSPORTATION OF HAZARDOUS**
3 **MATERIALS**

4 **SEC. 7321. PURPOSE.**

5 *The text of section 5101 is amended to read as follows:*

6 *“The purpose of this chapter is to protect against the*
7 *risks to life, property, and the environment that are inher-*
8 *ent in the transportation of hazardous material in intra-*
9 *state, interstate, and foreign commerce.”.*

10 **SEC. 7322. DEFINITIONS.**

11 *Section 5102 is amended as follows:*

12 (1) **COMMERCE.**—*Paragraph (1) is amended—*

13 (A) *by striking “or” after the semicolon in*
14 *subparagraph (A);*

15 (B) *by striking the “State.” in subpara-*
16 *graph (B) and inserting “State; or”; and*

17 (C) *by adding at the end the following:*

18 *“(C) on a United States-registered air-*
19 *craft.”.*

20 (2) **HAZMAT EMPLOYEE.**—*Paragraph (3) is*
21 *amended—*

22 (A) *by inserting “on a fulltime, part time,*
23 *or temporary basis” after “employed” in sub-*
24 *paragraph (A)(i);*

1 *(B) by redesignating clause (ii) of subpara-*
2 *graph (A) as clause (iii) and inserting after*
3 *clause (i) the following:*

4 *“(ii) is self-employed (including an*
5 *owner-operator of a motor vehicle, vessel, or*
6 *aircraft) transporting hazardous material*
7 *in commerce; and”;*

8 *(C) by inserting “such full time, part time,*
9 *or temporary” in clause (iii) of subparagraph*
10 *(A), as redesignated, after “course of”;*

11 *(D) by striking subparagraph (B) and re-*
12 *designating subparagraph (C) as subparagraph*
13 *(B);*

14 *(E) by inserting “on a full time, part time,*
15 *or temporary basis” after “employed” in sub-*
16 *paragraph (B), as redesignated; and*

17 *(F) by striking clause (ii) of subparagraph*
18 *(B), as redesignated, and inserting the following:*

19 *“(ii) designs, manufactures, fabricates,*
20 *inspects, marks, maintains, reconditions, re-*
21 *pairs, or tests a package, container, or*
22 *packaging component that is represented,*
23 *marked, certified, or sold by that person as*
24 *qualified for use in transporting hazardous*
25 *material in commerce;”.*

1 (3) *HAZMAT EMPLOYER*.—Paragraph (4) is
2 *amended to read as follows:*

3 “(4) ‘*hazmat employer*’ means a person—

4 “(A) *who—*

5 “(i) *employs or uses at least 1 hazmat*
6 *employee on a full time, part time, or tem-*
7 *porary basis, or*

8 “(ii) *is self-employed (including an*
9 *owner-operator of a motor vehicle, vessel, or*
10 *aircraft) transporting hazardous material*
11 *in commerce, and*

12 “(B) *who—*

13 “(i) *transports hazardous material in*
14 *commerce,*

15 “(ii) *causes hazardous material to be*
16 *transported in commerce, or*

17 “(iii) *designs, manufactures, fab-*
18 *ricates, inspects, marks, maintains, recondi-*
19 *tions, repairs, or tests a package, container,*
20 *or packaging component that is represented,*
21 *marked, certified, or sold by that person as*
22 *qualified for use in transporting hazardous*
23 *material in commerce, and*

24 *includes a department, agency, or instrumen-*
25 *tality of the United States Government, or an*

1 *authority of a State, political subdivision of a*
2 *State, or Indian tribe, carrying out an activity*
3 *described in subparagraph (B).”.*

4 (4) *IMMINENT HAZARD.*—*Paragraph (5) is*
5 *amended by inserting “relating to hazardous mate-*
6 *rial” after “of a condition”.*

7 (5) *MOTOR CARRIER.*—*Paragraph (7) is amend-*
8 *ed to read as follows:*

9 “(7) ‘motor carrier’—

10 “(A) means a motor carrier, motor private
11 carrier, and freight forwarder as those terms are
12 defined in section 13102 of this title; but

13 “(B) does not include a freight forwarder,
14 as so defined, if the freight forwarder is not per-
15 forming a function relating to highway transpor-
16 tation.”.

17 (6) *NATIONAL RESPONSE TEAM.*—*Paragraph (8)*
18 *is amended—*

19 (A) by striking “national response team”
20 both places it appears and inserting “National
21 Response Team”; and

22 (B) by striking “national contingency
23 plan” and inserting “National Contingency
24 Plan”.

1 (7) *PERSON*.—*Paragraph (9)(A) is amended by*
2 *striking “offering” and all that follows and inserting*
3 *“that—*

4 *“(i) offers hazardous material for*
5 *transportation in commerce;*

6 *“(ii) transports hazardous material to*
7 *further a commercial enterprise; or*

8 *“(iii) designs, manufactures, fab-*
9 *ricates, inspects, marks, maintains, recondi-*
10 *tions, repairs, or tests a package, container,*
11 *or packaging component that is represented,*
12 *marked, certified, or sold by that person as*
13 *qualified for use in transporting hazardous*
14 *material in commerce; but”.*

15 (8) *SECRETARY OF TRANSPORTATION*.—*Section*
16 *5102 is further amended—*

17 *(A) by redesignating paragraphs (11), (12),*
18 *and (13), as paragraphs (12), (13), and (14), re-*
19 *spectively; and*

20 *(B) by inserting after paragraph (10) the*
21 *following:*

22 *“(11) ‘Secretary’ means the Secretary of Trans-*
23 *portation except as otherwise provided.”.*

1 **SEC. 7323. GENERAL REGULATORY AUTHORITY.**

2 (a) *REFERENCE TO SECRETARY OF TRANSPORTATION.*—Section 5103(a) is amended by striking “of
3 *Transportation*”.

5 (b) *DESIGNATING MATERIAL AS HAZARDOUS.*—Section
6 *5103(a)* is further amended—

7 (1) by striking “*etiologic agent*” and all that fol-
8 *lows through “corrosive material,”* and inserting “*in-*
9 *fectious substance, flammable or combustible liquid,*
10 *solid, or gas, toxic, oxidizing, or corrosive material,”*;
11 *and*

12 (2) by striking “*decides*” and inserting “*deter-*
13 *mines*”.

14 (c) *REGULATIONS FOR SAFE TRANSPORTATION.*—Section
15 *5103(b)(1)(A)* is amended to read as follows:

16 “(A) apply to a person who—

17 “(i) transports hazardous material in
18 *commerce;*

19 “(ii) causes hazardous material to be
20 *transported in commerce;*

21 “(iii) designs, manufactures, fab-
22 *ricates, inspects, marks, maintains, recondi-*
23 *tions, repairs, or tests a package, container,*
24 *or packaging component that is represented,*
25 *marked, certified, or sold by that person as*

1 *qualified for use in transporting hazardous*
 2 *material in commerce;*

3 “*(iv) prepares or accepts hazardous*
 4 *material for transportation in commerce;*

5 “*(v) is responsible for the safety of*
 6 *transporting hazardous material in com-*
 7 *merce;*

8 “*(vi) certifies compliance with any re-*
 9 *quirement under this chapter; or*

10 “*(vii) misrepresents whether such per-*
 11 *son is engaged in any activity under clause*
 12 *(i) through (vi) of this subparagraph; and”.*

13 *(d) TECHNICAL AMENDMENT REGARDING CONSULTA-*
 14 *TION.—Section 5103 is amended—*

15 *(1) by striking subsection (b)(1)(C); and*

16 *(2) by adding at the end the following:*

17 “*(c) CONSULTATION.—When prescribing a security*
 18 *regulation or issuing a security order that affects the safety*
 19 *of the transportation of hazardous material, the Secretary*
 20 *of Homeland Security shall consult with the Secretary of*
 21 *Transportation.”.*

22 **SEC. 7324. LIMITATION ON ISSUANCE OF HAZMAT LI-**
 23 **CENSES.**

24 *(a) REFERENCE TO SECRETARY OF TRANSPOR-*
 25 *TATION.—Section 5103a is amended by striking “of Trans-*

1 portation” each place it appears in subsections (a)(1),
2 (c)(1)(B), and (d) and inserting “of Homeland Security”.

3 (b) COVERED HAZARDOUS MATERIALS.—Section
4 5103a(b) is amended by striking “with respect to—” and
5 all that follows and inserting “with respect to any material
6 defined as hazardous material by the Secretary for which
7 the Secretary requires placarding of a commercial motor
8 vehicle transporting that material in commerce.”.

9 (c) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL
10 MATERIALS.—Section 5103a is further amended—

11 (1) by redesignating subsections (c), (d), and (e)
12 as subsections (d), (e), and (f), respectively; and

13 (2) by inserting after subsection (b) the fol-
14 lowing:

15 “(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGI-
16 CAL MATERIALS.—The Secretary of Health and Human
17 Services shall recommend to the Secretary any chemical or
18 biological material or agent for regulation as a hazardous
19 material under section 5103(a) of this title if the Secretary
20 of Health and Human Services determines that such mate-
21 rial or agent is a threat to the national security of the
22 United States.”.

23 (d) CONFORMING AMENDMENT.—Section 5103a(a)(1)
24 is amended by striking “subsection (c)(1)(B),” and insert-
25 ing “subsection (d)(1)(B),”.

1 **SEC. 7325. BACKGROUND CHECKS FOR DRIVERS HAULING**
2 **HAZARDOUS MATERIALS.**

3 (a) *FOREIGN DRIVERS.*—

4 (1) *IN GENERAL.*—*No commercial motor vehicle*
5 *operator registered to operate in Mexico or Canada*
6 *may operate a commercial motor vehicle transporting*
7 *a hazardous material in commerce in the United*
8 *States until the operator has undergone a background*
9 *records check similar to the background records check*
10 *required for commercial motor vehicle operators li-*
11 *censed in the United States to transport hazardous*
12 *materials in commerce.*

13 (2) *DEFINITIONS.*—*In this subsection:*

14 (A) *HAZARDOUS MATERIALS.*—*The term*
15 *“hazardous material” has the meaning given*
16 *that term in section 5102(2) of title 49, United*
17 *States Code.*

18 (B) *COMMERCIAL MOTOR VEHICLE.*—*The*
19 *term “commercial motor vehicle” has the mean-*
20 *ing given that term by section 31101 of title 49,*
21 *United States Code.*

22 (b) *OTHER DRIVERS.*—

23 (1) *EMPLOYER NOTIFICATION.*—*Within 90 days*
24 *after the date of enactment of this Act, the Assistant*
25 *Secretary of Homeland Security for Transportation*
26 *Security shall develop and implement a process for*

1 *the notification of a hazmat employer (as defined in*
2 *section 5102(4) of title 49, United States Code), if ap-*
3 *propriate considering the potential security implica-*
4 *tions, designated by an applicant seeking a threat as-*
5 *essment under part 1572 of title 49, Code of Federal*
6 *Regulations, if the Transportation Security Adminis-*
7 *tration, in an initial notification of threat assessment*
8 *or a final notification of threat assessment, served on*
9 *the applicant determines that the applicant does not*
10 *meet the standards set forth in section 1572.5(d) of*
11 *title 49, Code of Federal Regulations.*

12 (2) *RELATIONSHIP TO OTHER BACKGROUND*
13 *RECORDS CHECKS.—*

14 (A) *ELIMINATION OF REDUNDANT*
15 *CHECKS.—An individual with respect to whom*
16 *the Transportation Security Administration—*

17 (i) *has performed a security threat as-*
18 *essment under part 1572 of title 49, Code*
19 *of Federal Regulations, and*

20 (ii) *has issued a notification of no se-*
21 *curity threat under section 1572.5(g) of that*
22 *title,*

23 *is deemed to have met the requirements of any*
24 *other background check that is equivalent to, or*
25 *less stringent than, the background check per-*

1 formed under section 5103a of title 49, United
2 States Code, that is required for purposes of any
3 Federal law applicable to transportation work-
4 ers.

5 (B) *DETERMINATION BY ASSISTANT SEC-*
6 *RETARY.*—Within 30 days after the date of en-
7 actment of this Act, the Assistant Secretary of
8 Homeland Security (Transportation Security
9 Administration) shall initiate a rulemaking pro-
10 ceeding, including notice and opportunity for
11 comment, that sets forth the background checks
12 and other similar security or threat assessment
13 requirements applicable to transportation work-
14 ers under Federal law to which subparagraph
15 (A) applies.

16 (C) *FUTURE RULEMAKINGS.*—The Assistant
17 Secretary shall make a determination under the
18 criteria established under subparagraph (B) with
19 respect to any rulemaking proceeding to establish
20 or modify required background checks for trans-
21 portation workers initiated after the date of en-
22 actment of this Act.

23 (c) *APPEALS PROCESS FOR MORE STRINGENT STATE*
24 *PROCEDURES.*—If a State establishes standards for appli-
25 cants for a hazardous materials endorsement to a commer-

1 *cial driver's license that, as determined by the Secretary*
2 *of Homeland Security, are more stringent than the stand-*
3 *ards set forth in section 1572.5(d) of title 49, Code of Fed-*
4 *eral Regulations, then the State shall also provide an ap-*
5 *peals process similar to the process provided under section*
6 *1572.141 of title 49, Code of Federal Regulations, by which*
7 *an applicant denied a hazardous materials endorsement to*
8 *a commercial driver's license by that State may appeal that*
9 *denial in a manner substantially similar to, and to the*
10 *same extent as, an individual who received an initial noti-*
11 *fication of threat assessment under part 1572 of that title.*

12 (d) *CLARIFICATION OF TERM DEFINED IN REGULA-*
13 *TIONS.—The term “severe transportation security inci-*
14 *dent”, as defined in section 1572.3 of title 49, Code of Fed-*
15 *eral Regulations, does not include a work stoppage or other*
16 *nonviolent employee-related action resulting from an em-*
17 *ployer-employee dispute. Within 30 days after the date of*
18 *enactment of this Act, the Secretary of Homeland Security*
19 *shall modify the definition of that term to reflect the pre-*
20 *ceding sentence.*

21 (e) *BACKGROUND CHECK CAPACITY.—The Assistant*
22 *Secretary of Homeland Security (Transportation Security*
23 *Administration) shall transmit a report by October 1, 2005,*
24 *to the Senate Committee on Commerce, Science, and Trans-*
25 *portation and the House of Representatives Committee on*

1 *Homeland Security on the implementation of fingerprint-*
2 *based security threat assessments and the adequacy of*
3 *fingerprinting locations, personnel, and resources to accom-*
4 *plish the timely processing of fingerprint-based security*
5 *threat assessments for individuals holding commercial driv-*
6 *er's licenses who are applying to renew hazardous materials*
7 *endorsements.*

8 **SEC. 7326. REPRESENTATION AND TAMPERING.**

9 (a) *REPRESENTATION.*—Section 5104(a) is
10 amended—

11 (1) by striking “a container,” and all that fol-
12 lows through “(packaging) for” and inserting “a pack-
13 age, component of a package, or packaging for”; and

14 (2) by striking “the container” and all that fol-
15 lows through “(packaging) meets” and inserting “the
16 package, component of a package, or packaging
17 meets”.

18 (b) *TAMPERING.*—Section 5104(b) is amended—

19 (1) by striking “A person may not” and insert-
20 ing “No person may”; and

21 (2) by inserting “component of a package, or
22 packaging,” after “package,” in paragraph (2).

23 **SEC. 7327. TRANSPORTING CERTAIN MATERIAL.**

24 Section 5105 is amended by striking subsection (d).

1 **SEC. 7328. HAZMAT EMPLOYEE TRAINING REQUIREMENTS**
2 **AND GRANTS.**

3 (a) *REFERENCE TO SECRETARY OF TRANSPORTATION.*—Section 5107 is amended by striking “of Transportation” each place it appears in subsections (a), (b), (c)
4 *portation*” each place it appears in subsections (a), (b), (c)
5 *portation*” each place it appears in subsections (a), (b), (c)
6 *portation*” each place it appears in subsections (a), (b), (c)
6 (other than in paragraph (1)), (d), and (f).

7 (b) *TRAINING GRANTS.*—Section 5107(e) is amended—

8 (1) by striking “section 5127(c)(3)” and insert-
9 ing “section 5128(b)(1) of this title”; and

10 (2) by inserting “and, to the extent determined
11 appropriate by the Secretary, grants for such instruc-
12 tors to train hazmat employees” after “employees” in
13 the first sentence thereof.

14 **SEC. 7329. REGISTRATION.**

15 (a) *REFERENCE TO SECRETARY OF TRANSPORTATION.*—Section 5108 is amended by striking “of Transportation” each place it appears in subsections (a), (b)
16 *portation*” each place it appears in subsections (a), (b)
17 *portation*” each place it appears in subsections (a), (b)
18 (other than following “Department”), (d), (e), (f), (g), (h),
19 and (i).

20 (b) *PERSONS REQUIRED TO FILE.*—

21 (1) *REQUIREMENT TO FILE.*—Section
22 5108(a)(1)(B) is amended by striking “class A or B
23 explosive” and inserting “Division 1.1, 1.2, or 1.3 ex-
24 plosive material”.

25 (2) *AUTHORITY TO REQUIRE TO FILE.*—Section
26 5108(a)(2)(B) is amended to read as follows:

1 “(B) a person designing, manufacturing, fabri-
2 cating, inspecting, marking, maintaining, recondi-
3 tioning, repairing, or testing a package, container, or
4 packaging component that is represented, marked,
5 certified, or sold by that person as qualified for use
6 in transporting hazardous material in commerce.”.

7 (3) *NO TRANSPORTATION WITHOUT FILING.*—
8 Section 5108(a)(3) is amended by striking “fab-
9 ricate,” and all that follows through “package or”
10 and inserting “design, manufacture, fabricate, in-
11 spect, mark, maintain, recondition, repair, or test a
12 package, container packaging component, or”.

13 (c) *FORM AND CONTENT OF FILINGS.*—Section
14 5108(b)(1)(C) by striking “the activity.” and inserting
15 “any of the activities.”.

16 (d) *FILING.*—Section 5108(c) is amended to read as
17 follows:

18 “(c) *FILING.*—Each person required to file a registra-
19 tion statement under subsection (a) of this section shall file
20 the statement in accordance with regulations prescribed by
21 the Secretary.”.

22 (e) *FEES.*—Section 5108(g)(1) is amended by striking
23 “may establish,” and inserting “shall establish,”.

1 (f) *RELATIONSHIP TO OTHER LAWS.*—Section
2 5108(i)(2)(B) is amended by inserting “an Indian tribe,”
3 after “subdivision of a State,”.

4 (g) *REGISTRATION AND ANNUAL FEES.*—

5 (1) *REDUCTION IN CAP.*—Section 5108(g)(2)(A)
6 is amended by striking “\$5,000” and inserting
7 “\$3,000”.

8 (2) *RULEMAKING.*—Any rule, regulation, or
9 order issued by the Secretary of Transportation under
10 which the assessment, payment, or collection of fees
11 under section 5108(g) of title 49, United States Code,
12 was suspended or terminated before the date of enact-
13 ment of this Act is declared null and void effective 30
14 days after such date of enactment. Beginning on the
15 31st day after such date of enactment, the fee schedule
16 established by the Secretary and set forth at 65 Fed-
17 eral Register 7297 (as modified by the rule set forth
18 at 67 Federal Register 58343) shall take effect and
19 apply until such time as it may be modified by a
20 rulemaking proceeding.

21 (3) *PLANNING AND TRAINING GRANTS.*—Notwith-
22 standing any other provision of law to the contrary,
23 including any limitation on the amount of grants au-
24 thorized by section 5116 of title 49, United States
25 Code, not contained in that section, the Secretary

1 *shall make grants under that section from the account*
 2 *established under section 5116(i) to reduce the balance*
 3 *in that account over the 4 fiscal year period begin-*
 4 *ning with fiscal year 2006, but in no fiscal year shall*
 5 *the grants distributed exceed the level authorized by*
 6 *section 5116 of title 49, United States Code.*

7 **SEC. 7330. SHIPPING PAPERS AND DISCLOSURE.**

8 (a) *REFERENCE TO SECRETARY OF TRANSPORTATION.*—*Section 5110(a) is amended by striking “of*
 9 *Transportation”.*
 10 *Transportation”.*

11 (b) *DISCLOSURE CONSIDERATIONS AND REQUIRE-*
 12 *MENTS.*—*Section 5110 is amended—*

13 (1) *by striking “under subsection (b) of this sec-*
 14 *tion.” in subsection (a) and inserting “in regula-*
 15 *tions.”;*

16 (2) *by striking subsection (b); and*

17 (3) *by redesignating subsections (c), (d), and (e)*
 18 *as subsections (b), (c), and (d), respectively.*

19 (c) *RETENTION OF PAPERS.*—*Subsection (d) of section*
 20 *5110, as redesignated by subsection (b)(3) of this section,*
 21 *is amended to read as follows:*

22 “(d) *RETENTION OF PAPERS.*—

23 “(1) *SHIPPERS.*—*The person who provides the*
 24 *shipping paper under this section shall retain the*
 25 *paper, or an electronic format of it, for a period of*

1 3 years after the date that the shipping paper is pro-
2 vided to the carrier, with the paper or electronic for-
3 mat to be accessible through the shipper's principal
4 place of business.

5 “(2) *CARRIERS.*—The carrier required to keep
6 the shipping paper under this section, shall retain the
7 paper, or an electronic format of it, for a period of
8 1 year after the date that the shipping paper is pro-
9 vided to the carrier, with the paper or electronic for-
10 mat to be accessible through the carrier's principal
11 place of business.

12 “(3) *AVAILABILITY TO GOVERNMENT AGEN-*
13 *CIES.*—Any person required to keep a shipping paper
14 under this subsection shall, upon request, make it
15 available to a Federal, State, or local government
16 agency at reasonable times and locations.”.

17 **SEC. 7331. RAIL TANK CARS.**

18 (a) *REPEAL OF REQUIREMENTS.*—Section 5111 is re-
19 pealed.

20 (b) *CLERICAL AMENDMENT.*—The chapter analysis for
21 chapter 51 is amended by striking the item relating to sec-
22 tion 5111.

23 **SEC. 7332. UNSATISFACTORY SAFETY RATINGS.**

24 (a) *IN GENERAL.*—The text of section 5113 is amended
25 to read as follows:

1 *“A violation of section 31144(c)(3) of this title shall*
 2 *be considered a violation of this chapter, and shall be subject*
 3 *to the penalties in sections 5123 and 5124 of this title.”.*

4 **(b) CONFORMING AMENDMENTS.**—*The first subsection*
 5 *(c) of section 31144 is amended—*

6 *(1) by striking “sections 521(b)(5)(A) and 5113”*
 7 *in paragraph (1) and inserting “section 521(b)(5)(A)*
 8 *of this title”; and*

9 *(2) by adding at the end of paragraph (3) “A*
 10 *violation of this paragraph by an owner or operator*
 11 *transporting hazardous material shall be considered a*
 12 *violation of chapter 51 of this title, and shall be sub-*
 13 *ject to the penalties in sections 5123 and 5124 of this*
 14 *title.”.*

15 **SEC. 7333. TRAINING CURRICULUM FOR THE PUBLIC SEC-**
 16 **TOR.**

17 **(a) IN GENERAL.**—*Section 5115(a) is amended to read*
 18 *as follows:*

19 **“(a) IN GENERAL.**—*In coordination with the Director*
 20 *of the Federal Emergency Management Agency, the Chair-*
 21 *man of the Nuclear Regulatory Commission, the Adminis-*
 22 *trator of the Environmental Protection Agency, the Secre-*
 23 *taries of Labor, Energy, and Health and Human Services,*
 24 *and the Director of the National Institute of Environmental*
 25 *Health Sciences, and using existing coordinating mecha-*

1 *nisms of the National Response Team and, for radioactive*
2 *material, the Federal Radiological Preparedness Coordi-*
3 *nating Committee, the Secretary shall maintain a current*
4 *curriculum of lists of courses necessary to train public sec-*
5 *tor emergency response and preparedness teams in matters*
6 *relating to the transportation of hazardous material.”.*

7 (b) *REQUIREMENTS.—Section 5115(b) is amended—*

8 (1) *by striking “developed” in the matter pre-*
9 *ceding paragraph (1) and inserting “maintained”;*
10 *and*

11 (2) *by striking “under other United States Gov-*
12 *ernment grant programs” in paragraph (1)(C) and*
13 *all that follows and inserting “with Federal assist-*
14 *ance; and”.*

15 (c) *TRAINING ON COMPLIANCE WITH LEGAL REQUIRE-*
16 *MENTS.—Section 5115(c)(3) is amended by striking “Asso-*
17 *ciation.” and inserting “Association or by any other vol-*
18 *untary organization establishing consensus-based standards*
19 *that the Secretary considers appropriate.”.*

20 (d) *DISTRIBUTION AND PUBLICATION.—Section*
21 *5115(d) is amended—*

22 (1) *by striking “national response team—” and*
23 *inserting “National Response Team—”;* *and*

24 (2) *by striking “publish a list” in paragraph (2)*
25 *and all that follows and inserting “publish and dis-*

1 tribute the list of courses maintained under this sec-
2 tion, and of any programs utilizing such courses.”.

3 **SEC. 7334. PLANNING AND TRAINING GRANTS; EMERGENCY**
4 **PREPAREDNESS FUND.**

5 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
6 *TATION.*—Section 5116 is amended by striking “of Trans-
7 portation” each place it appears in subsections (a), (b), (c),
8 (d), (g), and (i).

9 (b) *GOVERNMENT SHARE OF COSTS.*—Section 5116(e)
10 is amended by striking the second sentence.

11 (c) *MONITORING AND TECHNICAL ASSISTANCE.*—Sec-
12 tion 5116(f) is amended by striking “national response
13 team” and inserting “National Response Team”.

14 (d) *DELEGATION OF AUTHORITY.*—Section 5116(g) is
15 amended by striking “Government grant programs” and
16 inserting “Federal financial assistance programs”.

17 (e) *EMERGENCY PREPAREDNESS FUND.*—

18 (1) *NAME OF FUND.*—Section 5116(i) is amend-
19 ed by inserting after “an account” the following: “(to
20 be known as the ‘Emergency Preparedness Fund’)”.

21 (2) *PUBLICATION OF EMERGENCY RESPONSE*
22 *GUIDE.*—Section 5116(i) is further amended—

23 (A) by striking “collects under section
24 5108(g)(2)(A) of this title and”;

1 (B) by striking “and” after the semicolon in
2 paragraph (2);

3 (C) by redesignating paragraph (3) as
4 paragraph (4); and

5 (D) by inserting after paragraph (2) the fol-
6 lowing:

7 “(3) to publish and distribute an emergency re-
8 sponse guide; and”.

9 (3) CONFORMING AMENDMENT.—Section
10 5108(g)(2)(C) is amended by striking “the account the
11 Secretary of the Treasury establishes” and inserting
12 “the Emergency Response Fund established”.

13 (f) REPORTS.—Section 5116(k) is amended—

14 (1) by striking the first sentence and inserting
15 “The Secretary shall make available to the public an-
16 nually information on the allocation and uses of the
17 planning grants allocated under subsection (a), train-
18 ing grants under subsection (b), and grants under
19 subsection (j) of this section and under section 5107
20 of this title.”; and

21 (2) by striking “Such report” in the second sen-
22 tence and inserting “The information”.

23 **SEC. 7335. SPECIAL PERMITS AND EXCLUSIONS.**

24 (a) SPECIAL PERMITS AND EXCLUSIONS.—

1 (1) *IN GENERAL.*—Section 5117(a)(1) is amend-
2 ed by striking “the Secretary of Transportation may
3 issue” and all that follows through “in a way” and
4 inserting “the Secretary may issue, modify, or termi-
5 nate a special permit authorizing variances from this
6 chapter, or a regulation prescribed under section
7 5103(b), 5104, 5110, or 5112 of this title, to a person
8 performing a function regulated by the Secretary
9 under section 5103(b)(1) of this title in a way”.

10 (2) *DURATION.*—Section 5117(a)(2) is amended
11 to read as follows:

12 “(2) A special permit under this subsection—

13 “(A) shall be effective when first issued for
14 not more than 2 years; and

15 “(B) may be renewed for successive periods
16 of not more than 4 years each.”.

17 (b) *REFERENCES TO SPECIAL PERMITS.*—Section
18 5117 is further amended—

19 (1) by striking “an exemption” each place it ap-
20 pears and inserting “a special permit”;

21 (2) by striking “the exemption” each place it ap-
22 pears and inserting “the special permit”; and

23 (3) by striking “exempt” in subsection (e) and
24 inserting “granted a variance”.

25 (c) *CONFORMING AND CLERICAL AMENDMENTS.*—

1 (1) *CONFORMING AMENDMENT.*—*The heading of*
2 *section 5117 is amended to read as follows:*

3 **“§ 5117. Special permits and exclusions”**

4 (2) *CLERICAL AMENDMENT.*—*The chapter anal-*
5 *ysis for chapter 51 is amended by striking the item*
6 *relating to section 5117 and inserting the following:*
 “5117. Special permits and exclusions.”.

7 (3) *SUBSECTION HEADING.*—*The heading for*
8 *subsection (a) of section 5117 is amended by striking*
9 *“EXEMPT” and inserting “ISSUE SPECIAL PERMITS”.*
10 *(d) REPEAL OF SECTION 5118.—*

11 (1) *Section 5118 is repealed.*

12 (2) *The chapter analysis for chapter 51 is*
13 *amended by striking the item relating to section 5118*
14 *and inserting the following:*
 “5118. Repealed.”.

15 **SEC. 7336. UNIFORM FORMS AND PROCEDURES.**

16 *The text of section 5119 is amended to read as follows:*

17 “(a) *IN GENERAL.*—*The Secretary may prescribe regu-*
18 *lations to establish uniform forms and regulations for*
19 *States on the following:*

20 “(1) *To register and issue permits to persons*
21 *that transport or cause to be transported hazardous*
22 *material by motor vehicles in a State.*

23 “(2) *To permit the transportation of hazardous*
24 *material in a State.*

1 “(b) *UNIFORMITY IN FORMS AND PROCEDURES.*—In
2 *prescribing regulations under subsection (a) of this section,*
3 *the Secretary shall develop procedures to eliminate discrep-*
4 *ancies among the States in carrying out the activities cov-*
5 *ered by the regulations.*

6 “(c) *LIMITATION.*—*The regulations prescribed under*
7 *subsection (a) of this section may not define or limit the*
8 *amount of any fees imposed or collected by a State for any*
9 *activities covered by the regulations.*

10 “(d) *EFFECTIVE DATE.*—

11 “(1) *IN GENERAL.*—*Except as provided in para-*
12 *graph (2) of this subsection, the regulations prescribed*
13 *under subsection (a) of this section shall take effect 1*
14 *year after the date on which prescribed.*

15 “(2) *EXTENSION.*—*The Secretary may extend the*
16 *1-year period in subsection (a) for an additional year*
17 *for good cause.*

18 “(e) *STATE REGULATIONS.*—*After the regulations pre-*
19 *scribed under subsection (a) of this section take effect under*
20 *subsection (d) of this section, a State may establish, main-*
21 *tain, or enforce a requirement relating to the same subject*
22 *matter only if the requirement is consistent with applicable*
23 *requirements with respect to such activity in the regula-*
24 *tions.*

1 “(f) *INTERIM STATE PROGRAMS.*—Pending the pre-
2 *scription of regulations under subsection (a) of this section,*
3 *States may participate in the program of uniform forms*
4 *and procedures recommended by the Alliance for Uniform*
5 *Hazmat Transportation Procedures.*”.

6 **SEC. 7337. HAZARDOUS MATERIALS TRANSPORTATION**
7 **SAFETY AND SECURITY.**

8 *The text of section 5121 is amended to read as follows:*

9 “(a) *GENERAL AUTHORITY.*—

10 “(1) *To carry out this chapter, the Secretary*
11 *may investigate, conduct tests, make reports, issue*
12 *subpoenas, conduct hearings, require the production of*
13 *records and property, take depositions, and conduct*
14 *research, development, demonstration, and training*
15 *activities.*

16 “(2) *Except as provided in subsections (c) and*
17 *(d) of this section, the Secretary shall provide notice*
18 *and an opportunity for a hearing before issuing an*
19 *order directing compliance with this chapter, a regu-*
20 *lation prescribed under this chapter, or an order, spe-*
21 *cial permit, or approval issued under this chapter.*

22 “(b) *RECORDS, REPORTS, PROPERTY, AND INFORMA-*
23 *TION.*—*A person subject to this chapter shall—*

1 “(1) *maintain records, make reports, and pro-*
2 *vide property and information that the Secretary by*
3 *regulation or order requires; and*

4 “(2) *make the records, reports, property, and in-*
5 *formation available for inspection when the Secretary*
6 *undertakes an inspection or investigation.*

7 “(c) *INSPECTIONS AND INVESTIGATIONS.—*

8 “(1) *A designated officer or employee of the Sec-*
9 *retary may—*

10 “(A) *inspect and investigate, at a reason-*
11 *able time and in a reasonable way, records and*
12 *property relating to a function described in sec-*
13 *tion 5103(b)(1) of this title;*

14 “(B) *except for packaging immediately ad-*
15 *jacent to the hazardous material contents, gain*
16 *access to, open, and examine a package offered*
17 *for or in transportation when the officer or em-*
18 *ployees has an objectively reasonable and*
19 *articulable belief that the package may contain*
20 *hazardous material;*

21 “(C) *remove from transportation a package*
22 *or related packages in a shipment offered for or*
23 *in transportation for which—*

24 “(i) *such officer or employee has an ob-*
25 *jectively reasonable and articulable belief*

1 *that the package may pose an imminent*
2 *hazard; and*

3 “(ii) *such officer or employee contem-*
4 *poraneously documents such belief in ac-*
5 *cordance with procedures set forth in regu-*
6 *lations prescribed under subsection (e) of*
7 *this section;*

8 “(D) *gather information from the offeror,*
9 *carrier, packaging manufacturer or tester, or*
10 *other person responsible for a package or pack-*
11 *ages to ascertain the nature and hazards of the*
12 *contents of the package or packages;*

13 “(E) *as necessary under terms and condi-*
14 *tions prescribed by the Secretary, order the offer-*
15 *or, carrier, or other person responsible for a*
16 *package or packages to have the package or pack-*
17 *ages transported to an appropriate facility,*
18 *opened, examined, and analyzed; and*

19 “(F) *when safety might otherwise be com-*
20 *promised, authorize properly qualified personnel*
21 *to assist in activities carried out under this*
22 *paragraph.*

23 “(2) *An officer or employee acting under the au-*
24 *thority of the Secretary under this subsection shall*
25 *display proper credentials when requested.*

1 “(3) *In instances when, as a result of an inspec-*
2 *tion or investigation under this subsection, an immi-*
3 *nent hazards is not found to exist, the Secretary shall,*
4 *in accordance with procedures set forth in regulations*
5 *prescribed under subsection (e) of this section, assist*
6 *the safe resumption of transportation of the package,*
7 *packages, or transport unit concerned.*

8 “(d) *EMERGENCY ORDERS.—*

9 “(1) *If, upon inspection, investigation, testing,*
10 *or research, the Secretary determines that a violation*
11 *of a provision of this chapter, or a regulation pre-*
12 *scribed under this chapter, or an unsafe condition or*
13 *practice, constitutes or is causing an imminent haz-*
14 *ard, the Secretary may issue or impose emergency re-*
15 *strictions, prohibitions, recalls, or out-of-service or-*
16 *ders, without notice or an opportunity for a hearing,*
17 *but only to the extent necessary to abate the imminent*
18 *hazard.*

19 “(2) *The action of the Secretary under para-*
20 *graph (1) of this subsection shall be in a written*
21 *emergency order that—*

22 “(A) *describes the violation, condition, or*
23 *practice that constitutes or is causing the immi-*
24 *nent hazard;*

1 “(B) states the restrictions, prohibitions, re-
2 calls, or out-of-service orders issued or imposed;
3 and

4 “(C) describes the standards and procedures
5 for obtaining relief from the order.

6 “(3) After taking action under paragraph (1) of
7 this subsection, the Secretary shall provide for review
8 of the action under section 554 of title 5 if a petition
9 for review is filed within 20 calendar days of the
10 issuance of the order for the action.

11 “(4) If a petition for review of an action is filed
12 under paragraph (3) of this subsection and the review
13 under that paragraph is not completed by the end of
14 the 30-day period beginning on the date the petition
15 is filed, the action shall cease to be effective at the end
16 of such period unless the Secretary determines, in
17 writing, that the imminent hazard providing a basis
18 for the action continues to exist.

19 “(5) In this subsection, the term ‘out-of-service
20 order’ means a requirement that an aircraft, vessel,
21 motor vehicle, train, railcar, locomotive, other vehicle,
22 transport unit, transport vehicle, freight container,
23 portable tank, or other package not be moved until
24 specified conditions have been met.

1 “(e) *REGULATIONS.*—*The Secretary shall prescribe in*
2 *accordance with section 553 of title 5 regulations to carry*
3 *out the authority in subsections (c) and (d) of this section.*

4 “(f) *FACILITY, STAFF, AND REPORTING SYSTEM ON*
5 *RISKS, EMERGENCIES, AND ACTIONS.*—

6 “(1) *The Secretary shall—*

7 “(A) *maintain a facility and technical staff*
8 *sufficient to provide, within the United States*
9 *Government, the capability of evaluating a risk*
10 *relating to the transportation of hazardous mate-*
11 *rial and material alleged to be hazardous;*

12 “(B) *maintain a central reporting system*
13 *and information center capable of providing in-*
14 *formation and advice to law enforcement and*
15 *firefighting personnel, and other interested indi-*
16 *viduals, and officers and employees of the United*
17 *States Government and State and local govern-*
18 *ments on meeting an emergency relating to the*
19 *transportation of hazardous material; and*

20 “(C) *conduct a continuous review on all as-*
21 *pects of transporting hazardous material to de-*
22 *cide on and take appropriate actions to ensure*
23 *safe transportation of hazardous material.*

24 “(2) *Paragraph (1) of this subsection shall not*
25 *prevent the Secretary from making a contract with a*

1 *private entity for use of a supplemental reporting sys-*
2 *tem and information center operated and maintained*
3 *by the contractor.*

4 “(g) *GRANTS, COOPERATIVE AGREEMENTS, AND*
5 *OTHER TRANSACTIONS.—The Secretary may enter into*
6 *grants, cooperative agreements, and other transactions with*
7 *a person, agency, or instrumentality of the United States,*
8 *a unit of State or local government, an Indian tribe, a for-*
9 *foreign government (in coordination with the Department of*
10 *State), an educational institution, or other appropriate*
11 *entity—*

12 “(1) *to expand risk assessment and emergency*
13 *response capabilities with respect to the security of*
14 *transportation of hazardous material;*

15 “(2) *to enhance emergency communications ca-*
16 *capacity as deemed necessary by the Secretary, includ-*
17 *ing the use of integrated, interoperable emergency*
18 *communications technologies where appropriate;*

19 “(3) *to conduct research, development, dem-*
20 *onstration, risk assessment and emergency response*
21 *planning and training activities; or*

22 “(4) *to otherwise carry out this chapter.*

23 “(h) *REPORTS.—*

24 “(1) *The Secretary shall, once every 2 years, sub-*
25 *mit to the Senate Committee on Commerce, Science,*

1 *and Transportation and the House of Representatives*
2 *Committee on Transportation and Infrastructure a*
3 *comprehensive report on the transportation of haz-*
4 *ardous material during the preceding 2 calendar*
5 *years. Each report shall include, for the period cov-*
6 *ered by such report—*

7 *“(A) a statistical compilation of the acci-*
8 *dents, incidents, and casualties related to the*
9 *transportation of hazardous material during*
10 *such period;*

11 *“(B) a list and summary of applicable Gov-*
12 *ernment regulations, criteria, orders, and special*
13 *permits;*

14 *“(C) a summary of the basis for each spe-*
15 *cial permit issued;*

16 *“(D) an evaluation of the effectiveness of en-*
17 *forcement activities relating to the transpor-*
18 *tation of hazardous material during such period,*
19 *and of the degree of voluntary compliance with*
20 *regulations;*

21 *“(E) a summary of outstanding problems in*
22 *carrying out this chapter, set forth in order of*
23 *priority; and*

1 “(F) any recommendations for legislative or
2 administrative action that the Secretary con-
3 siders appropriate.

4 “(2) Before December 31, 2007, and every 3
5 years thereafter, the Secretary, through the Bureau of
6 Transportation Statistics and in consultation with
7 other appropriate Federal departments and agencies,
8 shall submit a report to the Senate Committee on
9 Commerce, Science, and Transportation and the
10 House of Representatives Committee on Transpor-
11 tation and Infrastructure on the transportation of
12 hazardous material in all modes of transportation
13 during the preceding 3 calendar years. Each report
14 shall include, for the period covered by such report—

15 “(A) a summary of the hazardous material
16 shipments, deliveries, and movements during
17 such period, set forth by hazardous materials
18 type, by tonnage and ton-miles, and by mode,
19 both domestically and across United States bor-
20 ders; and

21 “(B) a summary of shipment estimates dur-
22 ing such period as a proxy for risk.

23 “(i) SECURITY SENSITIVE INFORMATION.—

24 “(1) If the Secretary determines that particular
25 information may reveal a vulnerability of a haz-

1 *ardous material to attack during transportation in*
2 *commerce, or may facilitate the diversion of haz-*
3 *ardous material during transportation in commerce*
4 *for use in an attack on people or property, the Sec-*
5 *retary may disclose such information, on the condi-*
6 *tion that such information may not be released to the*
7 *public without prior authorization by the Secretary,*
8 *only—*

9 *“(A) to the owner, custodian, offeror, or car-*
10 *rier of such hazardous material;*

11 *“(B) to an officer, employee, or agent of the*
12 *United States Government, or a State or local*
13 *government, including volunteer fire depart-*
14 *ments, concerned with carrying out transpor-*
15 *tation safety laws, protecting hazardous material*
16 *in the course of transportation in commerce, pro-*
17 *tecting public safety or national security, or en-*
18 *forcing Federal law designed to protect public*
19 *health or the environment; or*

20 *“(C) in an administrative or judicial pro-*
21 *ceeding brought under this chapter, under other*
22 *Federal law intended to protect public health or*
23 *the environment, or under other Federal law in-*
24 *tended to address terrorist actions or threats of*
25 *terrorist actions.*

1 “(2) *The Secretary may make determinations*
2 *under paragraph (1) of this subsection with respect to*
3 *categories of information in accordance with regula-*
4 *tions prescribed by the Secretary.*

5 “(3) *A release of information pursuant to a de-*
6 *termination under paragraph (1) of this subsection*
7 *shall not be treated as a release of such information*
8 *to the public for purposes of section 552 of title 5.”.*

9 **SEC. 7338. ENFORCEMENT.**

10 (a) *REFERENCE TO SECRETARY OF TRANSPOR-*
11 *TATION.—Section 5122(a) is amended by striking “of*
12 *Transportation”.*

13 (b) *GENERAL.—Section 5122(a) is further amended—*

14 (1) *by striking “chapter or a regulation pre-*
15 *scribed or order” in the first sentence and inserting*
16 *“chapter, a regulation prescribed under this chapter,*
17 *or an order, special permit, or approval”; and*

18 (2) *by striking the second sentence and inserting*
19 *“In an action under this subsection, the court may*
20 *award appropriate relief, including a temporary or*
21 *permanent injunction, civil penalties under section*
22 *5123 of this title, and punitive damages.”.*

23 (c) *IMMINENT HAZARDS.—Section 5122(b)(1)(B) is*
24 *amended by striking “ameliorate” and inserting “miti-*
25 *gate”.*

1 **SEC. 7339. CIVIL PENALTIES.**

2 (a) *PENALTY.*—Section 5123(a) is amended—

3 (1) in paragraph (1)—

4 (A) by striking “regulation prescribed or
5 order issued” and inserting “regulation, order,
6 special permit, or approval issued”; and

7 (B) by striking “\$25,000” and inserting
8 “\$32,500”;

9 (2) by redesignating paragraph (2) as para-
10 graph (4); and

11 (3) by inserting after paragraph (1) the fol-
12 lowing:

13 “(2) If the Secretary finds that a violation under para-
14 graph (1) results in death, serious illness, or severe injury
15 to any person, the Secretary may increase the amount of
16 the civil penalty for such violation to not more than
17 \$100,000.

18 “(3) If the violation is related to training, paragraph
19 (1) shall be applied by substituting ‘\$450’ for ‘\$250’.”.

20 (b) *REFERENCE TO SECRETARY OF TRANSPOR-*
21 *TATION.*—Section 5123(b) is amended by striking “of
22 Transportation”.

23 (c) *HEARING REQUIREMENT.*—Section 5123(b) is
24 amended by striking “chapter or a regulation prescribed”
25 and inserting “chapter, a regulation prescribed under this
26 chapter, or an order, special permit, or approval issued”.

1 (d) *CIVIL ACTIONS TO COLLECT.*—Section 5123(d) is
2 amended by striking “section.” and inserting “section and
3 any accrued interest on the civil penalty as calculated in
4 accordance with section 1005 of the Oil Pollution Act of
5 1990 (33 U.S.C. 2705). In the civil action, the amount and
6 appropriateness of the civil penalty shall not be subject to
7 review.”.

8 (e) *EFFECTIVE DATE.*—(1) The amendments made by
9 subsections (b) and (c) of this section shall take effect on
10 the date of the enactment of this Act, and shall apply with
11 respect to violations described in section 5123(a) of title 49,
12 United States Code (as amended by this section), that occur
13 on or after that date.

14 (2) The amendment made by subsection (d) of this sec-
15 tion shall apply with respect to civil penalties imposed on
16 violations described in section 5123(a) of title 49, United
17 States Code (as amended by this section), which violations
18 occur on or after the date of the enactment of this Act.

19 **SEC. 7340. CRIMINAL PENALTIES.**

20 (a) *IN GENERAL.*—Section 5124 is amended—

21 (1) by inserting “(a) *IN GENERAL.*—” before “A
22 person”; and

23 (2) by striking “chapter or a regulation pre-
24 scribed or order” and inserting “chapter, a regulation

1 *prescribed under this chapter, or an order, special*
2 *permit, or approval”.*

3 **(b) ADDITIONAL MATTERS.**—*Section 5124 is further*
4 *amended by adding at the end the following:*

5 “(b) **AGGRAVATED VIOLATIONS.**—*A person knowingly*
6 *violating section 5104(b) of this title or willfully violating*
7 *this chapter or a regulation prescribed, or an order, special*
8 *permit, or approval issued, under this chapter, who thereby*
9 *causes the release of hazardous material shall be fined under*
10 *title 18, imprisoned for not more than 20 years, or both.*

11 “(c) **SEPARATE VIOLATIONS.**—*A separate violation oc-*
12 *curs for each day the violation, committed by a person who*
13 *transports or causes to be transported hazardous material,*
14 *continues.”.*

15 **SEC. 7341. PREEMPTION.**

16 **(a) REFERENCE TO SECRETARY OF TRANSPORTATION.**—*Section 5125(b)(2) is amended by striking “of*
17 *Transportation”.*

19 **(b) PURPOSES.**—*Section 5125 is amended—*

20 (1) *by redesignating subsections (a), (b), (c), (d),*
21 *(e), (f), and (g) as subsections (b), (c), (d), (e), (f),*
22 *(g), and (h), respectively;*

23 (2) *by inserting before subsection (b), as so redesi-*
24 *gnated, the following:*

1 “(a) *PURPOSES.*—*The Secretary shall exercise the au-*
2 *thority in this section—*

3 “(1) *to achieve uniform regulation of the trans-*
4 *portation of hazardous material;*

5 “(2) *to eliminate rules that are inconsistent with*
6 *the regulations prescribed under this chapter; and*

7 “(3) *to otherwise promote the safe and efficient*
8 *movement of hazardous material in commerce.”;*

9 (3) *by striking subsection (g), as redesignated;*
10 *and*

11 (4) *by redesignating subsection (h), as redesign-*
12 *ated, as subsection (g).*

13 (c) *GENERAL PREEMPTION.*—*Section 5125(b), as re-*
14 *designated by subsection (b)(1) of this section, is further*
15 *amended by striking “GENERAL.—Except as provided in*
16 *subsection (b), (c), and (e)” and inserting “PREEMPTION*
17 *GENERALLY.—Except as provided in subsections (c), (d),*
18 *and (f)”.*

19 (d) *SUBSTANTIVE DIFFERENCES.*—*Section 5125(c), as*
20 *so redesignated, is further amended—*

21 (1) *in the matter preceding subparagraph (A) of*
22 *paragraph (1), by striking “subsection (c)” and in-*
23 *serting “subsection (d)”;*

24 (2) *by striking subparagraph (E) of paragraph*
25 *(1) and inserting the following:*

1 “(E) the designing, manufacturing, fabricating,
2 inspecting, marking, maintaining, reconditioning, re-
3 pairing, or testing a package, container, or packaging
4 component that is represented, marked, certified, or
5 sold by that person as qualified for use in trans-
6 porting hazardous material in commerce.”; and

7 (3) by striking “prescribes after November 16,
8 1990. However, the” in paragraph (2) and inserting
9 “prescribes. The”.

10 (e) *DECISIONS ON PREEMPTION.*—Section 5125(e), as
11 so redesignated, is further amended by striking “subsection
12 (a), (b)(1), or (c) of this section.” in the first sentence and
13 inserting “subsection (b), (c)(1), or (d) of this section or
14 section 5119(b) of this title.”.

15 (f) *WAIVER OF PREEMPTION.*—Section 5125(f), as so
16 redesignated, is further amended by striking “subsection
17 (a), (b)(1), or (c) of this section.” and inserting “subsection
18 (b), (c)(1), or (d) of this section or section 5119(b) of this
19 title.”.

20 (g) *STANDARDS.*—Section 5125 is further amended by
21 adding at the end the following:

22 “(h) *APPLICATION OF EACH PREEMPTION STAND-*
23 *ARD.*—Each standard for preemption in subsection (b),
24 (c)(1), or (d) of this section, and in section 5119(b) of this

1 *title, is independent in its application to a requirement of*
2 *a State, political subdivision of a State, or Indian tribe.*

3 “(i) *NON-FEDERAL ENFORCEMENT STANDARDS.—*
4 *This section does not apply to any procedure, penalty, re-*
5 *quired mental state, or other standard utilized by a State,*
6 *political subdivision of a State, or Indian tribe to enforce*
7 *a requirement applicable to the transportation of hazardous*
8 *material.”.*

9 **SEC. 7342. RELATIONSHIP TO OTHER LAWS.**

10 *Section 5126 is amended—*

11 *(1) by striking “or causes to be transported haz-*
12 *ardous material,” in subsection (a) and inserting*
13 *“hazardous material, or causes hazardous material to*
14 *be transported,”;*

15 *(2) by striking “manufactures,” and all that fol-*
16 *lows through “or sells” in subsection (a) and inserting*
17 *“designs, manufactures, fabricates, inspects, marks,*
18 *maintains, reconditions, repairs, or tests a package,*
19 *container, or packaging component that is rep-*
20 *resented”;*

21 *(3) by striking “must” in subsection (a) and in-*
22 *serting “shall”;*

23 *(4) by striking “manufacturing,” in subsection*
24 *(a) and all that follows through “testing” and insert-*
25 *ing “designing, manufacturing, fabricating, inspect-*

1 *ing, marking, maintaining, reconditioning, repairing,*
2 *or testing”;* and

3 *(5) by striking “39.” in subsection (b)(2) and in-*
4 *serting “39, except in the case of an imminent haz-*
5 *ard.”.*

6 **SEC. 7343. JUDICIAL REVIEW.**

7 *(a) IN GENERAL.—Chapter 51 is amended—*

8 *(1) by redesignating section 5127 as section*
9 *5128; and*

10 *(2) by inserting after section 5126 the following:*

11 **“§ 5127. Judicial review**

12 *“(a) FILING AND VENUE.—Except as provided in sec-*
13 *tion 20114(c) of this title, a person adversely affected or*
14 *aggrieved by a final action of the Secretary under this chap-*
15 *ter may petition for review of the final action in the United*
16 *States Court of Appeals for the District of Columbia or in*
17 *the court of appeals of the United States for the circuit in*
18 *which the person resides or has a principal place of busi-*
19 *ness. The petition shall be filed not more than 60 days after*
20 *the action of the Secretary becomes final.*

21 *“(b) PROCEDURES.—When a petition on a final action*
22 *is filed under subsection (a) of this section, the clerk of the*
23 *court shall immediately send a copy of the petition to the*
24 *Secretary. The Secretary shall file with the court a record*

1 of any proceeding in which the final action was issued as
2 provided in section 2112 of title 28.

3 “(c) *AUTHORITY OF COURT.*—The court in which a pe-
4 tition on a final action is filed under subsection (a) of this
5 section has exclusive jurisdiction, as provided in subchapter
6 II of chapter 5 of title 5 to affirm or set aside any part
7 of the final action and may order the Secretary to conduct
8 further proceedings.

9 “(d) *REQUIREMENT FOR PRIOR OBJECTIONS.*—In re-
10 viewing a final action under this section, the court may
11 consider an objection to the final action only if—

12 “(1) the objection was made in the course of a
13 proceeding or review conducted by the Secretary; or

14 “(2) there was a reasonable ground for not mak-
15 ing the objection in the proceeding.”

16 (b) *CLERICAL AMENDMENT.*—The chapter analysis for
17 chapter 51 is amended by striking the item relating to sec-
18 tion 5127 and inserting the following:

“5127. *Judicial review.*

“5128. *Authorization of appropriations.*”

19 **SEC. 7344. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 5128, as redesignated by section 7343 of this
21 chapter, is amended to read as follows:

22 **“§ 5128. Authorization of appropriations**

23 “(a) *GENERAL.*—In order to carry out this chapter
24 (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116,

1 *and 5119 of this title), the following amounts are authorized*
2 *to be appropriated to the Secretary:*

3 “(1) *For fiscal year 2005, not more than*
4 *\$24,940,000.*

5 “(2) *For fiscal year 2006, not more than*
6 *\$29,000,000.*

7 “(3) *For each of fiscal years 2007 through 2009,*
8 *not more than \$30,000,000.*

9 “(b) *EMERGENCY PREPAREDNESS FUND.—There shall*
10 *be available from the Emergency Preparedness Fund under*
11 *section 5116(i) of this title, amounts as follows:*

12 “(1) *To carry out section 5107(e) of this title,*
13 *\$4,000,000 for each of fiscal years 2005 through 2009.*

14 “(2) *To carry out section 5115 of this title,*
15 *\$200,000 for each of fiscal years 2005 through 2009.*

16 “(3) *To carry out sections 5116(a) and (b) of*
17 *this title, \$21,800,000 for each of fiscal years 2005*
18 *through 2009, to be allocated as follows:*

19 “(A) *\$5,000,000 to carry out section*
20 *5116(a).*

21 “(B) *\$7,800,000 to carry out section*
22 *5116(b).*

23 “(C) *Of the amount provided for by this*
24 *paragraph in excess of the suballocations in sub-*
25 *paragraphs (A) and (B)—*

1 “(i) 35 percent shall be used to carry
2 out section 5116(a), and

3 “(ii) 65 percent shall be used to carry
4 out section 5116(b),

5 except that the Secretary may increase the pro-
6 portion to carry out section 5116(b) and decrease
7 the proportion to carry out section 5116(a) if the
8 Secretary determines that such reallocation is
9 appropriate to carry out the intended uses of
10 these funds as described in the applications sub-
11 mitted by States and Indian tribes.

12 “(4) To carry out section 5116(f) of this title,
13 \$150,000 for each of fiscal years 2005 through 2009.

14 “(5) To carry out section 5116(i)(4) of this title,
15 \$150,000 for each of fiscal years 2005 through 2009.

16 “(6) To carry out section 5116(j) of this title,
17 \$1,000,000 for each of fiscal years 2005 through 2009.

18 “(7) To publish and distribute an emergency re-
19 sponse guidebook under section 5116(i)(3) of title 49,
20 United States Code, \$750,000 for each of fiscal years
21 2005 through 2009.

22 “(c) SECTION 5121 REPORTS.—There are authorized to
23 be appropriated to the Secretary of Transportation for the
24 use of the Bureau of Transportation Statistics such sums

1 *as may be necessary to carry out section 5121(h) of this*
2 *title.”.*

3 “(d) *CREDIT TO APPROPRIATIONS.—The Secretary*
4 *may credit to any appropriation to carry out this chapter*
5 *an amount received from a State, political subdivision of*
6 *a State, Indian tribe, or other public authority or private*
7 *entity for expenses the Secretary incurs in providing train-*
8 *ing to the State, political subdivision, Indian tribe, or other*
9 *authority or entity.*

10 “(e) *AVAILABILITY OF AMOUNTS.—Amounts available*
11 *under subsections (a) and (b) of this section shall remain*
12 *available until expended.”.*

13 **SEC. 7345. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.**

14 (a) *TITLE 49 PENALTIES.—Section 46312 is*
15 *amended—*

16 (1) *by striking “part—” in subsection (a) and*
17 *inserting “part or chapter 51 of this title—”; and*

18 (2) *by inserting “or chapter 51 of this title” in*
19 *subsection (b) after “under this part”.*

20 (b) *TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of*
21 *title 18, United States Code, is amended by inserting*
22 *“5124,” before “46312.”.*

23 **SEC. 7346. TECHNICAL CORRECTIONS.**

24 (a) *HIGHWAY ROUTING OF HAZARDOUS MATERIAL.—*
25 *The second sentence of section 5112(a)(1) is amended by*

1 *striking “However, the Secretary of Transportation” and*
 2 *inserting “The Secretary”.*

3 **(b) AIR TRANSPORTATION OF IONIZING RADIATION**
 4 *MATERIAL.—Section 5114(b) is amended by striking “of*
 5 *Transportation”.*

6 **(c) INTERNATIONAL UNIFORMITY OF STANDARDS AND**
 7 *REQUIREMENTS.—Section 5120 is amended by striking “of*
 8 *Transportation” each place it appears in subsections (a),*
 9 *(b), and (c)(1).*

10 **CHAPTER 2—OTHER MATTERS**

11 **SEC. 7361. ADMINISTRATIVE AUTHORITY FOR PIPELINE** 12 **AND HAZARDOUS MATERIALS SAFETY ADMIN-** 13 **ISTRATION.**

14 *Section 108 is amended by adding at the end the fol-*
 15 *lowing:*

16 **“(h) ADMINISTRATIVE AUTHORITIES.—**

17 **“(1) GRANTS, COOPERATIVE AGREEMENTS, AND**
 18 **OTHER TRANSACTIONS.—The Administrator may**
 19 *enter into grants, cooperative agreements, and other*
 20 *transactions with Federal agencies, State and local*
 21 *government agencies, other public entities, private or-*
 22 *ganizations, and other persons—*

23 **“(A) to conduct research into transportation**
 24 *service and infrastructure assurance; and*

1 “(B) to carry out other research activities of
2 the Administration.

3 “(2) *LIMITATION ON DISCLOSURE OF CERTAIN*
4 *INFORMATION.—*

5 “(A) *LIMITATION.—If the Administrator de-*
6 *termines that particular information developed*
7 *in research sponsored by the Administration*
8 *may reveal a systemic vulnerability of transpor-*
9 *tation service or infrastructure, such information*
10 *may be disclosed only to—*

11 “(i) a person responsible for the secu-
12 rity of the transportation service or infra-
13 structure;

14 “(ii) a person responsible for pro-
15 tecting public safety; or

16 “(iii) an officer, employee, or agent of
17 the Federal Government, or a State or local
18 government, who, as determined by the Ad-
19 ministrator, has need for such information
20 in the performance of official duties.

21 “(B) *TREATMENT OF RELEASE.—The re-*
22 *lease of information under subparagraph (A)*
23 *shall not be treated as a release to the public for*
24 *purposes of section 552 of title 5.”.*

1 **SEC. 7362. MAILABILITY OF HAZARDOUS MATERIALS.**

2 (a) *NONMAILABILITY GENERALLY.*—Section 3001 of
3 title 39, United States Code, is amended—

4 (1) by redesignating subsection (n) as subsection

5 (o); and

6 (2) by inserting after subsection (m) the fol-
7 lowing:

8 “(n)(1) Except as otherwise authorized by law or regu-
9 lations of the Postal Service under section 3018 of this title,
10 hazardous material is nonmailable.

11 “(2) In this subsection, the term ‘hazardous material’
12 means a substance or material designated by the Secretary
13 of Transportation as hazardous material under section
14 5103(a) of title 49.”.

15 (b) *MAILABILITY.*—

16 (1) *IN GENERAL.*—Chapter 30 of title 39, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 **“§ 3018. Hazardous material**

20 “(a) *IN GENERAL.*—The Postal Service shall prescribe
21 regulations for the safe transportation of hazardous mate-
22 rial in the mails.

23 “(b) *PROHIBITIONS.*—No person may—

24 “(1) mail or cause to be mailed hazardous mate-
25 rial that has been declared by statute or Postal Serv-
26 ice regulation to be nonmailable;

1 “(2) mail or cause to be mailed hazardous mate-
2 rial in violation of any statute or Postal Service reg-
3 ulation restricting the time, place, or manner in
4 which hazardous material may be mailed; or

5 “(3) manufacture, distribute, or sell any con-
6 tainer, packaging kit, or similar device that—

7 “(A) is represented, marked, certified, or
8 sold by such person for use in the mailing of
9 hazardous material; and

10 “(B) fails to conform with any statute or
11 Postal Service regulation setting forth standards
12 for a container, packaging kit, or similar device
13 used for the mailing of hazardous material.

14 “(c) CIVIL PENALTY.—

15 “(1) IN GENERAL.—A person who knowingly vio-
16 lates this section or a regulation prescribed under this
17 section shall be liable to the Postal Service for—

18 “(A) a civil penalty of at least \$250, but
19 not more than \$100,000, for each violation;

20 “(B) the costs of any clean-up associated
21 with such violation; and

22 “(C) damages.

23 “(2) KNOWING ACTION.—A person acts know-
24 ingly for purposes of paragraph (1) when—

1 “(A) *the person has actual knowledge of the*
2 *facts giving rise to the violation; or*

3 “(B) *a reasonable person acting in the cir-*
4 *cumstances and exercising reasonable care would*
5 *have had that knowledge.*

6 “(3) *KNOWLEDGE OF STATUTE OR REGULATION*
7 *NOT ELEMENT OF OFFENSE.—Knowledge of the exist-*
8 *ence of a statutory provision or Postal Service regula-*
9 *tion is not an element of an offense under this sub-*
10 *section.*

11 “(4) *SEPARATE VIOLATIONS.—*

12 “(A) *VIOLATIONS OVER TIME.—A separate*
13 *violation under this subsection occurs for each*
14 *day hazardous material, mailed or cause to be*
15 *mailed in noncompliance with this section, is in*
16 *the mail.*

17 “(B) *SEPARATE ITEMS.—A separate viola-*
18 *tion under this subsection occurs for each item*
19 *containing hazardous material that is mailed or*
20 *caused to be mailed in noncompliance with this*
21 *section.*

22 “(d) *HEARINGS.—The Postal Service may determine*
23 *that a person has violated this section or a regulation pre-*
24 *scribed under this section only after notice and an oppor-*
25 *tunity for a hearing.*

1 “(e) *PENALTY CONSIDERATIONS.*—*In determining the*
2 *amount of a civil penalty for a violation of this section,*
3 *the Postal Service shall consider—*

4 “(1) *the nature, circumstances, extent, and grav-*
5 *ity of the violation;*

6 “(2) *with respect to the person who committed*
7 *the violation, the degree of culpability, any history of*
8 *prior violations, the ability to pay, and any effect on*
9 *the ability to continue in business;*

10 “(3) *the impact on Postal Service operations;*
11 *and*

12 “(4) *any other matters that justice requires.*

13 “(f) *CIVIL ACTIONS TO COLLECT.*—

14 “(1) *IN GENERAL.*—*In accordance with section*
15 *4409(d) of this title, a civil action may be commenced*
16 *in an appropriate district court of the United States*
17 *to collect a civil penalty, clean-up costs, and damages*
18 *assessed under subsection (c).*

19 “(2) *LIMITATION.*—*In a civil action under para-*
20 *graph (1), the validity, amount, and appropriateness*
21 *of the civil penalty, clean-up costs, and damages cov-*
22 *ered by the civil action shall not be subject to review.*

23 “(3) *COMPROMISE.*—*The Postal Service may*
24 *compromise the amount a civil penalty, clean-up*
25 *costs, and damages assessed under subsection (c) be-*

1 *fore commencing a civil action with respect to such*
2 *civil penalty, clean-up costs, and damages under*
3 *paragraph (1).*

4 “(g) *CIVIL JUDICIAL PENALTIES.*—

5 “(1) *IN GENERAL.*—*At the request of the Postal*
6 *Service, the Attorney General may bring a civil ac-*
7 *tion in an appropriate district court of the United*
8 *States to enforce this section or a regulation pre-*
9 *scribed under this section.*

10 “(2) *RELIEF.*—*The court in a civil action under*
11 *paragraph (1) may award appropriate relief, includ-*
12 *ing a temporary or permanent injunction, civil pen-*
13 *alties as determined in accordance with this section,*
14 *or punitive damages.*

15 “(3) *CONSTRUCTION.*—*A civil action under this*
16 *subsection shall be in lieu of civil penalties for the*
17 *same violation under subsection (c)(1)(A).*

18 “(h) *DEPOSIT OF AMOUNTS COLLECTED.*—*Amounts*
19 *collected under this section shall be deposited into the Postal*
20 *Service Fund under section 2003 of this title.”.*

21 “(2) *CONFORMING AMENDMENT.*—*The chapter*
22 *analysis for chapter 30 of title 39, United States*
23 *Code, is amended by adding at the end the following:*

 “3018. *Hazardous material.*”.

24 “(c) *CONFORMING AMENDMENT.*—*Section 2003(b) of*
25 *title 39, United States Code, is amended—*

1 (1) by striking “and” after the semicolon in
2 paragraph (7);

3 (2) by striking “purposes.” in paragraph (8)
4 and inserting “purposes; and”; and

5 (3) by adding at the end the following:

6 “(9) any amounts collected under section 3018 of
7 this title.”.

8 **SEC. 7363. CRIMINAL MATTERS.**

9 Section 845(a)(1) of title 18, United States Code, is
10 amended by striking “which are regulated” and all that fol-
11 lows and inserting “that is subject to the authority of the
12 Departments of Transportation and Homeland Security;”.

13 **SEC. 7364. CARGO INSPECTION PROGRAM.**

14 (a) *IN GENERAL.*—The Secretary of Transportation
15 may establish a program of random inspections of cargo
16 at points of entry into the United States for the purpose
17 of determining the extent to which undeclared hazardous
18 material is being offered for transportation in commerce
19 through such points of entry.

20 (b) *INSPECTIONS.*—Under the program under sub-
21 section (a)—

22 (1) an officer of the Department of Transpor-
23 tation who is not located at a point of entry into the
24 United States may select at random cargo shipments

1 *at points of entry into the United States for inspec-*
2 *tion; and*

3 (2) *an officer or employee of the Department*
4 *may open and inspect each cargo shipment so selected*
5 *for the purpose described in subsection (a).*

6 (c) *COORDINATION.*—*The Secretary of Transportation*
7 *shall coordinate any inspections under the program under*
8 *subsection (a) with the Secretary of Homeland Security.*

9 (d) *DISPOSITION OF HAZARDOUS MATERIALS.*—*The*
10 *Secretary of Transportation shall provide for the appro-*
11 *priate handling and disposition of any hazardous material*
12 *discovered pursuant to inspections under the program*
13 *under subsection (a).*

14 **SEC. 7365. INFORMATION ON HAZMAT REGISTRATIONS.**

15 *The Administrator of the Department of Transpor-*
16 *tation's Research and Special Programs Administration*
17 *shall—*

18 (1) *transmit current hazardous material reg-*
19 *istrant information to the Federal Motor Carrier*
20 *Safety Administration to cross reference the reg-*
21 *istrant's Federal motor carrier registration number;*
22 *and*

23 (2) *notify the Federal Motor Carrier Safety Ad-*
24 *ministration immediately, and provide a registrant's*
25 *United States Department of Transportation identi-*

1 *fication number to the Administration, whenever a*
2 *new registrant registers to transport hazardous mate-*
3 *rials as a motor carrier.*

4 **SEC. 7366. REPORT ON APPLYING HAZARDOUS MATERIALS**
5 **REGULATIONS TO PERSONS WHO REJECT**
6 **HAZARDOUS MATERIALS.**

7 *Within 6 months after the date of enactment of this*
8 *Act, the Secretary of Transportation shall complete an as-*
9 *essment of the costs and benefits of subjecting persons who*
10 *reject hazardous material for transportation in commerce*
11 *to the hazardous materials laws and regulations. In com-*
12 *pleting this assessment, the Secretary shall—*

13 *(1) estimate the number of affected employers*
14 *and employees;*

15 *(2) determine what actions would be required by*
16 *them to comply with such laws and regulations; and*

17 *(3) consider whether and to what extent the ap-*
18 *plication of Federal hazardous materials laws and*
19 *regulations should be limited to—*

20 *(A) particular modes of transportation;*

21 *(B) certain categories of employees; or*

22 *(C) certain classes or categories of haz-*
23 *ardous materials.*

1 **SEC. 7367. NATIONAL FIRST RESPONDER TRANSPORTATION**
2 **INCIDENT RESPONSE SYSTEM.**

3 (a) *IN GENERAL.*—*The Secretary of Transportation*
4 *shall provide funding to the Operation Respond Institute*
5 *to design, build, and operate a seamless first responder haz-*
6 *ardous materials incident detection, preparedness, and re-*
7 *sponse system.*

8 (b) *OREIS EXPANSION.*—

9 (1) *IN GENERAL.*—*The system designed, built,*
10 *and operated by the Institute shall include an expan-*
11 *sion of the Operation Respond Emergency Informa-*
12 *tion System.*

13 (2) *FUNCTIONALITY.*—*The Secretary may require*
14 *that the system designed by the Operation Respond*
15 *Institute function across multiple transportation*
16 *modes.*

17 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
18 *authorized to be appropriated to the Secretary to carry out*
19 *this section \$5,000,000 for each of fiscal years 2005 through*
20 *2009.*

21 **SEC. 7368. HAZARDOUS MATERIAL TRANSPORTATION PLAN**
22 **REQUIREMENT.**

23 (a) *IN GENERAL.*—*Subpart I of part 172 of the De-*
24 *partment of Transportation's regulations (49 C.F.R.*
25 *172.800 et seq.), or any subsequent Department of Trans-*

1 *portation regulation in pari materia, does not apply to the*
2 *surface transportation activities of a farmer that are—*

3 *(1) in direct support of the farmer’s farming op-*
4 *erations; and*

5 *(2) conducted within a 150-mile radius of those*
6 *operations.*

7 *(b) FARMER DEFINED.—In this section, the term*
8 *“farmer” means a person—*

9 *(1) actively engaged in the production or raising*
10 *of crops, poultry, livestock, or other agricultural com-*
11 *modities; and*

12 *(2) whose gross receipts from the sale of such ag-*
13 *ricultural commodities or products do not exceed*
14 *\$500,000 annually.*

15 **SEC. 7369. WELDED RAIL AND TANK CAR SAFETY IMPROVE-**
16 **MENTS.**

17 *(a) TRACK STANDARDS.—*

18 *(1) IN GENERAL.—Within 90 days after the date*
19 *of enactment of this Act, the Federal Railroad Ad-*
20 *ministration shall—*

21 *(A) require each track owner using contin-*
22 *uous welded rail track to include procedures (in*
23 *its procedures filed with the Administration pur-*
24 *suant to section 213.119 of title 49, Code of Fed-*

1 eral Regulations) to improve the identification of
2 cracks in rail joint bars;

3 (B) instruct Administration track inspec-
4 tors to obtain copies of the most recent contin-
5 uous welded rail programs of each railroad with-
6 in the inspectors' areas of responsibility and re-
7 quire that inspectors use those programs when
8 conducting track inspections; and

9 (C) establish a program to review contin-
10 uous welded rail joint bar inspection data from
11 railroads and Administration track inspectors
12 periodically.

13 (2) Whenever the Administration determines that
14 it is necessary or appropriate the Administration
15 may require railroads to increase the frequency of in-
16 spection, or improve the methods of inspection, of
17 joint bars in continuous welded rail.

18 (b) *TANK CAR STANDARDS.*—*The Federal Railroad*
19 *Administration shall—*

20 (1) validate a predictive model to quantify the
21 relevant dynamic forces acting on railroad tank cars
22 under accident conditions within 1 year after the date
23 of enactment of this Act; and

24 (2) initiate a rulemaking to develop and imple-
25 ment appropriate design standards for pressurized

1 *tank cars within 18 months after the date of enact-*
2 *ment of this Act.*

3 *(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS*
4 *AND REPORT.—Within 1 year after the date of enactment*
5 *of this Act the Federal Railroad Administration shall con-*
6 *duct a comprehensive analysis to determine the impact re-*
7 *sistance of the steels in the shells of pressure tank cars con-*
8 *structed before 1989. Within 6 months after completing that*
9 *analysis the Administration shall—*

10 *(1) establish a program to rank those cars ac-*
11 *cording to their risk of catastrophic fracture and sep-*
12 *aration;*

13 *(2) implement measures to eliminate or mitigate*
14 *this risk; and*

15 *(3) transmit a report to the Senate Committee*
16 *on Commerce, Science, and Transportation and the*
17 *House of Representatives Committee on Transpor-*
18 *tation and Infrastructure setting forth the measures*
19 *implemented.*

20 *(d) AUTHORIZATION OF APPROPRIATIONS.—There are*
21 *authorized to be appropriated to the Federal Railroad Ad-*
22 *ministration \$1,000,000 for fiscal year 2006 to carry out*
23 *this section, such sums to remain available until expended.*

1 **SEC. 7370. HAZARDOUS MATERIALS COOPERATIVE RE-**
2 **SEARCH PROGRAM.**

3 (a) *IN GENERAL.*—*There are authorized to be appro-*
4 *priated to the Secretary of Transportation \$2,000,000 for*
5 *each of fiscal years 2005 through 2009 to develop and ad-*
6 *minister a hazardous materials cooperative research pro-*
7 *gram.*

8 (b) *GOVERNANCE.*—*The Secretary of Transportation*
9 *shall establish an independent governing board to select*
10 *projects and studies to be carried out under the hazardous*
11 *materials cooperative research program. The Board shall be*
12 *comprised of one voting representative from the following:*

13 (1) *The Federal Aviation Administration.*

14 (2) *The Federal Motor Carrier Administration.*

15 (3) *The Federal Transit Administration.*

16 (4) *The Federal Railroad Administration.*

17 (5) *The Maritime Administration.*

18 (6) *The Research and Innovative Technology Ad-*
19 *ministration.*

20 (7) *The Pipeline and Hazardous Materials Safe-*
21 *ty Administration.*

22 (8) *The Department of Homeland Security.*

23 (9) *The Department of Energy.*

24 (10) *The Environmental Protection Agency.*

25 (11) *A State department of transportation.*

26 (12) *A State emergency management agency.*

1 (13) *A nonprofit organization representing emer-*
2 *gency responders.*

3 (14) *A hazmat employer.*

4 (15) *A nonprofit organization representing*
5 *hazmat employees.*

6 (16) *A hazardous materials shipper.*

7 (17) *A hazardous materials manufacturer.*

8 (18) *An organization representing the hazardous*
9 *materials manufacturing industry.*

10 (19) *A research university or research institu-*
11 *tion.*

12 (20) *Additional representatives as the Secretary*
13 *considers appropriate.*

14 (c) *RESEARCH STUDIES.*—*Under the cooperative re-*
15 *search program, the governing board shall select cooperative*
16 *research studies of hazardous materials transportation that*
17 *are cross-cutting in nature and that consider issues not ade-*
18 *quately addressed by existing Federal or private sector re-*
19 *search programs. Priority shall be given to research studies*
20 *that will yield results immediately applicable to risk anal-*
21 *ysis and mitigation or that will strengthen the ability of*
22 *first responders to respond to incidents and accidents in-*
23 *volving transportation of hazardous materials.*

24 (d) *SPECIAL RULES REGARDING STUDIES.*—

1 (1) *SAFETY AND SECURITY.*—*The purpose of at*
2 *least one of the studies to be conducted under the co-*
3 *operative research program shall be—*

4 (A) *to provide an assessment of opportuni-*
5 *ties for integrating and supplementing safety*
6 *and security measures for hazardous materials*
7 *transportation;*

8 (B) *to identify areas where safety and secu-*
9 *rity measures currently utilized in the transpor-*
10 *tation of hazardous materials conflict or com-*
11 *plement one another;*

12 (C) *to outline a comprehensive approach to*
13 *hazardous materials transportation that effec-*
14 *tively incorporates safety and security proce-*
15 *dures;*

16 (D) *to produce a model of reasonable State*
17 *and local risk response and management plans*
18 *that effectively address safety and security of*
19 *hazardous materials transportation; and*

20 (E) *to provide an assessment of the need*
21 *and feasibility of substituting less lethal sub-*
22 *stances than toxic inhalation hazards in the*
23 *manufacturing process.*

24 (2) *PERFORMANCE DATA FOR BULK CON-*
25 *TAINERS.*—*The purpose of at least one of the studies*

1 to be conducted under the research program shall be
2 to provide—

3 (A) an analysis of, and recommendations
4 for, the design and funding of a nationwide sys-
5 tem capable of collecting and analyzing perform-
6 ance data from bulk containers involved in
7 transportation accidents; and

8 (B) recommendations that can be used to
9 develop conditional release probabilities for var-
10 ious container design specifications (by transport
11 mode).

12 (3) *PACKAGING REQUIREMENTS.*—The purpose of
13 at least one of the studies to be conducted under the
14 research program shall be to provide an analysis of
15 recommendations on appropriate packaging require-
16 ments for those hazardous materials that are most fre-
17 quently involved in release incidents.

18 (4) *ROUTING.*—The purpose of at least one of the
19 studies to be conducted under the research program
20 shall be to identify the components that could com-
21 prise a model of risk and consequence analysis in rail
22 and highway transportation and that can be used to
23 facilitate decisionmaking regarding the routing of
24 hazardous materials shipments and the development
25 of regulations regarding mandatory routing decisions.

1 (5) *RESPONSE COVERAGE.*—*The purpose of at*
2 *least one of the studies to be conducted under the re-*
3 *search program shall be to provide an assessment of*
4 *the quality of response coverage for hazardous mate-*
5 *rials incidents, including cost-effective strategies for*
6 *improving response capabilities and making rec-*
7 *ommendations on systematic approaches that could be*
8 *used to allocate government funding to enhance re-*
9 *sponse capability.*

10 (e) *IMPLEMENTATION.*—*The Secretary of Transpor-*
11 *tation shall make grants to, and enter a cooperative agree-*
12 *ment with, the National Academy of Sciences to carry out*
13 *activities under this Act.*

14 (f) *REPORT.*—*Not later than 1 year after the date of*
15 *enactment of this Act, the Secretary shall transmit a report*
16 *to the Committee on Transportation and Infrastructure of*
17 *the House of Representatives and the Committee on Com-*
18 *merce, Science, and Transportation of the Senate on the*
19 *effectiveness of the program in meeting the needs of govern-*
20 *ment and the private sector for cooperative research on haz-*
21 *ardous materials transportation.*

22 (g) *DEFINITIONS.*—*In this section, the terms ‘hazmat*
23 *employer’ and ‘hazmat employee’ have the meaning given*
24 *those terms in section 5102 of title 49, United States Code.*

1 **CHAPTER 3—SANITARY FOOD**
2 **TRANSPORTATION**

3 **SEC. 7381. SHORT TITLE.**

4 *This chapter may be cited as the “Sanitary Food*
5 *Transportation Act of 2005”.*

6 **SEC. 7382. RESPONSIBILITIES OF THE SECRETARY OF**
7 **HEALTH AND HUMAN SERVICES.**

8 (a) *UNSANITARY TRANSPORT DEEMED ADULTERA-*
9 *TION.—Section 402 of the Federal Food, Drug, and Cos-*
10 *metic Act (21 U.S.C. 342) is amended by adding at the*
11 *end the following:*

12 “(i) *NONCOMPLIANCE WITH SANITARY TRANSPOR-*
13 *TATION PRACTICES.—If the food is transported under con-*
14 *ditions that are not in compliance with the sanitary trans-*
15 *portation practices prescribed by the Secretary under sec-*
16 *tion 416.”.*

17 (b) *SANITARY TRANSPORTATION REQUIREMENTS.—*
18 *Chapter IV of the Federal Food, Drug, and Cosmetic Act*
19 *(21 U.S.C. 341 et seq.) is amended by adding at the end*
20 *the following:*

21 **“SEC. 416. SANITARY TRANSPORTATION PRACTICES.**

22 “(a) *DEFINITIONS.—In this section:*

23 “(1) *BULK VEHICLE.—The term ‘bulk vehicle’ in-*
24 *cludes a tank truck, hopper truck, rail tank car, hop-*
25 *per car, cargo tank, portable tank, freight container,*

1 *or hopper bin, and any other vehicle in which food*
2 *is shipped in bulk, with the food coming into direct*
3 *contact with the vehicle.*

4 “(2) *TRANSPORTATION.*—*The term ‘transportation’ means any movement in commerce by motor*
5 *vehicle or rail vehicle.*

6 “(b) *REGULATIONS.*—*The Secretary shall by regula-*
7 *tion require shippers, carriers by motor vehicle or rail vehi-*
8 *cle, receivers, and other persons engaged in the transpor-*
9 *tation of food to use sanitary transportation practices pre-*
10 *scribed by the Secretary to ensure that food is not trans-*
11 *ported under conditions that may render the food adulter-*
12 *ated.*

13 “(c) *CONTENTS.*—*The regulations shall—*

14 “(1) *prescribe such practices as the Secretary de-*
15 *termines to be appropriate relating to—*

16 “(A) *sanitation;*

17 “(B) *packaging, isolation, and other protec-*
18 *tive measures;*

19 “(C) *limitations on the use of vehicles;*

20 “(D) *information to be disclosed—*

21 “(i) *to a carrier by a person arranging*
22 *for the transport of food; and*

23 “(ii) *to a manufacturer or other person*
24 *that—*

1 “(I) arranges for the transpor-
2 tation of food by a carrier; or

3 “(II) furnishes a tank vehicle or
4 bulk vehicle for the transportation of
5 food; and

6 “(E) recordkeeping; and

7 “(2) include—

8 “(A) a list of nonfood products that the Sec-
9 retary determines may, if shipped in a bulk ve-
10 hicle, render adulterated food that is subse-
11 quently transported in the same vehicle; and

12 “(B) a list of nonfood products that the Sec-
13 retary determines may, if shipped in a motor ve-
14 hicle or rail vehicle (other than a tank vehicle or
15 bulk vehicle), render adulterated food that is si-
16 multaneously or subsequently transported in the
17 same vehicle.

18 “(d) WAIVERS.—

19 “(1) IN GENERAL.—The Secretary may waive
20 any requirement under this section, with respect to
21 any class of persons, vehicles, food, or nonfood prod-
22 ucts, if the Secretary determines that the waiver—

23 “(A) will not result in the transportation of
24 food under conditions that would be unsafe for
25 human or animal health; and

1 “(B) will not be contrary to the public in-
2 terest.

3 “(2) PUBLICATION.—The Secretary shall publish
4 in the *Federal Register* any waiver and the reasons
5 for the waiver.

6 “(e) 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 transportation of food that is not identical to an au-
12 thority or requirement under this section.

13 “(2) APPLICABILITY.—This subsection applies to
14 transportation that occurs on or after the effective
15 date of the regulations promulgated under subsection
16 (b).

17 “(f) 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 on request, to the extent resources
22 are available, to the Secretary for the purposes of carrying
23 out this section.”.

24 (c) INSPECTION OF TRANSPORTATION RECORDS.—

1 (1) *REQUIREMENT.*—Section 703 of the Federal
2 *Food, Drug, and Cosmetic Act (21 U.S.C. 373) is*
3 *amended—*

4 (A) *by striking the section heading and all*
5 *that follows through “For the purpose” and in-*
6 *serting the following:*

7 **“SEC. 703. RECORDS.**

8 “(a) *IN GENERAL.*—*For the purpose*”; and

9 (B) *by adding at the end the following:*

10 “(b) *FOOD TRANSPORTATION RECORDS.*—*A shipper,*
11 *carrier by motor vehicle or rail vehicle, receiver, or other*
12 *person subject to section 416 shall, on request of an officer*
13 *or employee designated by the Secretary, permit the officer*
14 *or employee, at reasonable times, to have access to and to*
15 *copy all records that the Secretary requires to be kept under*
16 *section 416(c)(1)(E).”.*

17 (2) *CONFORMING AMENDMENT.*—*Subsection (a)*
18 *of section 703 of the Federal Food, Drug, and Cos-*
19 *metic Act (as designated by paragraph (1)(A)) is*
20 *amended by striking “carriers.” and inserting “car-*
21 *riers, except as provided in subsection (b).”.*

22 (d) *PROHIBITED ACTS.*—

23 (1) *RECORDS INSPECTION.*—*Section 301(e) of the*
24 *Federal Food, Drug, and Cosmetic Act (21 U.S.C.*

1 “(A) *establish procedures for transportation*
2 *safety inspections for the purpose of identifying*
3 *suspected incidents of contamination or adulter-*
4 *ation of—*

5 “(i) *food in violation of regulations*
6 *promulgated under section 416 of the Fed-*
7 *eral Food, Drug, and Cosmetic Act;*

8 “(ii) *meat subject to detention under*
9 *section 402 of the Federal Meat Inspection*
10 *Act (21 U.S.C. 672); and*

11 “(iii) *poultry products subject to deten-*
12 *tion under section 19 of the Poultry Prod-*
13 *ucts Inspection Act (21 U.S.C. 467a); and*

14 “(B) *train personnel of the Department of*
15 *Transportation in the appropriate use of the*
16 *procedures.*

17 “(2) *APPLICABILITY.—The procedures established*
18 *under paragraph (1) of this subsection shall apply, at*
19 *a minimum, to Department of Transportation per-*
20 *sonnel that perform commercial motor vehicle or rail-*
21 *road safety inspections.*

22 “(b) *NOTIFICATION OF SECRETARY OF HEALTH AND*
23 *HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The*
24 *Secretary of Transportation shall promptly notify the Sec-*
25 *retary of Health and Human Services or the Secretary of*

1 *Agriculture, as applicable, of any instances of potential food*
 2 *contamination or adulteration of a food identified during*
 3 *transportation safety inspections.*

4 “(c) *USE OF STATE EMPLOYEES.—The means by*
 5 *which the Secretary of Transportation carries out sub-*
 6 *section (b) of this section may include inspections conducted*
 7 *by State employees using funds authorized to be appro-*
 8 *priated under sections 31102 through 31104 of this title.”.*

9 **SEC. 7384. EFFECTIVE DATE.**

10 *This chapter takes effect on October 1, 2005.*

11 **CHAPTER 4—HOUSEHOLD GOODS MOVERS**

12 **SEC. 7401. SHORT TITLE.**

13 *This chapter may be cited as the “Household Goods*
 14 *Mover Oversight Enforcement and Reform Act of 2005”.*

15 **SEC. 7402. DEFINITIONS; APPLICATION OF PROVISIONS.**

16 (a) *TERMS USED IN THIS CHAPTER.—In this chapter,*
 17 *the terms “carrier”, “household goods”, “motor carrier”,*
 18 *“Secretary”, and “transportation” have the meaning given*
 19 *such terms in section 13102 of title 49, United States Code.*

20 (b) *“HOUSEHOLD GOODS MOTOR CARRIER” IN PART*
 21 *B OF SUBTITLE IV OF TITLE 49.—Section 13102 is amend-*
 22 *ed by redesignating paragraphs (12) through (24) as para-*
 23 *graphs (13) through (25) and by inserting after paragraph*
 24 *(11) the following:*

25 “(12) *HOUSEHOLD GOODS MOTOR CARRIER.—*

1 “(A) *IN GENERAL.*—*The term ‘household*
2 *goods motor carrier’ means a motor carrier de-*
3 *scribed in subparagraph (B) that, in the ordi-*
4 *nary course of its business of providing transpor-*
5 *tation of household goods, offers some or all of the*
6 *following additional services:*

7 “(i) *Binding and nonbinding esti-*
8 *mates.*

9 “(ii) *Inventorying.*

10 “(iii) *Protective packing and un-pack-*
11 *ing of individual items at personal resi-*
12 *dences.*

13 “(iv) *Loading and unloading at per-*
14 *sonal residences.*

15 “(B) *REGISTRATION REQUIREMENT.*—*A*
16 *motor carrier is described in this subparagraph*
17 *if its operations require it to register as a house-*
18 *hold goods motor carrier under—*

19 “(i) *section 13902 of this title; and*

20 “(ii) *regulations prescribed by the Sec-*
21 *retary consistent with Federal agency deter-*
22 *minations and decisions that were in effect*
23 *on the date of enactment of the Household*
24 *Goods Mover Oversight Enforcement and*
25 *Reform Act of 2005.*

1 “(C) *LIMITED SERVICE EXCLUSION.*—*The*
2 *term ‘household goods motor carrier’ does not in-*
3 *clude a motor carrier solely because it provides*
4 *transportation of household goods entirely packed*
5 *in, and unpacked from, 1 or more containers or*
6 *trailers by the individual shipper.’”.*

7 *(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.*—
8 *The provisions of title 49, United States Code, or of this*
9 *chapter, relating to the transportation of household goods*
10 *apply only to a household goods motor carrier (as defined*
11 *in section 13102(12) of title 49, United States Code).*

12 **SEC. 7403. PAYMENT OF RATES.**

13 *Section 13707(b) is amended by adding at the end the*
14 *following:*

15 “(3) *SHIPMENTS OF HOUSEHOLD GOODS.*—

16 “(A) *IN GENERAL.*—*A carrier providing*
17 *transportation for a shipment of household goods*
18 *shall give up possession of the household goods*
19 *transported at the destination upon payment*
20 *of—*

21 “(i) *100 percent of the charges con-*
22 *tained in a binding estimate provided by*
23 *the carrier;*

1 “(ii) not more than 110 percent of the
2 charges contained in a nonbinding estimate
3 provided by the carrier; or

4 “(iii) in the case of a partial delivery
5 of the shipment, the prorated percentage of
6 the charges calculated in accordance with
7 subparagraph (B).

8 “(B) CALCULATION OF PRORATED
9 CHARGES.—For purposes of subparagraph
10 (A)(iii), the prorated percentage of the charges
11 shall be the percentage of the total charges due to
12 the carrier as described in clause (i) or (ii) of
13 subparagraph (A) that is equal to the percentage
14 of the weight of that portion of the shipment de-
15 livered to the total weight of the shipment.

16 “(C) POST-CONTRACT SERVICES.—Subpara-
17 graph (A) does not apply to additional services
18 requested by a shipper after the contract of serv-
19 ice is executed that were not included in the esti-
20 mate.

21 “(D) IMPRACTICABLE OPERATIONS.—Sub-
22 paragraph (A) does not apply to impracticable
23 operations, as defined by the applicable carrier
24 tariff, except that the charges collected at deliv-
25 ery for such operations shall not exceed 15 per-

1 *cent of all other charges due at delivery. Any re-*
2 *maining charges due shall be paid within 30*
3 *days after the carrier presents its freight bill.”.*

4 **SEC. 7404. HOUSEHOLD GOODS CARRIER OPERATIONS.**

5 *Section 14104(b) is amended—*

6 (1) *by striking “135, upon request of a prospec-*
7 *tive shipper, may provide” in paragraph (1) and in-*
8 *serting “ 135 shall provide”;*

9 (2) *by striking “services.” the first place it ap-*
10 *pears in paragraph (1) and inserting “services in ac-*
11 *cordance with the requirements of sections 375.401,*
12 *375.403, 375.405, and 375.213 of title 49, Code of*
13 *Federal Regulations, as those requirements were in ef-*
14 *fect on the date of enactment of the Surface Transpor-*
15 *tation Safety Improvement Act of 2005 or may there-*
16 *after be revised.”;*

17 (3) *by redesignating paragraph (2) as para-*
18 *graph (4); and*

19 (4) *by inserting after paragraph (1) the fol-*
20 *lowing:*

21 “(2) *OTHER INFORMATION.—At the time that a*
22 *motor carrier provides the written estimate required*
23 *by paragraph (1), the motor carrier shall provide the*
24 *shipper a copy of the Department of Transportation*
25 *publication FMCSA–ESA–03–005 (or its successor*

1 *edition or publication) entitled ‘Ready to Move?’. Be-*
2 *fore the execution of a contract for service, a motor*
3 *carrier shall provide the shipper a copy of the De-*
4 *partment of Transportation publication OCE 100, en-*
5 *titled ‘Your Rights and Responsibilities When You*
6 *Move’ required by section 375.2 of title 49, Code of*
7 *Federal Regulations (or any corresponding similar*
8 *regulation).*

9 “(3) *BINDING AND NONBINDING ESTIMATES.—*
10 *The written estimate required by paragraph (1) may*
11 *be either binding or nonbinding. The written estimate*
12 *shall be based on a visual inspection of the household*
13 *goods if the household goods are located within a 50-*
14 *mile radius of the location of the carrier’s household*
15 *goods agent preparing the estimate. The Secretary*
16 *may not prohibit any such carrier from charging a*
17 *prospective shipper for providing a written, binding*
18 *estimate for the transportation and related services.”.*

19 **SEC. 7405. LIABILITY OF CARRIERS UNDER RECEIPTS AND**
20 **BILLS OF LADING.**

21 *Section 14706(f) is amended—*

22 *(1) by resetting the text as a paragraph indented*
23 *2 ems from the left margin and inserting “(1) IN*
24 *GENERAL.—” before “A carrier”; and*

25 *(2) by adding at the end, the following:*

1 “(2) *FULL VALUE PROTECTION OBLIGATION.*—
2 *Unless the carrier receives a waiver in writing under*
3 *paragraph (3), a carrier’s maximum liability for*
4 *household goods that are lost, damaged, destroyed, or*
5 *otherwise not delivered to the final destination is an*
6 *amount equal to the replacement value of such goods,*
7 *subject to a maximum amount equal to the declared*
8 *value of the shipment, subject to rules issued by the*
9 *Surface Transportation Board and applicable tariffs.*

10 “(3) *APPLICATION OF RATES.*—*The released rates*
11 *established by the Board under paragraph (1) (com-*
12 *monly known as ‘released rates’) shall not apply to*
13 *the transportation of household goods by a carrier un-*
14 *less the liability of the carrier for the full value of*
15 *such household goods under paragraph (2) is waived*
16 *in writing by the shipper.”.*

17 **SEC. 7406. ARBITRATION REQUIREMENTS.**

18 (a) *OFFERING SHIPPERS ARBITRATION.*—*Section*
19 *14708(a) is amended by inserting before the period at the*
20 *end the following: “and to determine whether carrier*
21 *charges, in addition to those collected at delivery, must be*
22 *paid by the shipper for transportation and services related*
23 *to the transportation of household goods”.*

1 (b) *THRESHOLD FOR BINDING ARBITRATION.*—Section
2 14708(b)(6) is amended by striking “\$5,000” each place it
3 appears and inserting “\$10,000”.

4 (c) *DEADLINE FOR DECISION.*—Section 14708(b)(8) is
5 amended—

6 (1) by striking “and”; and

7 (2) by inserting after “for damages” the fol-
8 lowing: “, and an order requiring the payment of ad-
9 ditional carrier charges”.

10 (d) *ATTORNEY’S FEES TO SHIPPERS.*—Section
11 14708(d)(3) is amended—

12 (1) by redesignating subparagraphs (A) and (B)
13 as subparagraphs (B) and (C), respectively; and

14 (2) by inserting before subparagraph (B) (as so
15 redesignated) the following:

16 “(A) the shipper was not advised by the carrier
17 during the claim settlement process that a dispute set-
18 tlement program was available to resolve the dispute;”

19 (e) *REVIEW AND REPORT ON DISPUTE SETTLEMENT*
20 *PROGRAMS.*—

21 (1) *REVIEW AND REPORT.*—Not later than 18
22 months after the date of enactment of this Act, the
23 Secretary of Transportation shall complete a review
24 of the outcomes and the effectiveness of the programs
25 carried out under title 49, United States Code, to set-

1 *tle disputes between motor carriers and shippers and*
2 *submit a report on the review to the Senate Com-*
3 *mittee on Commerce, Science, and Transportation*
4 *and the House of Representatives Committee on*
5 *Transportation and Infrastructure. The report shall*
6 *describe—*

7 *(A) the subject of, and amounts at issue in,*
8 *the disputes;*

9 *(B) patterns in disputes or settlements;*

10 *(C) the prevailing party in disputes, if*
11 *identifiable; and*

12 *(D) any other matters the Secretary con-*
13 *siders appropriate.*

14 *(2) REQUIREMENT FOR PUBLIC COMMENT.—The*
15 *Secretary shall publish notice of the review required*
16 *by paragraph (1) and provide an opportunity for the*
17 *public to submit comments on the effectiveness of such*
18 *programs. Notwithstanding any confidentiality or*
19 *non-disclosure provision in a settlement agreement be-*
20 *tween a motor carrier and a shipper, it shall not be*
21 *a violation of that provision for a motor carrier or*
22 *shipper to submit a copy of the settlement agreement,*
23 *or to provide information included in the agreement,*
24 *to the Secretary for use in evaluating dispute settle-*
25 *ment programs under this subsection. Notwith-*

1 *standing anything to the contrary in section 552 of*
2 *title 5, United States Code, the Secretary may not*
3 *post on the Department of Transportation’s electronic*
4 *docket system, or make available to any requester in*
5 *paper or electronic format, any information sub-*
6 *mitted to the Secretary by a motor carrier or shipper*
7 *under the preceding sentence. The Secretary shall use*
8 *the settlement agreements or other information sub-*
9 *mitted by a motor carrier or shipper solely to evalu-*
10 *ate the effectiveness of dispute settlement programs*
11 *and shall not include in the report required by this*
12 *subsection the names, or other identifying information*
13 *concerning, motor carriers or shippers that submitted*
14 *comments or information under this subsection.*

15 **SEC. 7407. ENFORCEMENT OF REGULATIONS RELATED TO**
16 **TRANSPORTATION OF HOUSEHOLD GOODS.**

17 (a) *NONPREEMPTION OF INTRASTATE TRANSPOR-*
18 *TATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B)*
19 *is amended by inserting “intrastate” before “transpor-*
20 *tation”.*

21 (b) *ENFORCEMENT OF FEDERAL LAW WITH RESPECT*
22 *TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—*

23 (1) *IN GENERAL.—Chapter 147 is amended by*
24 *adding at the end the following:*

1 **“§ 14710. Enforcement of Federal laws and regula-**
2 **tions with respect to transportation of**
3 **household goods**

4 “(a) *ENFORCEMENT BY STATES.*—Notwithstanding
5 any other provision of this title, a State authority may en-
6 force the consumer protection provisions that apply to indi-
7 vidual shippers, as determined by the Secretary of Trans-
8 portation, of this title that are related to the delivery and
9 transportation of household goods in interstate commerce.
10 Any fine or penalty imposed on a carrier in a proceeding
11 under this subsection shall, notwithstanding any provision
12 of law to the contrary, be paid to and retained by the State.

13 “(b) *NOTICE.*—The State shall serve written notice to
14 the Secretary or the Board, as the case may be, of any civil
15 action under subsection (a) prior to initiating such civil
16 action. The notice shall include a copy of the complaint to
17 be filed to initiate such civil action, except that if it is not
18 feasible for the State to provide such prior notice, the State
19 shall provide such notice immediately upon instituting such
20 civil action.

21 “(c) *ENFORCEMENT ASSISTANCE OUTREACH PLAN.*—
22 The Federal Motor Carrier Safety Administration shall im-
23 plement an outreach plan to enhance the coordination and
24 effective enforcement of Federal laws and regulations with
25 respect to transportation of household goods between and
26 among Federal and State law enforcement and consumer

1 *protection authorities. The outreach shall include, as appro-*
2 *priate, local law enforcement and consumer protection au-*
3 *thorities.*

4 “(d) *STATE AUTHORITY DEFINED.*—*The term ‘State*
5 *authority’ means an agency of a State that has authority*
6 *under the laws of the State to regulate the intrastate move-*
7 *ment of household goods.*

8 **“§ 14711. Enforcement by State attorneys general**

9 “(a) *IN GENERAL.*—*A State, as parens patriae, may*
10 *bring a civil action on behalf of its residents in an appro-*
11 *priate district court of the United States to enforce the con-*
12 *sumer protection provisions that apply to individual ship-*
13 *pers, as determined by the Secretary of Transportation, of*
14 *this title that are related to the delivery and transportation*
15 *of household goods in interstate commerce, or regulations*
16 *or orders of the Secretary or the Board thereunder, or to*
17 *impose the civil penalties authorized by this part or such*
18 *regulation or order, whenever the attorney general of the*
19 *State has reason to believe that the interests of the residents*
20 *of the State have been or are being threatened or adversely*
21 *affected by a carrier or broker providing transportation*
22 *subject to jurisdiction under subchapter I or III of chapter*
23 *135 of this title, or a foreign motor carrier providing trans-*
24 *portation registered under section 13902 of this title, that*
25 *is engaged in household goods transportation that violates*

1 *this part or a regulation or order of the Secretary or Board,*
2 *as applicable, promulgated under this part.*

3 “(b) *NOTICE AND CONSENT.*—

4 “(1) *IN GENERAL.*—*The State shall serve written*
5 *notice to the Secretary or the Board, as the case may*
6 *be, of any civil action under subsection (a) prior to*
7 *initiating such civil action. The notice shall include*
8 *a copy of the complaint to be filed to initiate such*
9 *civil action.*

10 “(2) *CONDITIONS.*—*The Secretary or the*
11 *Board—*

12 “(A) *shall review the initiation of the action*
13 *by the State if—*

14 “(i) *the carrier or broker (as such*
15 *terms are defined in section 13102 of this*
16 *title) is not registered with the Department*
17 *of Transportation;*

18 “(ii) *the license of a carrier or broker*
19 *for failure to file proof of required bodily*
20 *injury or cargo liability insurance is pend-*
21 *ing, or the license has been revoked for any*
22 *other reason by the Department of Trans-*
23 *portation;*

24 “(iii) *the carrier is not rated or has re-*
25 *ceived a conditional or unsatisfactory safety*

1 *rating by the Department of Transpor-*
2 *tation; or*

3 *“(iv) the carrier or broker has been li-*
4 *censed with the Department of Transpor-*
5 *tation for less than 5 years; and*

6 *“(B) may review if the carrier or broker*
7 *fails to meet criteria developed by the Secretary*
8 *that are consistent with this section.*

9 *“(3) CONGRESSIONAL NOTIFICATION.—The Sec-*
10 *retary shall notify the Senate Committee on Com-*
11 *merce, Science, and Transportation, and the House of*
12 *Representatives Committee on Transportation and*
13 *Infrastructure of any criteria developed by the Sec-*
14 *retary under paragraph (2)(B).*

15 *“(4) 60-DAY DEADLINE.—The Secretary or the*
16 *Board shall be considered to have consented to any*
17 *such action if the Secretary or the Board has taken*
18 *no action with respect to the notice within 60 cal-*
19 *endar days after the date on which the Secretary or*
20 *the Board received notice under paragraph (1).*

21 *“(c) AUTHORITY TO INTERVENE.—*

22 *“(1) IN GENERAL.—Upon receiving the notice re-*
23 *quired by subsection (b), the Secretary or Board may*
24 *intervene in such civil action and upon intervening—*

1 “(A) be heard on all matters arising in such
2 civil action;

3 “(B) file petitions for appeal of a decision
4 in such civil action; and

5 “(C) be substituted, upon the filing of a mo-
6 tion with the court, for the State as *parens*
7 *patriae* in the action.

8 “(2) *SUBSTITUTION.*—If the Secretary or the
9 Board files a motion under paragraph (1)(C), the
10 court shall—

11 “(A) grant the motion without further hear-
12 ing or procedure;

13 “(B) substitute the Secretary or the Board,
14 as appropriate, for the State as plaintiff; and

15 “(C) if requested by the Secretary or the
16 Board, dismiss the State as a party to the ac-
17 tion.

18 “(d) *CONSTRUCTION.*—For purposes of bringing any
19 civil action under subsection (a), nothing in this section
20 shall—

21 “(1) convey a right to initiate or maintain a
22 class action lawsuit in the enforcement of a Federal
23 law or regulation; or

24 “(2) prevent the attorney general of a State from
25 exercising the powers conferred on the attorney gen-

1 *eral by the laws of such State to conduct investiga-*
2 *tions or to administer oaths or affirmations or to*
3 *compel the attendance of witnesses or the production*
4 *of documentary and other evidence.*

5 *“(e) VENUE; SERVICE OF PROCESS.—In a civil action*
6 *brought under subsection (a)—*

7 *“(1) the venue shall be a Federal judicial district*
8 *in which—*

9 *“(A) the carrier, foreign motor carrier, or*
10 *broker operates;*

11 *“(B) the carrier, foreign motor carrier, or*
12 *broker was authorized to provide transportation*
13 *at the time the complaint arose; or*

14 *“(C) where the defendant in the civil action*
15 *is found;*

16 *“(2) process may be served without regard to the*
17 *territorial limits of the district or of the State in*
18 *which the civil action is instituted; and*

19 *“(3) a person who participated with a carrier or*
20 *broker in an alleged violation that is being litigated*
21 *in the civil action may be joined in the civil action*
22 *without regard to the residence of the person.*

23 *“(f) ENFORCEMENT OF STATE LAW.—Nothing con-*
24 *tained in this section shall prohibit an authorized State of-*

1 *ficial from proceeding in State court to enforce a criminal*
 2 *statute of such State.”.*

3 (c) *INDIVIDUAL SHIPPER DEFINED.*—Section 13102 is
 4 amended by redesignating paragraphs (12) through (24) as
 5 paragraphs (13) through (25) and by inserting after para-
 6 graph (11) the following:

7 “(12) *INDIVIDUAL SHIPPER.*—The term ‘indi-
 8 *vidual shipper’ means any person who—*

9 “(A) *is the shipper, consignor, or consignee*
 10 *of a household goods shipment;*

11 “(B) *is identified as the shipper, consignor,*
 12 *or consignee on the face of the bill of lading;*

13 “(C) *owns the goods being transported; and*

14 “(D) *pays his or her own tariff transpor-*
 15 *tation charges.”.*

16 (d) *CONFORMING AMENDMENT.*—The analysis for
 17 chapter 147 is amended by inserting after the item relating
 18 to section 14709 the following:

“14710. *Enforcement of Federal laws and regulations with respect to transpor-*
tation of household goods.

“14711. *Enforcement by State attorneys general.”.*

19 **SEC. 7408. WORKING GROUP FOR DEVELOPMENT OF PRAC-**
 20 **TICES AND PROCEDURES TO ENHANCE FED-**
 21 **ERAL-STATE RELATIONS.**

22 (a) *IN GENERAL.*—Not later than 90 days after the
 23 date of enactment of this Act, the Secretary shall establish
 24 a working group of State attorneys general, State authori-

1 *ties that regulate the movement of household goods, and Fed-*
2 *eral and local law enforcement officials for the purpose of*
3 *developing practices and procedures to enhance the Federal-*
4 *State partnership in enforcement efforts, exchange of infor-*
5 *mation, and coordination of enforcement efforts with respect*
6 *to interstate transportation of household goods and making*
7 *legislative and regulatory recommendations to the Secretary*
8 *concerning such enforcement efforts.*

9 (b) *CONSULTATION.*—*In carrying out subsection (a),*
10 *the working group shall consult with industries involved in*
11 *the transportation of household goods, the public, and other*
12 *interested parties.*

13 **SEC. 7409. INFORMATION ABOUT HOUSEHOLD GOODS**
14 **TRANSPORTATION ON CARRIERS' WEBSITES.**

15 *Not later than 1 year after the date of enactment of*
16 *this Act, the Secretary shall modify the regulations con-*
17 *tained in part 375 of title 49, Code of Federal Regulations,*
18 *to require a motor carrier or broker that is subject to such*
19 *regulations and that establishes (or has established) and*
20 *maintains a website to prominently display on the*
21 *website—*

22 (1) *the number assigned to the motor carrier or*
23 *broker by the Department of Transportation;*

24 (2) *the OCE 100 publication referred to in sec-*
25 *tion 14104(b)(2) of title 49, United States Code; and*

1 (3) *in the case of a broker, a list of all motor*
 2 *carriers providing transportation of household goods*
 3 *used by the broker and a statement that the broker is*
 4 *not a motor carrier providing transportation of*
 5 *household goods.*

6 **SEC. 7410. CONSUMER COMPLAINTS.**

7 (a) *REQUIREMENT FOR DATABASE.*—*Subchapter II of*
 8 *chapter 141 is amended by adding at the end the following:*

9 **“§ 14124. Consumer complaints**

10 “(a) *ESTABLISHMENT OF SYSTEM AND DATABASE.*—

11 *The Secretary of Transportation shall—*

12 “(1) *establish a system to—*

13 “(A) *file and log a complaint made by a*
 14 *shipper that relates to motor carrier transpor-*
 15 *tation of household goods; and*

16 “(B) *to solicit information gathered by a*
 17 *State regarding the number and type of com-*
 18 *plaints involving the interstate transportation of*
 19 *household goods;*

20 “(2) *establish a database of such complaints; and*

21 “(3) *develop a procedure—*

22 “(A) *to provide public access to the data-*
 23 *base, subject to section 522a of title 5;*

24 “(B) *to forward a complaint, including the*
 25 *motor carrier bill of lading number, if known,*

1 *related to the complaint to a motor carrier*
2 *named in such complaint and to an appropriate*
3 *State authority (as defined in section 14710(c)*
4 *in the State in which the complainant resides;*
5 *and*

6 “(C) *to permit a motor carrier to challenge*
7 *information in the database.*

8 “(b) *SUMMARY TO CONGRESS.—The Secretary shall*
9 *transmit a summary each year of the complaints filed and*
10 *logged under subsection (a) for the preceding calendar year*
11 *to the Senate Committee on Commerce, Science, and Trans-*
12 *portation and the House of Representatives Committee on*
13 *Transportation and Infrastructure.”.*

14 “(b) *CONFORMING AMENDMENT.—The analysis for*
15 *chapter 141 is amended by inserting after the item relating*
16 *to section 14123 the following:*

 “14124. *Consumer complaints.”.*

17 **SEC. 7411. REVIEW OF LIABILITY OF CARRIERS.**

18 “(a) *REVIEW.—Not later than 1 year after the date of*
19 *enactment of this Act, the Surface Transportation Board*
20 *shall complete a review of the current Federal regulations*
21 *regarding the level of liability protection provided by motor*
22 *carriers that provide transportation of household goods and*
23 *revise such regulations, if necessary, to provide enhanced*
24 *protection in the case of loss or damage.*

1 (b) *DETERMINATIONS.*—*The review required by sub-*
2 *section (a) shall include a determination of—*

3 (1) *whether the current regulations provide ade-*
4 *quate protection;*

5 (2) *the benefits of purchase by a shipper of in-*
6 *surance to supplement the carrier’s limitations on li-*
7 *ability;*

8 (3) *whether there are abuses of the current regu-*
9 *lations that leave the shipper unprotected in the event*
10 *of loss and damage to a shipment of household goods;*
11 *and*

12 (4) *whether the section 14706 of title 49, United*
13 *States Code, should be modified.*

14 **SEC. 7412. CIVIL PENALTIES RELATING TO HOUSEHOLD**
15 **GOODS BROKERS.**

16 *Section 14901(d) is amended—*

17 (1) *by resetting the text as a paragraph indented*
18 *2 ems from the left margin and inserting “(1) IN*
19 *GENERAL.—” before “If a carrier”; and*

20 (2) *by adding at the end the following:*

21 “(2) *ESTIMATE OF BROKER WITHOUT CARRIER*
22 *AGREEMENT.—If a broker for transportation of house-*
23 *hold goods subject to jurisdiction under subchapter I*
24 *of chapter 135 of this title makes an estimate of the*
25 *cost of transporting any such goods before entering*

1 *into an agreement with a carrier to provide transpor-*
 2 *tation of household goods subject to such jurisdiction,*
 3 *the broker is liable to the United States for a civil*
 4 *penalty of not less than \$10,000 for each violation.*

5 *“(3) UNAUTHORIZED TRANSPORTATION.—If a*
 6 *person provides transportation of household goods*
 7 *subject to jurisdiction under subchapter I of chapter*
 8 *135 this title or provides broker services for such*
 9 *transportation without being registered under chapter*
 10 *139 of this title to provide such transportation or*
 11 *services as a motor carrier or broker, as the case may*
 12 *be, such person is liable to the United States for a*
 13 *civil penalty of not less than \$25,000 for each viola-*
 14 *tion.”.*

15 **SEC. 7413. CIVIL AND CRIMINAL PENALTY FOR FAILING TO**
 16 **GIVE UP POSSESSION OF HOUSEHOLD**
 17 **GOODS.**

18 *(a) IN GENERAL.—Chapter 149 is amended by adding*
 19 *at the end the following:*

20 **“§ 14915. Penalties for failure to give up possession of**
 21 **household goods**

22 *“(a) CIVIL PENALTY.—Whoever is found to have failed*
 23 *to give up possession of household goods is liable to the*
 24 *United States for a civil penalty of not less than \$10,000.*
 25 *Each day a carrier is found to have failed to give up posses-*

1 *sion of household goods may constitute a separate violation.*
2 *If such person is a carrier or broker, the Secretary may*
3 *suspend the registration of such carrier or broker under*
4 *chapter 139 of this title for a period of not less than 12*
5 *months nor more than 36 months. The force and effect of*
6 *such suspension of a carrier or broker shall extend to and*
7 *include any carrier or broker having the same ownership*
8 *or operational control as the suspended carrier or broker.*

9 “(b) *CRIMINAL PENALTY.*—Whoever has been convicted
10 *of having failed to give up possession of household goods*
11 *shall be fined under title 18 or imprisoned for not more*
12 *than 5 years, or both.*

13 “(c) *FAILURE TO GIVE UP POSSESSION OF HOUSE-*
14 *HOLD GOODS DEFINED.*—For purposes of this section, the
15 *term ‘failed to give up possession of household goods’ means*
16 *the knowing and willful failure, in violation of a contract,*
17 *to deliver to, or unload at, the destination of a shipment*
18 *of household goods that is subject to jurisdiction under sub-*
19 *chapter I or III of chapter 135 of this title, for which*
20 *charges have been estimated by the motor carrier providing*
21 *transportation of such goods, and for which the shipper has*
22 *tendered a payment described in clause (i), (ii), or (iii) of*
23 *section 13707(b)(3)(A) of this title.”.*

24 (b) *CONFORMING AMENDMENT.*—The analysis for such
25 *chapter is amended by adding at the end the following:*

“14915. Penalties for failure to give up possession of household goods.”.

1 **SEC. 7414. PROGRESS REPORT.**

2 *Not later than 1 year after the date of enactment of*
 3 *this Act, the Secretary shall transmit to Congress a report*
 4 *on the progress being made in implementing the provisions*
 5 *of this chapter.*

6 **SEC. 7415. ADDITIONAL REGISTRATION REQUIREMENTS**
 7 **FOR MOTOR CARRIERS OF HOUSEHOLD**
 8 **GOODS.**

9 *Section 13902(a) is amended—*

10 *(1) by striking paragraphs (2) and (3);*

11 *(2) by redesignating paragraph (4) as para-*
 12 *graph (5) and inserting after paragraph (1) the fol-*
 13 *lowing:*

14 *“(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR*
 15 *HOUSEHOLD GOODS TRANSPORTATION.—Notwithstanding*
 16 *paragraph (1), the Secretary may register a person to pro-*
 17 *vide transportation of household goods (as defined in section*
 18 *13102(10) of this title) only after that person—*

19 *“(A) provides evidence of participation in*
 20 *an arbitration program and provides a copy of*
 21 *the notice of that program as required by section*
 22 *14708(b)(2) of this title;*

23 *“(B) identifies its tariff and provides a*
 24 *copy of the notice of the availability of that tariff*
 25 *for inspection as required by section 13702(c) of*
 26 *this title;*

1 “(C) provides evidence that it has access to,
2 has read, is familiar with, and will observe all
3 laws relating to consumer protection, estimating,
4 consumers’ rights and responsibilities, and op-
5 tions for limitations of liability for loss and
6 damage; and

7 “(D) discloses any relationship involving
8 common stock, common ownership, common
9 management, or common familial relationships
10 between that person and any other motor carrier,
11 freight forwarder, or broker of household goods
12 within the past 3 years.

13 “(3) CONSIDERATION OF EVIDENCE; FINDINGS.—
14 The Secretary shall consider, and, to the extent appli-
15 cable, make findings on any evidence demonstrating
16 that the registrant is unable to comply with any ap-
17 plicable requirement of paragraph (1) or, in the case
18 of a registrant to which paragraph (2) applies, para-
19 graph (1) or (2).

20 “(4) WITHHOLDING.—If the Secretary deter-
21 mines that a registrant under this section does not
22 meet, or is not able to meet, any requirement of para-
23 graph (1) or, in the case of a registrant to which
24 paragraph (2) applies, paragraph (1) or (2), the Sec-
25 retary shall withhold registration.”; and

1 (3) by adding at the end of paragraph (5), as re-
 2 designated, “In the case of a registration for the
 3 transportation of household goods (as defined in sec-
 4 tion 13102(10 of this title), the Secretary may also
 5 hear a complaint on the ground that the registrant
 6 fails or will fail to comply with the requirements of
 7 paragraph (2) of this subsection.”.

8 ***Subtitle E—Sportfishing and***
 9 ***Recreational Boating Safety***

10 ***SEC. 7501. SHORT TITLE.***

11 *This subtitle may be cited as the “Sportfishing and*
 12 *Recreational Boating Safety Act of 2005”.*

13 ***CHAPTER 1—FEDERAL AID IN SPORT FISH***
 14 ***RESTORATION ACT AMENDMENTS***

15 ***SEC. 7511. AMENDMENT OF FEDERAL AID IN SPORT FISH***
 16 ***RESTORATION ACT.***

17 *Except as otherwise expressly provided, whenever in*
 18 *this chapter an amendment or repeal is expressed in terms*
 19 *of an amendment to, or repeal of, a section or other provi-*
 20 *sion, the reference shall be considered to be made to a section*
 21 *or other provision of the Dingell-Johnson Sport Fish Res-*
 22 *toration Act (16 U.S.C. 777 et seq.).*

23 ***SEC. 7512. AUTHORIZATION OF APPROPRIATIONS.***

24 (a) *IN GENERAL.*—Section 3 (16 U.S.C. 777b) is
 25 *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 57 percent of the balance*
8 *of each annual appropriation to be apportioned*
9 *among the States, as provided for in section 4(c).”.*

10 **(b) CONFORMING AMENDMENTS.—**

11 (1) *IN GENERAL.—The first sentence of section 3*
12 *(16 U.S.C. 777b) is amended—*

13 (A) *by striking “Sport Fish Restoration Ac-*
14 *count” and inserting “Sport Fish Restoration*
15 *and Boating Trust Fund”; and*

16 (B) *by striking “that Account” and insert-*
17 *ing “that Trust Fund, except as provided in sec-*
18 *tion 9504(c) of the Internal Revenue Code of*
19 *1986”.*

20 (2) *EFFECTIVE DATE.—The amendments made*
21 *by paragraph (1) take effect on October 1, 2005.*

22 **SEC. 7513. DIVISION OF ANNUAL APPROPRIATIONS.**

23 *Section 4 (16 U.S.C. 777c) is amended—*

1 (1) *by striking subsections (a) through (c) and*
2 *redesignating subsections (d), (e), (f), and (g) as sub-*
3 *sections (b), (c), (d), and (e), respectively;*

4 (2) *by inserting before subsection (b), as redesign-*
5 *ated by paragraph (1), the following:*

6 “(a) *IN GENERAL.—For fiscal years 2005 through*
7 *2019, the balance of each annual appropriation made in*
8 *accordance with the provisions of section 3 remaining after*
9 *the distributions for administrative expenses and other pur-*
10 *poses under subsection (b) and for multistate conservation*
11 *grants under section 14 shall be distributed as follows:*

12 “(1) *COASTAL WETLANDS.—18.5 percent to the*
13 *Secretary of the Interior for distribution as provided*
14 *in the Coastal Wetlands Planning, Protection, and*
15 *Restoration Act (16 U.S.C. 3951 et seq.).*

16 “(2) *BOATING SAFETY.—18.5 percent to the Sec-*
17 *retary of Homeland Security for State recreational*
18 *boating safety programs under section 13106 of title*
19 *46, United States Code.*

20 “(3) *CLEAN VESSEL ACT.—2.0 percent to the*
21 *Secretary of the Interior for qualified projects under*
22 *section 5604(c) of the Clean Vessel Act of 1992 (33*
23 *U.S.C. 1322 note).*

24 “(4) *BOATING INFRASTRUCTURE.—2.0 percent to*
25 *the Secretary of the Interior for obligation for quali-*

1 *fied projects under section 7404(d) of the Sportfishing*
2 *and Boating Safety Act of 1998 (16 U.S.C. 777g-*
3 *1(d)).*

4 “(5) *NATIONAL OUTREACH AND COMMUNICA-*
5 *TIONS.—2.0 percent to the Secretary of the Interior*
6 *for the National Outreach and Communications Pro-*
7 *gram under section 8(d) of this Act. Such amounts*
8 *shall remain available for 3 fiscal years, after which*
9 *any portion thereof that is unobligated by the Sec-*
10 *retary for that program may be expended by the Sec-*
11 *retary under subsection (c) of this section.”;*

12 (3) *by striking (b)(1)(A), as redesignated by*
13 *paragraph (1), and inserting the following:*

14 “(A) *SET-ASIDE.—For fiscal year 2005 and*
15 *each subsequent fiscal year, the Secretary of the*
16 *Interior may use no more than the amount spec-*
17 *ified in subparagraph (B) for the fiscal year for*
18 *expenses of administration incurred in the im-*
19 *plementation of this Act, in accordance with this*
20 *section and section 9. The amount specified in*
21 *subparagraph (B) for a fiscal year may not be*
22 *included in the amount of the annual appropria-*
23 *tion distributed under subsection (a) for the fis-*
24 *cal year.”;*

1 (4) by striking “Secretary of the Interior, after
2 the distribution, transfer, use, and deduction under
3 subsections (a), (b), (c), and (d), respectively, and
4 after deducting amounts used for grants under section
5 14, shall apportion the remainder” in subsection (c),
6 as redesignated by paragraph (1), and inserting “Sec-
7 retary, for fiscal year 2005 and each subsequent fiscal
8 year, after the distribution, transfer, use and deduc-
9 tion under subsection (b), and after deducting
10 amounts used for grants under section 14 of this title,
11 shall apportion 57 percent of the balance”;

12 (5) by striking “per centum” each place it ap-
13 pears in subsection (c), as redesignated by paragraph
14 (1), and inserting “percent”;

15 (6) by striking “subsections (a), (b)(3)(A),
16 (b)(3)(B), and (c)” in paragraph (1) of subsection (e),
17 as redesignated by paragraph (1), and inserting
18 “paragraphs (1), (3), (4), and (5) of subsection (a)”;
19 and

20 (7) by adding at the end the following:

21 “(f) *TRANSFER OF CERTAIN FUNDS.*—Amounts avail-
22 able under paragraphs (3) and (4) of subsection (a) that
23 are unobligated by the Secretary of the Interior after 3 fis-
24 cal years shall be transferred to the Secretary of Homeland
25 Security and shall be expended for State recreational boat-

1 *ing safety programs under section 13106(a) of title 46,*
2 *United States Code.”.*

3 **SEC. 7514. MAINTENANCE OF PROJECTS.**

4 *Section 8 (16 U.S.C. 777g) is amended—*

5 *(1) by striking “in carrying out the research*
6 *program of the Fish and Wildlife Service in respect*
7 *to fish of material value for sport or recreation.” in*
8 *subsection (b)(2) and inserting “to supplement the 57*
9 *percent of the balance of each annual appropriation*
10 *to be apportioned among the States under section*
11 *4(c).”; and*

12 *(2) by striking “subsection (c) or (d)” in sub-*
13 *section (d)(3) and inserting “subsection (a)(5) or sub-*
14 *section (b)”.*

15 **SEC. 7515. BOATING INFRASTRUCTURE.**

16 *Section 7404(d)(1) of the Sportfishing and Boating*
17 *Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended*
18 *by striking “section 4(b)(3)(B) of the Act entitled ‘An Act*
19 *to provide that the United States shall aid the States in*
20 *fish restoration and management projects, and for other*
21 *purposes,’ approved August 9, 1950, as amended by this*
22 *Act,” and inserting “section 4(a)(4) of the Dingell-Johnson*
23 *Sport Fish Restoration Act”.*

1 **SEC. 7516. REQUIREMENTS AND RESTRICTIONS CON-**
 2 **CERNING USE OF AMOUNTS FOR EXPENSES**
 3 **FOR ADMINISTRATION.**

4 *Section 9 (16 U.S.C. 777h) is amended—*

5 *(1) by striking “section 4(d)(1)” in subsection*
 6 *(a) and inserting “section 4(b)”;* and

7 *(2) by striking “section 4(d)(1)” in subsection*
 8 *(b)(1) and inserting “section 4(b)”.*

9 **SEC. 7517. PAYMENTS OF FUNDS TO AND COOPERATION**
 10 **WITH PUERTO RICO, THE DISTRICT OF CO-**
 11 **LUMBIA, GUAM, AMERICAN SAMOA, THE COM-**
 12 **MONWEALTH OF THE NORTHERN MARIANA**
 13 **ISLANDS, AND THE VIRGIN ISLANDS.**

14 *Section 12 (16 U.S.C. 777k) is amended by striking*
 15 *“in carrying on the research program of the Fish and Wild-*
 16 *life Service in respect to fish of material value for sport*
 17 *or recreation.” and inserting “to supplement the 57 percent*
 18 *of the balance of each annual appropriation to be appor-*
 19 *tioned among the States under section 4(b) of this Act.”.*

20 **SEC. 7518. MULTISTATE CONSERVATION GRANT PROGRAM.**

21 *Section 14 (16 U.S.C. 777m) is amended—*

22 *(1) by striking so much of subsection (a) as pre-*
 23 *cedes paragraph (2) and inserting the following:*

24 *“(a) IN GENERAL.—*

25 *“(1) AMOUNT FOR GRANTS.—For fiscal year*
 26 *2005 and each subsequent fiscal year, not more than*

1 \$3,000,000 of each annual appropriation made in ac-
2 cordance with the provisions of section 3 shall be dis-
3 tributed to the Secretary of the Interior for making
4 multistate conservation project grants in accordance
5 with this section.”;

6 (2) by striking “section 4(e)” each place it ap-
7 pears in subsection (a)(2)(B) and inserting “section
8 4(c)”; and

9 (3) by striking “Of the balance of each annual
10 appropriation made under section 3 remaining after
11 the distribution and use under subsections (a), (b),
12 and (c) of section 4 for each fiscal year and after de-
13 ducting amounts used for grants under subsection
14 (a)—” in subsection (e) and inserting “Of amounts
15 made available under section 4(b) for each fiscal
16 year—”.

17 **SEC. 7519. EXPENDITURES FROM BOAT SAFETY ACCOUNT.**

18 The Act is amended by adding at the end the following:

19 **“SEC. 15. EXPENDITURES FROM BOAT SAFETY ACCOUNT.**

20 “The following amounts in the boating safety account
21 under section 9504(c) of the Internal Revenue Code of 1986
22 shall be made available without further appropriation and
23 shall be distributed as follows:

24 “(1) In fiscal year 2006, \$28,155,000 shall be
25 distributed—

1 “(A) under section 4 of this Act in the fol-
2 lowing manner:

3 “(i) \$11,200,000 to be added to funds
4 available under subsection (a)(2) of that
5 section;

6 “(ii) \$1,245,000 to be added to funds
7 available under subsection (a)(3) of that
8 section;

9 “(iii) \$1,245,000 to be added to funds
10 available under subsection (a)(4) of that
11 section;

12 “(iv) \$1,245,000 to be added to funds
13 available under subsection (a)(5) of that
14 section; and

15 “(v) \$12,800,000 to be added to funds
16 available under subsection (b) of that sec-
17 tion; and

18 “(B) under section 14 of this Act, \$420,000,
19 to be added to funds available under subsection
20 (a)(1) of that section.

21 “(2) In fiscal year 2007, \$22,419,000 shall be
22 distributed—

23 “(A) under section 4 of this Act in the fol-
24 lowing manner:

1 “(i) \$8,075,000 to be added to funds
2 available under subsection (a)(2) of that
3 section;

4 “(ii) \$713,000 to be added to funds
5 available under subsection (a)(3) of that
6 section;

7 “(iii) \$713,000 to be added to funds
8 available under subsection (a)(4) of that
9 section;

10 “(iv) \$713,000 to be added to funds
11 available under subsection (a)(5) of that
12 section; and

13 “(v) \$11,925,000 to be added to funds
14 available under subsection (b) of this Act;
15 and

16 “(B) under section 14 of this Act, \$280,000
17 to be added to funds available under subsection
18 (a)(1) of that section.

19 “(3) In fiscal year 2008, \$17,139,000 shall be
20 distributed—

21 “(A) under section 4 of this Act in the fol-
22 lowing manner:

23 “(i) \$6,800,000 to be added to funds
24 available under subsection (a)(2) of that
25 section;

1 “(ii) \$333,000 to be added to funds
2 available under subsection (a)(3) of that
3 section;

4 “(iii) \$333,000 to be added to funds
5 available under subsection (a)(4) of that
6 section;

7 “(iv) \$333,000 to be added to funds
8 available under subsection (a)(5) of that
9 section; and

10 “(v) \$9,200,000 to be added to funds
11 available under subsection (b) of that sec-
12 tion; and

13 “(B) under section 14 of this Act, \$140,000,
14 to be added to funds available under subsection
15 (a)(1) of that section.

16 “(4) In fiscal year 2009, \$12,287,000 shall be
17 distributed—

18 “(A) under section 4 of this Act in the fol-
19 lowing manner:

20 “(i) \$5,100,000 to be added to funds
21 available under subsection (a)(2) of that
22 section;

23 “(ii) \$48,000 to be added to funds
24 available under subsection (a)(3) of that
25 section;

1 “(iii) \$48,000 to be added to funds
2 available under subsection (a)(4) of that
3 section;

4 “(iv) \$48,000 to be added to funds
5 available under subsection (a)(5) of that
6 section; and

7 “(v) \$6,900,000 to be added to funds
8 available under subsection (b) of that sec-
9 tion; and

10 “(B) under section 14 of this Act, \$143,000,
11 to be added to funds available under subsection
12 (a)(1) of that section.

13 “(5) In fiscal year 2010, all remaining funds in
14 the Account shall be distributed under section 4 of
15 this Act in the following manner:

16 “(A) one-third to be added to funds avail-
17 able under subsection (b); and

18 “(B) two-thirds to be added to funds avail-
19 able under subsection (h).”.

20 **CHAPTER 2—CLEAN VESSEL ACT**
21 **AMENDMENTS**

22 **SEC. 7531. GRANT PROGRAM.**

23 Section 5604(c)(2) of the Clean Vessel Act of 1992 (33
24 U.S.C. 1322 note) is amended—

25 (1) by striking subparagraph (A); and

1 (2) by redesignating subparagraphs (B) and (C)
2 as subparagraphs (A) and (B), respectively.

3 **CHAPTER 3—RECREATIONAL BOATING**
4 **SAFETY PROGRAM AMENDMENTS**

5 **SEC. 7551. STATE MATCHING FUNDS REQUIREMENT.**

6 Section 13103(b) of title 46, United States Code, is
7 amended by striking “one-half” and inserting “75 percent”.

8 **SEC. 7552. AVAILABILITY OF ALLOCATIONS.**

9 Section 13104(a) of title 46, United States Code, is
10 amended—

11 (1) by striking “2 years” in paragraph (1) and
12 inserting “3 years”; and

13 (2) by striking “2-year” in paragraph (2) and
14 inserting “3-year”.

15 **SEC. 7553. AUTHORIZATION OF APPROPRIATIONS FOR**
16 **STATE RECREATIONAL BOATING SAFETY PRO-**
17 **GRAMS.**

18 Section 13106 of title 46, United States Code, is
19 amended—

20 (1) by striking “section 4(b) of the Act of August
21 9, 1950 (16 U.S.C. 777c(b))” in subsection (a)(1) and
22 inserting “subsections (a)(2) and (f) of section 4 of
23 the Dingell-Johnson Sport Fish Restoration Act (16
24 U.S.C. 777c(a)(2) and (f))”;

1 (2) by striking “not less than one percent and”
2 in subsection (a)(2);

3 (3) in subsection (c)(1)—

4 (A) by striking “Secretary of Transpor-
5 tation under paragraph (5)(C) of section 4(b)”
6 and inserting “Secretary under subsection (a)(2)
7 of section 4”;

8 (B) by striking “(16 U.S.C. 777c(b))” and
9 inserting “(16 U.S.C. 777c(a)(2))”;

10 (C) by striking “\$3,333,336” and inserting
11 “not more than 5 percent”;

12 (D) by striking “\$1,333,336” and inserting
13 “not less than \$2,000,000”; and

14 (4) by striking “until expended.” in subsection
15 (c)(3) and inserting “during the 2 succeeding fiscal
16 years. Any amount that is unexpected or unobligated
17 at the end of the 3-year period during which it is
18 available shall be withdrawn by the Secretary and al-
19 located to the States in addition to any other
20 amounts available for allocation in the fiscal year in
21 which they are withdrawn or the following fiscal
22 year.”.

1 **SEC. 7554. MAINTENANCE OF EFFORT FOR STATE REC-**
2 **REATIONAL BOATING SAFETY PROGRAMS.**

3 (a) *IN GENERAL.*—Chapter 131 of title 46, United
4 States Code, is amended by inserting after section 13106
5 the following:

6 **“§ 13107. Maintenance of effort for State recreational**
7 **boating safety programs**

8 “(a) *IN GENERAL.*—The amount payable to a State
9 for a fiscal year from an allocation under section 13103
10 of this chapter shall be reduced if the usual amounts ex-
11 pended by the State for the State’s recreational boating safe-
12 ty program, as determined under section 13105 of this
13 chapter, for the previous fiscal year is less than the average
14 of the total of such expenditures for the 3 fiscal years imme-
15 diately preceding that previous fiscal year. The reduction
16 shall be proportionate, as a percentage, to the amount by
17 which the level of State expenditures for such previous fiscal
18 year is less than the average of the total of such expenditures
19 for the 3 fiscal years immediately preceding that previous
20 fiscal year.

21 “(b) *REDUCTION OF THRESHOLD.*—If the total
22 amount available for allocation and distribution under this
23 chapter in a fiscal year for all participating State rec-
24 reational boating safety programs is less than such amount
25 for the preceding fiscal year, the level of State expenditures

1 *required under subsection (a) of this section for the pre-*
 2 *ceding fiscal year shall be decreased proportionately.*

3 “(c) *WAIVER.*—

4 “(1) *IN GENERAL.*—*Upon the written request of*
 5 *a State, the Secretary may waive the provisions of*
 6 *subsection (a) of this section for 1 fiscal year if the*
 7 *Secretary determines that a reduction in expenditures*
 8 *for the State’s recreational boating safety program is*
 9 *attributable to a non-selective reduction in expendi-*
 10 *tures for the programs of all Executive branch agen-*
 11 *cies of the State government, or for other reasons if*
 12 *the State demonstrates to the Secretary’s satisfaction*
 13 *that such waiver is warranted.*

14 “(2) *30-DAY DECISION.*—*The Secretary shall ap-*
 15 *prove or deny a request for a waiver not later than*
 16 *30 days after the date the request is received.”.*

17 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 18 *for chapter 131 of title 46, United States Code, is amended*
 19 *by inserting after the item relating to section 13106 the fol-*
 20 *lowing:*

“13107. *Maintenance of effort for State recreational boating safety programs.”.*

21 ***Subtitle F—Miscellaneous***
 22 ***Provisions***

23 ***SEC. 7601. OFFICE OF INTERMODALISM.***

24 (a) *IN GENERAL.*—*Section 5503 is amended—*

1 (1) by inserting “Amounts reserved under section
2 5504(d) not awarded to States as grants may be used
3 by the Director to provide technical assistance under
4 this subsection.” after “organizations.” in subsection
5 (e);

6 (2) by redesignating subsection (f) as subsection
7 (h), and inserting after subsection (e) the following:

8 “(f) National Intermodal System Improvement Plan—

9 “(1) IN GENERAL.—The Director, in consultation
10 with the advisory board established under section
11 5502 of this title and other public and private trans-
12 portation interests, shall develop a plan to improve
13 the national intermodal transportation system. The
14 plan shall include—

15 “(A) an assessment and forecast of the na-
16 tional intermodal transportation system’s im-
17 pact on mobility, safety, energy consumption, the
18 environment, technology, international trade,
19 economic activity, and quality of life in the
20 United States;

21 “(B) an assessment of the operational and
22 economic attributes of each passenger and freight
23 mode of transportation and the optimal role of
24 each mode in the national intermodal transpor-
25 tation system;

1 “(C) a description of recommended inter-
2 modal and multi-modal research and develop-
3 ment projects;

4 “(D) a description of emerging trends that
5 have an impact on the national intermodal
6 transportation system;

7 “(E) recommendations for improving inter-
8 modal policy, transportation decisionmaking,
9 and financing to maximize mobility and the re-
10 turn on investment of Federal spending on
11 transportation;

12 “(F) an estimate of the impact of current
13 Federal and State transportation policy on the
14 national intermodal transportation system; and

15 “(G) specific near and long-term goals for
16 the national intermodal transportation system.

17 “(2) *PROGRESS REPORTS.*—The Director shall
18 submit an initial report on the plan to improve the
19 national intermodal transportation system 2 years
20 after the date of enactment of the Surface Transpor-
21 tation Safety Improvement Act of 2005, and a follow-
22 up report 2 years after that, to the Senate Committee
23 on Commerce, Science, and Transportation and the
24 House of Representatives Committee on Transpor-
25 tation and Infrastructure. The progress report shall—

1 “(A) describe progress made toward achiev-
2 ing the plan’s goals;

3 “(B) describe challenges and obstacles to
4 achieving the plan’s goals;

5 “(C) update the plan to reflect changed cir-
6 cumstances or new developments; and

7 “(D) make policy and legislative rec-
8 ommendations the Director believes are necessary
9 and appropriate to achieve the goals of the plan.

10 “(3) *PLAN DEVELOPMENT FUNDING.*—Such sums
11 as may be necessary from the administrative expenses
12 of the Research and Innovative Technology Adminis-
13 tration shall be reserved each year for the purpose of
14 completing and updating the plan to improve the na-
15 tional intermodal transportation plan.

16 “(g) *IMPACT MEASUREMENT METHODOLOGY; IMPACT*
17 *REVIEW.*—The Director and the Director of the Bureau of
18 Transportation Statistics shall jointly—

19 “(1) develop, in consultation with the modal ad-
20 ministrations, and State and local planning organi-
21 zations, common measures to compare transportation
22 investment decisions across the various modes of
23 transportation; and

24 “(2) formulate a methodology for measuring the
25 impact of intermodal transportation on—

- 1 “(A) *the environment;*
- 2 “(B) *public health and welfare;*
- 3 “(C) *energy consumption;*
- 4 “(D) *the operation and efficiency of the*
5 *transportation system;*
- 6 “(E) *congestion, including congestion at the*
7 *Nation’s ports; and*
- 8 “(F) *the economy and employment.*”.

9 **SEC. 7602. CAPITAL GRANTS FOR RAIL LINE RELOCATION**
10 **PROJECTS.**

11 (a) *ESTABLISHMENT OF PROGRAM.*—

12 (1) *PROGRAM REQUIREMENTS.*—Chapter 201 of
13 *title 49, United States Code, is amended by adding*
14 *at the end of subchapter II the following:*

15 **“§20154. Capital grants for rail line relocation**
16 **projects**

17 “(a) *ESTABLISHMENT OF PROGRAM.*—The Secretary
18 *of Transportation shall carry out a grant program to pro-*
19 *vide financial assistance for local rail line relocation*
20 *projects.*

21 “(b) *ELIGIBILITY.*—A State is eligible for a grant
22 *under this section for any construction project for the im-*
23 *provement of the route or structure of a rail line passing*
24 *through a municipality of the State that—*

25 “(1) *either—*

1 “(A) is carried out for the purpose of miti-
2 gating the adverse effects of rail traffic on safety,
3 motor vehicle traffic flow, community quality of
4 life, or economic development in the munici-
5 pality; or

6 “(B) involves a lateral or vertical relocation
7 of any portion of the rail line within the munici-
8 pality to avoid a closing of a grade crossing or
9 the construction of a road underpass or overpass;
10 and

11 “(2) meets the costs-benefits requirement set forth
12 in subsection (c).

13 “(c) *COSTS-BENEFITS REQUIREMENT.*—A grant may
14 be awarded under this section for a project for the relocation
15 of a rail line only if the benefits of the project for the period
16 equal to the estimated economic life of the relocated rail line
17 exceed the costs of the project for that period, as determined
18 by the Secretary considering the following factors:

19 “(1) The effects of the rail line and the rail traf-
20 fic on motor vehicle and pedestrian traffic, safety,
21 community quality of life, and area commerce if the
22 rail line were not so relocated.

23 “(2) The effects of the rail line, relocated as pro-
24 posed, on motor vehicle and pedestrian traffic, safety,
25 community quality of life, and area commerce.

1 “(3) *The effects of the rail line, relocated as pro-*
2 *posed, on the freight and passenger rail operations on*
3 *the rail line.*

4 “(d) *CONSIDERATIONS FOR APPROVAL OF GRANT AP-*
5 *PLICATIONS.—In addition to considering the relationship*
6 *of benefits to costs in determining whether to award a grant*
7 *to an eligible State under this section, the Secretary shall*
8 *consider the following factors:*

9 “(1) *The capability of the State to fund the rail*
10 *line relocation project without Federal grant funding.*

11 “(2) *The requirement and limitation relating to*
12 *allocation of grant funds provided in subsection (e).*

13 “(3) *Equitable treatment of the various regions*
14 *of the United States.*

15 “(e) *ALLOCATION REQUIREMENTS.—*

16 “(1) *GRANTS NOT GREATER THAN \$20,000,000.—*
17 *At least 50 percent of all grant funds awarded under*
18 *this section out of funds appropriated for a fiscal*
19 *year shall be provided as grant awards of not more*
20 *than \$20,000,000 each.*

21 “(2) *LIMITATION PER PROJECT.—Not more than*
22 *25 percent of the total amount available for carrying*
23 *out this section for a fiscal year may be provided for*
24 *any 1 project in that fiscal year.*

1 “(f) *FEDERAL SHARE.*—*The total amount of a grant*
2 *awarded under this section for a rail line relocation project*
3 *shall be equal to a percentage of the shared costs of the*
4 *project, as determined under subsection (g)(4).*

5 “(g) *NON-FEDERAL SHARE.*—

6 “(1) *PERCENTAGE.*—*A State or other non-Fed-*
7 *eral entity shall pay at least 10 percent of the shared*
8 *costs of a project that is funded in part by a grant*
9 *awarded under this section.*

10 “(2) *FORMS OF CONTRIBUTIONS.*—*The share re-*
11 *quired by paragraph (1) may be paid in cash or in*
12 *kind.*

13 “(3) *IN-KIND CONTRIBUTIONS.*—*The in-kind con-*
14 *tributions that are permitted to be counted under*
15 *paragraph (2) for a project for a State or other non-*
16 *Federal entity are as follows:*

17 “(A) *A contribution of real property or tan-*
18 *gible personal property (whether provided by the*
19 *State or a person for the State).*

20 “(B) *A contribution of the services of em-*
21 *ployees of the State or other non-Federal entity,*
22 *calculated on the basis of costs incurred by the*
23 *State or other non-Federal entity for the pay*
24 *and benefits of the employees, but excluding over-*
25 *head and general administrative costs.*

1 “(C) A payment of any costs that were in-
2 curred for the project before the filing of an ap-
3 plication for a grant for the project under this
4 section, and any in-kind contributions that were
5 made for the project before the filing of the appli-
6 cation, if and to the extent that the costs were in-
7 curred or in-kind contributions were made, as
8 the case may be, to comply with a provision of
9 a statute required to be satisfied in order to
10 carry out the project.

11 “(4) FEDERAL PERCENTAGE; COSTS NOT
12 SHARED.—

13 “(A) IN GENERAL.—The Secretary shall de-
14 termine the percentage of the shared costs of a
15 project eligible for a grant under this section,
16 which may not exceed 90 percent of those costs,
17 after considering—

18 “(i) the level of participation by the
19 State, local government, and private sector
20 participation in the project; and

21 “(ii) the relative public and private
22 benefits excepted to be derived from the
23 project.

24 “(B) COSTS NOT SHARED.—For the pur-
25 poses of subsection (f) and this subsection, the

1 *shared costs of a project in a municipality do*
2 *not include any cost that is defrayed with any*
3 *funds or in-kind contribution that a source other*
4 *than the municipality makes available for the*
5 *use of the municipality without imposing at*
6 *least 1 of the following conditions:*

7 “(i) *The condition that the munici-*
8 *pality use the funds or contribution only for*
9 *the project.*

10 “(ii) *The condition that the avail-*
11 *ability of the funds or contribution to the*
12 *municipality is contingent on the execution*
13 *of the project.*

14 “(C) *DETERMINATIONS OF THE SEC-*
15 *RETARY.—The Secretary shall determine the*
16 *amount of the costs, if any, that are not shared*
17 *costs under this paragraph and the total amount*
18 *of the shared costs. A determination of the Sec-*
19 *retary shall be final.*

20 “(h) *MULTISTATE AGREEMENTS TO COMBINE*
21 *AMOUNTS.—Two or more States (not including polit-*
22 *ical subdivisions of States) may, pursuant to an*
23 *agreement entered into by the States, combine any*
24 *part of the amounts provided through grants for a*
25 *project under this section if—*

1 “(1) *the project will benefit each of the*
2 *States entering into the agreement; and*

3 “(2) *the agreement is not a violation of a*
4 *law of any such State.*

5 “(i) *REGULATIONS.—The Secretary shall prescribe*
6 *regulations for carrying out this section.*

7 “(j) *DEFINITIONS.—In this section:*

8 “(1) *CONSTRUCTION.—The term ‘construction’*
9 *means the supervising, inspecting, actual building,*
10 *and incurrence of all costs incidental to the construc-*
11 *tion or reconstruction of a project described under*
12 *subsection (b)(1) or (2) of this section, including bond*
13 *costs and other costs relating to the issuance of bonds*
14 *or other debt financing instruments and costs in-*
15 *curring by the State in performing project related au-*
16 *ditions, and includes—*

17 “(A) *locating, surveying, and mapping;*

18 “(B) *track installment, restoration and re-*
19 *habilitation;*

20 “(C) *acquisition of rights-of-way;*

21 “(D) *relocation assistance, acquisition of re-*
22 *placement housing sites, and acquisition and re-*
23 *habilitation, relocation, and construction of re-*
24 *placement housing;*

25 “(E) *elimination of obstacles; and*

1 “(G) and other activities defined by the Sec-
2 retary.

3 “(2) STATE.—The term ‘State’ includes, except
4 as otherwise specifically provided, a political subdivi-
5 sion of a State.

6 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Secretary for use
8 in carrying out this section \$350,000,000 for each of the
9 fiscal years 2006 through 2009.”.

10 (2) CLERICAL AMENDMENT.—The chapter anal-
11 ysis for such chapter is amended by adding at the end
12 the following:

“20154. Capital grants for rail line relocation projects.”.

13 (b) REGULATIONS.—

14 (1) INTERIM REGULATIONS.—Not later than
15 April 1, 2006, the Secretary of Transportation shall
16 issue temporary regulations to implement the grant
17 program under section 20154 of title 49, United
18 States Code, as added by subsection (a). Subchapter
19 II of chapter 5 of title 5, United States Code, shall
20 not apply to the issuance of a temporary regulation
21 under this subsection or of any amendment of such a
22 temporary regulation.

23 (2) FINAL REGULATIONS.—Not later than Octo-
24 ber 1, 2006, the Secretary shall issue final regulations
25 implementing the program.

1 **SEC. 7603. REHABILITATION AND IMPROVEMENT FINANC-**
2 **ING.**

3 (a) *DEFINITIONS.*—Section 102(7) of the Railroad Re-
4 vitalization and Regulatory Reform Act of 1976 (45 U.S.C.
5 802(7)) is amended to read as follows:

6 “(7) ‘railroad’ has the meaning given that term
7 in section 20102 of title 49, United States Code;
8 and”.

9 (b) *GENERAL AUTHORITY.*—Section 502(a) of the
10 Railroad Revitalization and Regulatory Reform Act of
11 1976 (45 U.S.C. 822(a)) is amended by striking “Secretary
12 may provide direct loans and loan guarantees to State and
13 local governments,” and inserting “Secretary shall provide
14 direct loans and loan guarantees to State and local govern-
15 ments, agreements or interstate compacts consented to by
16 Congress under section 410(a) of Public Law 105–134 (49
17 U.S.C. 24101 nt),”.

18 (c) *PRIORITY PROJECTS.*—Section 502(c) of the Rail-
19 road Revitalization and Regulatory Reform Act of 1976 (45
20 U.S.C. 822(c)) is amended—

21 (1) by striking “or” after the semicolon in sub-
22 section (5);

23 (2) by striking “areas.” in subsection (6) and in-
24 serting “areas; or”; and

25 (3) by adding at the end the following:

1 “(7) enhance service and capacity in the na-
2 tional rail system.”.

3 (d) *EXTENT OF AUTHORITY*.—Section 502(d) of the
4 *Railroad Revitalization and Regulatory Reform Act of*
5 *1976 (45 U.S.C. 822(d)) is amended—*

6 (1) *by striking “\$3,500,000,000” and inserting*
7 *“\$6,000,000,000”;*

8 (2) *by striking “\$1,000,000,000” and inserting*
9 *“\$3,000,000,000”; and*

10 (3) *by adding at the end “The Secretary shall*
11 *not establish any limit on the proportion of the un-*
12 *used amount authorized under this subsection that*
13 *may be used for 1 loan or loan guarantee.”.*

14 (e) *COHORTS OF LOANS*.—Section 502(f) of the *Rail-*
15 *road Revitalization and Regulatory Reform Act of 1976 (45*
16 *U.S.C. 822(f)) is amended—*

17 (1) *by striking “and” after the semicolon in sub-*
18 *paragraph (D) of paragraph (1);*

19 (2) *by redesignating subparagraph (E) of para-*
20 *graph (1) as subparagraph (F);*

21 (3) *by inserting adding after subparagraph (D)*
22 *of paragraph (1) the following:*

23 “(E) *the size and characteristics of the cohort of*
24 *which the loan or loan guarantee is a member; and”;*
25 *and*

1 (4) by adding at the end of paragraph (4) “A co-
2 hort may include loans and loan guarantees. The Sec-
3 retary shall not establish any limit on the proportion
4 of a cohort that may be used for 1 loan or loan guar-
5 antee.”.

6 (f) *CONDITIONS OF ASSISTANCE.*—

7 (1) *ASSURANCES.*—Section 502(h) of the Rail-
8 road Revitalization and Regulatory Reform Act of
9 1976 (45 U.S.C. 822) is amended—

10 (A) by inserting “(1)” before “The Sec-
11 retary”;

12 (B) by redesignating paragraphs (1), (2),
13 and (3) as subparagraphs (A), (B), and (C); and

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

15 “(2) The Secretary shall not require an applicant for
16 a direct loan or loan guarantee under this section to provide
17 collateral. Any collateral provided or thereafter enhanced
18 shall be valued as a going concern after giving effect to the
19 present value of improvements contemplated by the comple-
20 tion and operation of the project. The Secretary shall not
21 require that an applicant for a direct loan or loan guar-
22 antee under this section have previously sought the finan-
23 cial assistance requested from another source.

1 “(3) *The Secretary shall require recipients of di-*
2 *rect loans or loan guarantees under this section to*
3 *comply with—*

4 “(A) *the standards of section 24312 of title*
5 *49, United States Code, as in effect on September*
6 *1, 2002, with respect to the project in the same*
7 *manner that the National Railroad Passenger*
8 *Corporation is required to comply with such*
9 *standards for construction work financed under*
10 *an agreement made under section 24308(a) of*
11 *that title, and*

12 “(B) *the protective arrangements established*
13 *under section 504 of this Act,*
14 *with respect to employees affected by actions taken in*
15 *connection with the project to be financed by the loan*
16 *or loan guarantee.”.*

17 (2) *TECHNICAL CORRECTION.—Section 502 of the*
18 *Railroad Revitalization and Regulatory Reform Act*
19 *of 1976 (45 U.S.C. 822) is amended by striking “of-*
20 *fered;” in subsection (f)(2)(A) and inserting “offered,*
21 *if any;”.*

22 (g) *TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—*
23 *Section 502 of the Railroad Revitalization and Regulatory*
24 *Reform Act of 1976 (45 U.S.C. 822) is amended by adding*
25 *at the end the following:*

1 “(i) *TIME LIMIT FOR APPROVAL OR DISAPPROVAL.*—
2 *Not later than 90 days after receiving a complete applica-*
3 *tion for a direct loan or loan guarantee under this section,*
4 *the Secretary shall approve or disapprove the application.*

5 “(j) *CONSTRUCTION PROJECTS.*—

6 “(1) *IN GENERAL.*—*For loans involving con-*
7 *struction projects that require more than one year to*
8 *complete, the Secretary shall establish a repayment*
9 *schedule requiring payments to commence not later*
10 *than the sixth anniversary date of the original loan*
11 *issuance.*

12 “(2) *ADDITIONS.*—*The Secretary shall add to the*
13 *outstanding balance of the loan on the first anniver-*
14 *sary date of the original loan issuance on which pay-*
15 *ments are made, the product of (A) the loan prin-*
16 *cipal, (B) the annual rate of interest on the loan, and*
17 *(C) the number of years payments were deferred*
18 *under the repayment schedule.”.*

19 “(h) *INTEREST RATE.*—*Paragraph (1) of section 822(e)*
20 *the Railroad Revitalization and Regulatory Reform Act of*
21 *1976 (45 U.S.C. 822(e)) is amended to read as follows:*

22 “(1) *DIRECT LOANS.*—*For Class III railroads,*
23 *as defined by the Surface Transportation Board, the*
24 *Secretary shall require interest to be paid on a direct*
25 *loan made under this section at a rate not more than*

1 3 percentage points below the yield on marketable
2 United States Treasury securities of a maturity simi-
3 lar to the maturity of the loan on the date on which
4 the loan agreement was executed.”.

5 (i) *FEES AND CHARGES.*—Section 503 of the Railroad
6 Revitalization and Regulatory Reform Act of 1976 (45
7 U.S.C. 823) is amended by adding at the end the following
8 new subsection:

9 “(l) *FEES AND CHARGES.*—Except as provided in this
10 title, the Secretary may not assess any fees, including user
11 fees, or charges in connection with a direct loan or loan
12 guarantee provided under section 502.”.

13 (j) *SUBSTANTIVE CRITERIA AND STANDARDS.*—Not
14 later than 30 days after the date of the enactment of this
15 Act, the Secretary of Transportation shall publish in the
16 Federal Register and post on the Department of Transpor-
17 tation website the substantive criteria and standards used
18 by the Secretary to determine whether to approve or dis-
19 approve applications submitted under section 502 of the
20 Railroad Revitalization and Regulatory Reform Act of
21 1976 (45 U.S.C. 822). The Secretary of Transportation
22 shall ensure adequate procedures and guidelines are in
23 place to permit the filing of complete applications within
24 30 days of such publication.

1 **SEC. 7604. REPORT REGARDING IMPACT ON PUBLIC SAFETY**
2 **OF TRAIN TRAVEL IN COMMUNITIES WITH-**
3 **OUT GRADE SEPARATION.**

4 (a) *STUDY.*—*The Secretary of Transportation shall, in*
5 *consultation with State and local government officials, con-*
6 *duct a study of the impact of blocked highway-railroad*
7 *grade crossings on the ability of emergency responders to*
8 *perform public safety and security duties.*

9 (b) *REPORT ON THE IMPACT OF BLOCKED HIGHWAY-*
10 *RAILROAD GRADE CROSSINGS ON EMERGENCY RESPOND-*
11 *ERS.*—*Not later than 1 year after the date of enactment*
12 *of this Act, the Secretary shall submit the results of the*
13 *study and recommendations for reducing the impact of*
14 *blocked crossings on emergency response to the Senate Com-*
15 *mittee on Commerce, Science, and Transportation and the*
16 *House of Representatives Committee on Transportation and*
17 *Infrastructure.*

18 **SEC. 7605. FIRST RESPONDER VEHICLE SAFETY PROGRAM.**

19 (a) *IN GENERAL.*—*Not later than 1 year after the date*
20 *of enactment of this Act, the Secretary of Transportation,*
21 *in consultation with the Administrator of the National*
22 *Highway Traffic Safety Administration, shall—*

23 (1) *develop and implement a comprehensive pro-*
24 *gram to promote compliance with State and local*
25 *laws intended to increase the safe and efficient oper-*
26 *ation of first responder vehicles;*

1 (2) *compile a list of best practices by State and*
2 *local governments to promote compliance with the*
3 *laws described in paragraph (1);*

4 (3) *analyze State and local laws intended to in-*
5 *crease the safe and efficient operation of first re-*
6 *sponder vehicles; and*

7 (4) *develop model legislation to increase the safe*
8 *and efficient operation of first responder vehicles.*

9 (b) *PARTNERSHIPS.—The Secretary may enter into*
10 *partnerships with qualified organizations to carry out this*
11 *section.*

12 (c) *PUBLIC OUTREACH.—The Secretary shall use a va-*
13 *riety of public outreach strategies to carry out this section,*
14 *including public service announcements, publication of in-*
15 *formational materials, and posting information on the*
16 *Internet.*

17 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
18 *authorized to be appropriated to the Secretary such sums*
19 *as may be necessary for fiscal year 2006 to carry out this*
20 *section.*

1 **SEC. 7606. FEDERAL SCHOOL BUS DRIVER QUALIFICA-**
2 **TIONS.**

3 *The effective date of section 383.123 of volume 49, Code*
4 *of Federal Regulations (as in effect on the date of enactment*
5 *of this Act), shall be September 30, 2006.*

Attest:

Secretary.

109TH CONGRESS
1ST SESSION

H. R. 3

AMENDMENT