

109TH CONGRESS
1ST SESSION

H. R. 3

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2005

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, Mr. DEFazio, Mr. BOEHLERT, Mr. RAHALL, Mr. COBLE, Mr. COSTELLO, Mr. DUNCAN, Ms. NORTON, Mr. GILCHREST, Mr. NADLER, Mr. MICA, Mr. MENENDEZ, Mr. HOEKSTRA, Ms. CORRINE BROWN of Florida, Mr. EHLERS, Mr. FILLNER, Mr. BACHUS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LATOURETTE, Mr. TAYLOR of Mississippi, Mrs. KELLY, Ms. MILLENDER-McDONALD, Mr. BAKER, Mr. CUMMINGS, Mr. NEY, Mr. BLUMENAUER, Mr. LOBIONDO, Mrs. TAUSCHER, Mr. MORAN of Kansas, Mr. PASCHELL, Mr. GARY G. MILLER of California, Mr. BOSWELL, Mr. HAYES, Mr. HOLDEN, Mr. SIMMONS, Mr. BAIRD, Mr. BROWN of South Carolina, Ms. BERKLEY, Mr. JOHNSON of Illinois, Mr. MATHESON, Mr. PLATTS, Mr. HONDA, Mr. GRAVES, Mr. LARSEN of Washington, Mr. KENNEDY of Minnesota, Mr. CAPUANO, Mr. SHUSTER, Mr. WEINER, Mr. BOOZMAN, Ms. CARSON, Mr. PEARCE, Mr. BISHOP of New York, Mr. GERLACH, Mr. MICHAUD, Mr. MARIO DIAZ-BALART of Florida, Mr. DAVIS of Tennessee, Mr. PORTER, Mr. CHANDLER, Mr. OSBORNE, Mr. HIGGINS, Mr. MARCHANT, Mr. CARNAHAN, Mr. SODREL, Ms. SCHWARTZ of Pennsylvania, Mr. DENT, Mr. SALAZAR, Mr. POE, Mr. REICHERT, Mr. MACK, Mr. KUHLE of New York, Mr. FORTUÑO, Mr. WESTMORELAND, and Mr. BOUSTANY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Transportation Equity Act: A Legacy for Users”.

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

Sec. 1. Short title, table of contents.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization of programs

- Sec. 1101. Authorizations of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Apportionments.
- Sec. 1104. Minimum guarantee.
- Sec. 1105. Project approval and oversight.
- Sec. 1106. Temporary traffic control devices.
- Sec. 1107. Revenue aligned budget authority.
- Sec. 1108. Emergency relief.
- Sec. 1109. Surface transportation program.
- Sec. 1110. Highway use tax evasion projects.
- Sec. 1111. Appalachian development highway system.
- Sec. 1112. Construction of ferry boats and ferry terminal facilities.
- Sec. 1113. Interstate maintenance discretionary.
- Sec. 1114. Highway bridge.
- Sec. 1115. Transportation and community and system preservation program.
- Sec. 1116. Deployment of magnetic levitation transportation projects.
- Sec. 1117. Recreational trails.
- Sec. 1118. Federal lands highways.
- Sec. 1119. Conservation measures.
- Sec. 1120. Pedestrian and cyclist equity.
- Sec. 1121. National commissions.
- Sec. 1122. Adjustments for the Surface Transportation Extension Act of 2004,
Part V.
- Sec. 1123. Roadway safety.
- Sec. 1124. Equity requirement.

Subtitle B—Congestion Relief

- Sec. 1201. Motor vehicle congestion relief.
- Sec. 1202. Transportation systems management and operations.
- Sec. 1203. Real-time system management information program.
- Sec. 1204. Expedited national intelligent transportation systems deployment
program.
- Sec. 1205. Intelligent transportation systems deployment.

- Sec. 1206. Environmental review of activities that support deployment of intelligent transportation systems.
- Sec. 1207. State assumption of responsibilities for certain programs and projects.
- Sec. 1208. HOV facilities.
- Sec. 1209. Congestion pricing pilot program.
- Sec. 1210. Congestion mitigation and air quality improvement program eligibility.
- Sec. 1211. Special rules for State assumption of responsibilities.

Subtitle C—Mobility and Efficiency

- Sec. 1301. National corridor infrastructure improvement program.
- Sec. 1302. Coordinated border infrastructure program.
- Sec. 1303. Freight intermodal connectors.
- Sec. 1304. Projects of national and regional significance.
- Sec. 1305. Dedicated truck lanes.
- Sec. 1306. Truck parking facilities.

Subtitle D—Highway Safety

- Sec. 1401. Highway safety improvement program.
- Sec. 1402. Worker injury prevention and free flow of vehicular traffic.
- Sec. 1403. High risk rural road safety improvement program.
- Sec. 1404. Transfers of apportionments to safety programs.
- Sec. 1405. Safety incentive grants for use of seat belts.
- Sec. 1406. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
- Sec. 1407. Repeat offenders for driving while intoxicated.
- Sec. 1408. Repair or replacement of highway features on National Highway System.

Subtitle E—Construction and Contract Efficiencies

- Sec. 1501. Design–build.
- Sec. 1502. Warranty highway construction project pilot program.
- Sec. 1503. Private investment study.
- Sec. 1504. Highways for LIFE pilot program.

Subtitle F—Finance

- Sec. 1601. Transportation Infrastructure Finance and Innovation Act.
- Sec. 1602. State infrastructure banks.
- Sec. 1603. Interstate System reconstruction and rehabilitation toll pilot program.
- Sec. 1604. Interstate System construction toll pilot program.
- Sec. 1605. Use of excess funds.
- Sec. 1606. Special rules relating to State infrastructure bank program.

Subtitle G—High Priority Projects

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

Subtitle H—Miscellaneous provisions

- Sec. 1801. Budget justification.
- Sec. 1802. Motorist information.

- Sec. 1803. Motorist information concerning full-service restaurants.
- Sec. 1804. High priority corridors on the National Highway System.
- Sec. 1805. Additions to Appalachian region.
- Sec. 1806. Transportation assets and needs of Delta region.
- Sec. 1807. Toll facilities workplace safety study.
- Sec. 1808. Pavement marking systems demonstration projects.
- Sec. 1809. Work zone safety grants.
- Sec. 1810. Grant program to prohibit racial profiling.
- Sec. 1811. America's Byways Resource Center.
- Sec. 1812. Technical adjustment.
- Sec. 1813. Road user charge evaluation pilot project.
- Sec. 1814. Thomas P. "Tip" O'Neill, Jr. Tunnel.
- Sec. 1815. Conforming amendment for transportation planning sections.
- Sec. 1816. Distribution of metropolitan planning funds within States.
- Sec. 1817. Treatment of off ramp.
- Sec. 1818. Loan forgiveness.
- Sec. 1819. Lead agency designation.
- Sec. 1820. Use of debris from demolished bridges and overpasses.
- Sec. 1821. Hubzone program.
- Sec. 1822. Technical amendments to TEA 21 projects.
- Sec. 1823. National Work Zone Safety Information Clearinghouse.
- Sec. 1824. Transportation conformity.
- Sec. 1825. Eligibility to participate in western Alaska community development quota program.
- Sec. 1826. Metropolitan regional freight and passenger transportation study.
- Sec. 1827. Intermodal transportation facility expansion.
- Sec. 1828. Advanced truck stop electrification system.
- Sec. 1829. Technology.
- Sec. 1830. Extension of public transit vehicle exemption from axle weight restrictions.
- Sec. 1831. Motorecyclist Advisory Council.
- Sec. 1832. Sharing of monetary recoveries.
- Sec. 1833. Eligibility under CMAQ.
- Sec. 1834. Special rule for fiscal year 2004.

TITLE II—HIGHWAY SAFETY

- Sec. 2001. Authorization of appropriations.
- Sec. 2002. Occupant protection incentive grants.
- Sec. 2003. Alcohol-impaired driving countermeasures.
- Sec. 2004. State traffic safety information system improvements.
- Sec. 2005. High visibility enforcement program.
- Sec. 2006. Motoreycle crash causation study.
- Sec. 2007. Child safety and child booster seat incentive grants.
- Sec. 2008. Motorecyclist safety.
- Sec. 2009. Driver fatigue.
- Sec. 2010. Authorization of appropriations for highway safety research and development.
- Sec. 2011. Safety data.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

- Sec. 3001. Short title; amendments to title 49, United States Code.
- Sec. 3002. Policies, findings, and purposes.
- Sec. 3003. Definitions.
- Sec. 3004. Metropolitan planning.

- Sec. 3005. Statewide planning.
- Sec. 3006. Planning programs.
- Sec. 3007. Private enterprise participation.
- Sec. 3008. Urbanized area formula grants.
- Sec. 3009. Clean fuels formula grant program.
- Sec. 3010. Capital investment grants.
- Sec. 3011. Formula grants for special needs of elderly individuals and individuals with disabilities.
- Sec. 3012. Formula grants for other than urbanized areas.
- Sec. 3013. Research, development, demonstration, and deployment projects.
- Sec. 3014. Cooperative research program.
- Sec. 3015. National research and technology programs.
- Sec. 3016. National Transit Institute.
- Sec. 3017. Job access and reverse commute formula grants.
- Sec. 3018. New Freedom program.
- Sec. 3019. Bus testing facility.
- Sec. 3020. Bicycle facilities.
- Sec. 3021. Transit in the parks pilot program.
- Sec. 3022. Human resource programs.
- Sec. 3023. General provisions on assistance.
- Sec. 3024. Special provisions for capital projects.
- Sec. 3025. Contract requirements.
- Sec. 3026. Project management oversight and review.
- Sec. 3027. Investigations of safety and hazards.
- Sec. 3028. State safety oversight.
- Sec. 3029. Controlled substances and alcohol misuse testing.
- Sec. 3030. Employee protective arrangements.
- Sec. 3031. Administrative procedures.
- Sec. 3032. National transit database.
- Sec. 3033. Apportionments based on fixed guideway factors.
- Sec. 3034. Authorizations.
- Sec. 3035. Over-the-road bus accessibility program.
- Sec. 3036. Updated terminology.
- Sec. 3037. Project authorizations for new fixed guideway capital projects.
- Sec. 3038. Projects for bus and bus-related facilities.
- Sec. 3039. National fuel cell bus technology development program.
- Sec. 3040. High-intensity small-urbanized area formula grant program.
- Sec. 3041. Allocations for national research and technology programs.
- Sec. 3042. Relationship to other laws.
- Sec. 3043. Cooperative procurement.
- Sec. 3044. Obligation ceiling.
- Sec. 3045. Adjustments for the Surface Transportation Extension Act of 2004, Part V.
- Sec. 3046. Special rule for fiscal year 2004.

TITLE IV—MOTOR CARRIER TRANSPORTATION AND SAFETY

Subtitle A—Commercial Motor Vehicle Safety

- Sec. 4101. Authorization of appropriations.
- Sec. 4102. Motor carrier safety grants.
- Sec. 4103. Border enforcement grants.
- Sec. 4104. Commercial driver's license improvements.
- Sec. 4105. Hobbs Act.
- Sec. 4106. Penalty for denial of access to records.
- Sec. 4107. Medical Review Board.

- Sec. 4108. Increased penalties for out-of-service violations and false records.
- Sec. 4109. Commercial vehicle information systems and networks deployment.
- Sec. 4110. Safety fitness.
- Sec. 4111. Pattern of safety violations by motor carrier or broker management.
- Sec. 4112. Motor carrier research and technology program.
- Sec. 4113. International cooperation.
- Sec. 4114. Performance and registration information System management.
- Sec. 4115. Data quality improvement.
- Sec. 4116. Driveaway saddlemount vehicles.
- Sec. 4117. Completion of uniform carrier registration.
- Sec. 4118. Registration of motor carriers and freight forwarders.
- Sec. 4119. Deposit of certain civil Penalties into Highway Trust Fund.
- Sec. 4120. Outreach and education.
- Sec. 4121. Insulin treated diabetes mellitus.
- Sec. 4122. Grant program for commercial motor vehicle operators.
- Sec. 4123. Commercial motor vehicle safety advisory committee.
- Sec. 4124. Safety data improvement program.
- Sec. 4125. Commercial driver's license information System modernization.
- Sec. 4126. Maximum hours of service for operators of ground water well drilling rigs.
- Sec. 4127. Safety performance history screening.
- Sec. 4128. Intermodal chassis roadability rule-making.
- Sec. 4129. Substance abuse professionals.
- Sec. 4130. Interstate van operations.
- Sec. 4131. Hours of service for operators of utility service vehicles.
- Sec. 4132. Technical corrections.
- Sec. 4133. Special rule for fiscal year 2004.

Subtitle B—Household Goods Transportation

- Sec. 4201. Federal-State relations relating to transportation of household goods.
- Sec. 4202. Arbitration requirements.
- Sec. 4203. Civil Penalties relating to household goods brokers and unauthorized transportation.
- Sec. 4204. Civil penalty for holding household goods hostage.
- Sec. 4205. Working group for development of practices and procedures to enhance Federal-State relations.
- Sec. 4206. Consumer handbook on DOT web site.
- Sec. 4207. Release of household goods broker information.
- Sec. 4208. Consumer complaint information.
- Sec. 4209. Insurance regulations.
- Sec. 4210. Estimating requirements.
- Sec. 4211. Application of State consumer protection laws to certain household goods carriers.
- Sec. 4212. Applicability to household goods motor carriers.
- Sec. 4213. Violations of Out-of-Service Orders.
- Sec. 4214. Criminal penalty for holding goods hostage.

TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

Subtitle A—Funding

- Sec. 5101. Authorization of appropriations.
- Sec. 5102. Obligation ceiling.
- Sec. 5103. Findings.

Subtitle B—Research, Technology, and Education

- Sec. 5201. Research, technology, and education.
- Sec. 5202. Long-term bridge performance program; innovative bridge research and deployment program.
- Sec. 5203. Surface transportation environment and planning cooperative research program.
- Sec. 5204. Technology deployment.
- Sec. 5205. Training and education.
- Sec. 5206. Freight planning capacity building.
- Sec. 5207. Advanced travel forecasting procedures program.
- Sec. 5208. National cooperative freight transportation research program.
- Sec. 5209. Future strategic highway research program.
- Sec. 5210. Transportation safety information management system project.
- Sec. 5211. Surface transportation congestion relief solutions research initiative.
- Sec. 5212. Motor carrier efficiency study.
- Sec. 5213. Transportation research and development strategic planning.
- Sec. 5214. Limitation on remedies for future strategic highway research program.

Subtitle C—University Transportation Research; Scholarship Opportunities

- Sec. 5301. National university transportation centers.
- Sec. 5302. University transportation research.
- Sec. 5303. Transportation scholarship opportunities program.

Subtitle D—Advanced Technologies

- Sec. 5401. Advanced heavy-duty vehicle technologies research program.
- Sec. 5402. Commercial remote sensing products and spatial information technologies.

Subtitle E—Transportation Data and Analysis

- Sec. 5501. Bureau of Transportation Statistics.
- Sec. 5502. Reports of Bureau of Transportation Statistics.

Subtitle F—Intelligent Transportation Systems Research

- Sec. 5601. Short title.
- Sec. 5602. Goals and purposes.
- Sec. 5603. General authorities and requirements.
- Sec. 5604. National architecture and Standards.
- Sec. 5605. Research and development.
- Sec. 5606. Infrastructure development.
- Sec. 5607. Road weather research and development program.
- Sec. 5608. Definitions.
- Sec. 5609. Rural interstate corridor communications study.
- Sec. 5610. Centers for surface transportation excellence.
- Sec. 5611. Repeal.
- Sec. 5612. Special rule for fiscal year 2004.

TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

- Sec. 6001. Transportation planning.
- Sec. 6002. Efficient environmental reviews for project decisionmaking.
- Sec. 6003. Policy on historic sites.

- Sec. 6004. Exemption of Interstate System.
- Sec. 6005. Interstate compacts.
- Sec. 6006. Development of transportation plan.
- Sec. 6007. Interstate agreements.
- Sec. 6008. Regulations relating to transportation planning.
- Sec. 6009. Special rules relating to project development procedures.

TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

- Sec. 7001. Amendment of title 49, United States Code.
- Sec. 7002. Findings and purpose.
- Sec. 7003. Definitions.
- Sec. 7004. General regulatory authority.
- Sec. 7005. Chemical or biological materials.
- Sec. 7006. Representation and tampering.
- Sec. 7007. Technical amendments.
- Sec. 7008. Training of certain employees.
- Sec. 7009. Registration.
- Sec. 7010. Providing shipping papers.
- Sec. 7011. Rail tank cars.
- Sec. 7012. Unsatisfactory safety rating.
- Sec. 7013. Training curriculum for the public sector.
- Sec. 7014. Planning and training grants, monitoring, and review.
- Sec. 7015. Special permits and exclusions.
- Sec. 7016. Uniform forms and Procedures.
- Sec. 7017. International uniformity of standards and requirements.
- Sec. 7018. Administrative.
- Sec. 7019. Enforcement.
- Sec. 7020. Civil penalty.
- Sec. 7021. Criminal penalty.
- Sec. 7022. Preemption.
- Sec. 7023. Relationship to other laws.
- Sec. 7024. Judicial review.
- Sec. 7025. Authorization of appropriations.
- Sec. 7026. Determining amount of undeclared shipments of hazardous materials entering the United States.
- Sec. 7027. Conforming amendments.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

- Sec. 8001. Policy.

1 **TITLE I—FEDERAL-AID**
2 **HIGHWAYS**
3 **Subtitle A—Authorization of**
4 **Programs**

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

6 (a) IN GENERAL.—The following sums are author-
7 ized to be appropriated from the Highway Trust Fund
8 (other than the Mass Transit Account):

9 (1) INTERSTATE MAINTENANCE PROGRAM.—

10 For the Interstate maintenance program under sec-
11 tion 119 of title 23, United States Code,
12 \$4,323,076,000 for fiscal year 2004,
13 \$4,431,153,000 for fiscal year 2005,
14 \$4,541,932,000 for fiscal year, 2006,
15 \$4,655,480,000 for fiscal year 2007,
16 \$4,771,867,000 for fiscal year 2008, and
17 \$4,891,164,000 for fiscal year 2009.

18 (2) NATIONAL HIGHWAY SYSTEM.—For the Na-
19 tional Highway System under section 103 of that
20 title, \$5,187,691,000 for fiscal year 2004,
21 \$5,317,383,000 for fiscal year 2005,
22 \$5,450,318,000 for fiscal year 2006,
23 \$5,586,576,000 for fiscal year 2007,
24 \$5,726,240,000 for fiscal year 2008, and
25 \$5,869,396,000 for fiscal year 2009.

1 (3) BRIDGE PROGRAM.—For the bridge pro-
2 gram under section 144 of that title,
3 \$3,709,440,000 for fiscal year 2004,
4 \$3,802,176,000 for fiscal year 2005,
5 \$3,897,231,000 for fiscal year 2006,
6 \$3,994,661,000 for fiscal year 2007,
7 \$4,094,528,000 for fiscal year 2008, and
8 \$4,196,891,000 for fiscal year 2009.

9 (4) HIGHWAY SAFETY IMPROVEMENT PRO-
10 GRAM.—For the highway safety improvement pro-
11 gram under sections 130 and 152 of that title,
12 \$630,000,000 for fiscal year 2005, \$645,000,000 for
13 fiscal year 2006, \$660,000,000 for fiscal year 2007,
14 \$680,000,000 for fiscal year 2008, and
15 \$695,000,000 for fiscal year 2009. Of such funds $\frac{1}{3}$
16 per fiscal year shall be available to carry out section
17 130 and $\frac{2}{3}$ shall be available to carry out section
18 152.

19 (5) SURFACE TRANSPORTATION PROGRAM.—
20 For the surface transportation program under sec-
21 tion 133 of that title, \$6,052,306,000 for fiscal year
22 2004, \$6,203,614,000 for fiscal year 2005,
23 \$6,358,704,000 for fiscal year 2006,
24 \$6,517,672,000 for fiscal year 2007,

1 \$6,680,614,000 for fiscal year 2008, and
2 \$6,847,629,000 for fiscal year 2009.

3 (6) CONGESTION MITIGATION AND AIR QUALITY
4 IMPROVEMENT PROGRAM.—For the congestion miti-
5 gation and air quality improvement program under
6 section 149 of that title, \$1,469,846,000 for fiscal
7 year 2004, \$1,506,592,000 for fiscal year 2005,
8 \$1,544,257,000 for fiscal year 2006,
9 \$1,582,863,000 for fiscal year 2007,
10 \$1,622,435,000 for fiscal year 2008, and
11 \$1,662,996,000 for fiscal year 2009.

12 (7) APPALACHIAN DEVELOPMENT HIGHWAY
13 SYSTEM PROGRAM.—For the Appalachian develop-
14 ment highway system program under section 14501
15 of title 40, United States Code, \$460,000,000 for
16 fiscal year 2004 and \$470,000,000 for each of fiscal
17 years 2005 through 2009.

18 (8) RECREATIONAL TRAILS PROGRAM.—For the
19 recreational trails program under section 206 of title
20 23, United States Code, \$53,000,000 for fiscal year
21 2004, \$70,000,000 for fiscal year 2005,
22 \$80,000,000 for fiscal year 2006, \$90,000,000 for
23 fiscal year 2007, \$100,000,000 for fiscal year 2008,
24 and \$110,000,000 for fiscal year 2009.

25 (9) FEDERAL LANDS HIGHWAYS PROGRAM.—

1 (A) INDIAN RESERVATION ROADS.—For
2 Indian reservation roads under section 204 of
3 title 23, United States Code, \$325,000,000 for
4 fiscal year 2004, \$365,000,000 for fiscal year
5 2005, \$390,000,000 for fiscal year 2006,
6 \$395,000,000 for fiscal year 2007,
7 \$420,000,000 for fiscal year 2008, and
8 \$420,000,000 for fiscal year 2009.

9 (B) PARK ROADS AND PARKWAYS.—For
10 park roads and parkways roads under section
11 204 of that title, \$170,000,000 for fiscal year
12 2004, \$185,000,000 for fiscal year 2005,
13 \$200,000,000 for fiscal year 2006,
14 \$215,000,000 for fiscal year 2007,
15 \$225,000,000 for fiscal year 2008, and
16 \$225,000,000 for fiscal year 2009.

17 (C) PUBLIC LANDS HIGHWAY.—For public
18 lands highway under section 204 of that title,
19 \$250,000,000 for fiscal year 2004,
20 \$260,000,000 for fiscal year 2005,
21 \$280,000,000 for fiscal year 2006,
22 \$280,000,000 for fiscal year 2007,
23 \$290,000,000 for fiscal year 2008, and
24 \$300,000,000 for fiscal year 2009.

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

4 (10) NATIONAL CORRIDOR INFRASTRUCTURE
5 IMPROVEMENT PROGRAM.—For the national corridor
6 infrastructure improvement program under section
7 1301 of this title, \$600,000,000 for fiscal year 2005,
8 \$600,000,000 for fiscal year 2006, \$600,000,000 for
9 fiscal year 2007, \$600,000,000 for fiscal year 2008,
10 and \$600,000,000 for fiscal year 2009.

11 (11) COORDINATED BORDER INFRASTRUCTURE
12 PROGRAM.—For the coordinated border infrastruc-
13 ture program under section 1302 of this title,
14 \$200,000,000 for fiscal year 2005, \$200,000,000 for
15 fiscal year 2006, \$200,000,000 for fiscal year 2007,
16 \$200,000,000 for fiscal year 2008, and
17 \$225,000,000 for fiscal year 2009.

18 (12) PROJECTS OF NATIONAL AND REGIONAL
19 SIGNIFICANCE PROGRAM.—For the projects of na-
20 tional and regional significance program under sec-
21 tion 1304 of this title, \$1,100,000,000 for fiscal
22 year 2005, \$1,100,000,000 for fiscal year 2006,
23 \$1,200,000,000 for fiscal year 2007,
24 \$1,300,000,000 for fiscal year 2008, and
25 \$1,300,000,000 for fiscal year 2009.

1 (13) CONSTRUCTION OF FERRY BOATS AND
2 FERRY TERMINAL FACILITIES.—For construction of
3 ferry boats and ferry terminal facilities under sec-
4 tion 165 of title 23, United States Code,
5 \$60,000,000 for fiscal year 2004, \$70,000,000 for
6 fiscal year 2005, \$75,000,000 for fiscal year 2006,
7 \$75,000,000 for fiscal year 2007, \$75,000,000 for
8 fiscal year 2008, and \$75,000,000 for fiscal year
9 2009.

10 (14) NATIONAL SCENIC BYWAYS PROGRAM.—
11 For the national scenic byways program under sec-
12 tion 162 of title 23, United States Code,
13 \$30,000,000 for fiscal year 2004, \$40,000,000 for
14 fiscal year 2005, \$45,000,000 for fiscal year 2006,
15 \$55,000,000 for fiscal year 2007, \$55,000,000 for
16 fiscal year 2008, and \$60,000,000 for fiscal year
17 2009.

18 (15) CONGESTION PRICING PILOT PROGRAM.—
19 For the congestion pricing pilot program under sec-
20 tion 1209 of this title, \$15,000,000 for fiscal year
21 2004, \$15,000,000 for fiscal year 2005,
22 \$15,000,000 for fiscal year 2006, \$15,000,000 for
23 fiscal year 2007, \$15,000,000 for fiscal year 2008,
24 and \$15,000,000 for fiscal year 2009.

1 (16) DEPLOYMENT OF 511 TRAVELER INFORMA-
2 TION PROGRAM.—For the 511 traveler information
3 program under section 1204(c)(7) of this title,
4 \$6,000,000 for each of fiscal years 2005 through
5 2009.

6 (17) HIGH PRIORITY PROJECTS PROGRAM.—
7 For the high priority projects program under section
8 117 of title 23, United States Code, \$2,496,450,000
9 for fiscal year 2005, \$2,244,550,000 for fiscal year
10 2006, \$2,143,250,000 for fiscal year 2007,
11 \$2,192,450,000 for fiscal year 2008, and
12 \$2,050,450,000 for fiscal year 2009.

13 (18) FREIGHT INTERMODAL CONNECTOR PRO-
14 GRAM.—For the freight intermodal connector pro-
15 gram under section 1303 of this title, \$250,000,000
16 for fiscal year 2005, \$250,000,000 for fiscal year
17 2006, \$250,000,000 for fiscal year 2007,
18 \$250,000,000 for fiscal year 2008, and
19 \$250,000,000 for fiscal year 2009.

20 (19) HIGH RISK RURAL ROAD SAFETY IM-
21 PROVEMENT PROGRAM.—For the high risk rural
22 road safety improvement program under section
23 1403 of this title, \$105,000,000 for fiscal year 2005,
24 \$110,000,000 for fiscal year 2006, \$120,000,000 for

1 fiscal year 2007, \$125,000,000 for fiscal year 2008,
2 and \$130,000,000 for fiscal year 2009.

3 (20) HIGHWAY USE TAX EVASION PROGRAM.—

4 For highway use tax evasion projects under section
5 143 of title 23, United States Code, \$12,000,000 for
6 fiscal year 2004, \$30,000,000 for fiscal year 2005,
7 \$30,000,000 for fiscal year 2006, \$20,000,000 for
8 fiscal year 2007, \$10,000,000 for fiscal year 2008,
9 and \$7,000,000 for fiscal year 2009.

10 (21) PEDESTRIAN AND CYCLIST EQUITY.—

11 (A) SAFE ROUTES TO SCHOOL PROGRAM.—

12 For the safe routes to school program under
13 section 1120(a) of this title, \$150,000,000 for
14 fiscal year 2005, \$175,000,000 for fiscal year
15 2006, \$175,000,000 for fiscal year 2007,
16 \$175,000,000 for fiscal year 2008, and
17 \$200,000,000 for fiscal year 2009.

18 (B) NONMOTORIZED PILOT PROGRAM.—

19 For the nonmotorized pilot program under sec-
20 tion 1120(b) of this title, \$25,000,000 for each
21 of fiscal years 2005 through 2009.

22 (22) DEDICATED TRUCK LANES.—For dedi-

23 cated truck lanes under section 1305 of this title,
24 \$165,000,000 for each of fiscal years 2005 through
25 2008 and \$170,000,000 for fiscal year 2009.

1 (23) HIGHWAYS FOR LIFE PROGRAM.—For the
2 Highways for LIFE program under section 1504 of
3 this title, \$55,000,000 for fiscal year 2005 and
4 \$60,000,000 for each of fiscal years 2006 through
5 2009.

6 (24) COMMONWEALTH OF PUERTO RICO HIGH-
7 WAY PROGRAM.—For the Commonwealth of Puerto
8 Rico highway program under section 1214(r) of the
9 Transportation Equity Act for the 21st Century
10 (112 Stat. 209), \$115,000,000 for fiscal year 2004,
11 \$125,000,000 for fiscal year 2005, \$130,000,000 for
12 fiscal year 2006, \$130,000,000 for fiscal year 2007,
13 \$140,000,000 for fiscal year 2008, and
14 \$140,000,000 for fiscal year 2009.

15 (b) DISADVANTAGED BUSINESS ENTERPRISES.—

16 (1) GENERAL RULE.—Except to the extent that
17 the Secretary determines otherwise, not less than 10
18 percent of the amounts made available for any pro-
19 gram under titles I, III, and V of this Act and sec-
20 tion 403 of title 23, United States Code, shall be ex-
21 pended with small business concerns owned and con-
22 trolled by socially and economically disadvantaged
23 individuals.

24 (2) DEFINITIONS.—In this subsection, the fol-
25 lowing definitions apply:

1 (A) SMALL BUSINESS CONCERN.—The
2 term “small business concern” has the meaning
3 such term has under section 3 of the Small
4 Business Act (15 U.S.C. 632); except that such
5 term shall not include any concern or group of
6 concerns controlled by the same socially and
7 economically disadvantaged individual or indi-
8 viduals which has average annual gross receipts
9 over the preceding 3 fiscal years in excess of
10 \$17,420,000, as adjusted by the Secretary for
11 inflation.

12 (B) SOCIALLY AND ECONOMICALLY DIS-
13 ADVANTAGED INDIVIDUALS.—The term “so-
14 cially and economically disadvantaged individ-
15 uals” has the meaning such term has under
16 section 8(d) of the Small Business Act (15
17 U.S.C. 637(d)) and relevant subcontracting reg-
18 ulations promulgated pursuant thereto; except
19 that women shall be presumed to be socially
20 and economically disadvantaged individuals for
21 purposes of this subsection.

22 (3) ANNUAL LISTING OF DISADVANTAGED BUSI-
23 NESS ENTERPRISES.—Each State shall annually sur-
24 vey and compile a list of the small business concerns
25 referred to in paragraph (1) and the location of such

1 concerns in the State and notify the Secretary, in
2 writing, of the percentage of such concerns which
3 are controlled by women, by socially and economi-
4 cally disadvantaged individuals (other than women),
5 and by individuals who are women and are otherwise
6 socially and economically disadvantaged individuals.

7 (4) UNIFORM CERTIFICATION.—The Secretary
8 shall establish minimum uniform criteria for State
9 governments to use in certifying whether a concern
10 qualifies for purposes of this subsection. Such min-
11 imum uniform criteria shall include, but not be lim-
12 ited to, on-site visits, personal interviews, licenses,
13 analysis of stock ownership, listing of equipment,
14 analysis of bonding capacity, listing of work com-
15 pleted, resume of principal owners, financial capac-
16 ity, and type of work preferred.

17 (5) COMPLIANCE WITH COURT ORDERS.—Noth-
18 ing in this subsection limits the eligibility of an enti-
19 ty or person to receive funds made available under
20 titles I, III, and V of this Act and section 403 of
21 title 23, United States Code, if the entity or person
22 is prevented, in whole or in part, from complying
23 with paragraph (1) because a Federal court issues a
24 final order in which the court finds that the require-

1 ment of paragraph (1), or the program established
2 under paragraph (1), is unconstitutional.

3 **SEC. 1102. OBLIGATION CEILING.**

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

- 8 (1) \$33,643,000,000 for fiscal year 2004;
- 9 (2) \$34,412,000,000 for fiscal year 2005;
- 10 (3) \$36,287,100,000 for fiscal year 2006;
- 11 (4) \$37,616,700,000 for fiscal year 2007;
- 12 (5) \$38,876,400,000 for fiscal year 2008; and
- 13 (6) \$40,231,500,000 for fiscal year 2009.

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

- 16 (1) under section 125 of title 23, United States
17 Code;
- 18 (2) under section 147 of the Surface Transpor-
19 tation Assistance Act of 1978;
- 20 (3) under section 9 of the Federal-Aid Highway
21 Act of 1981;
- 22 (4) under sections 131(b) and 131(j) of the
23 Surface Transportation Assistance Act of 1982;

1 (5) under sections 149(b) and 149(c) of the
2 Surface Transportation and Uniform Relocation As-
3 sistance Act of 1987;

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

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

9 (8) under section 105 of title 23, United States
10 Code (but, for each of fiscal years 1998 through
11 2013), only in an amount equal to \$639,000,000 per
12 fiscal year; and

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

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

23 (1) not distribute obligation authority provided
24 by subsection (a) for such fiscal year for amounts
25 authorized for administrative expenses and amounts

1 authorized for the highway use tax evasion program
2 and the Bureau of Transportation Statistics;

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

10 (3) determine the ratio that—

11 (A) the obligation authority provided by
12 subsection (a) for such fiscal year less the ag-
13 gregate of amounts not distributed under para-
14 graphs (1) and (2), bears to

15 (B) the total of the sums authorized to be
16 appropriated for Federal-aid highway and high-
17 way safety construction programs (other than
18 sums authorized to be appropriated for sections
19 set forth in paragraphs (1) through (7) of sub-
20 section (b) and sums authorized to be appro-
21 priated for section 105 of title 23, United
22 States Code, equal to the amount referred to in
23 subsection (b)(8)) for such fiscal year less the
24 aggregate of the amounts not distributed under
25 paragraph (1) of this subsection;

1 (4) distribute the obligation authority provided
2 by subsection (a) less the aggregate amounts not
3 distributed under paragraphs (1) and (2) for section
4 117 of title 23, United States Code (relating to high
5 priority projects program), section 14501 of title 40,
6 United States Code (relating to Appalachian devel-
7 opment highway system), and \$2,000,000,000 for
8 such fiscal year under section 105 of title 23, United
9 States Code (relating to minimum guarantee) so
10 that amount of obligation authority available for
11 each of such sections is equal to the amount deter-
12 mined by multiplying the ratio determined under
13 paragraph (3) by the sums authorized to be appro-
14 priated for such section (except in the case of sec-
15 tion 105, \$2,000,000,000) for such fiscal year;

16 (5) distribute the obligation authority provided
17 by subsection (a) less the aggregate amounts not
18 distributed under paragraphs (1) and (2) and
19 amounts distributed under paragraph (4) for each of
20 the programs that are allocated by the Secretary
21 under this Act and title 23, United States Code
22 (other than activities to which paragraph (1) applies
23 and programs to which paragraph (4) applies) by
24 multiplying the ratio determined under paragraph

1 (3) by the sums authorized to be appropriated for
2 such program for such fiscal year; and

3 (6) distribute the obligation authority provided
4 by subsection (a) less the aggregate amounts not
5 distributed under paragraphs (1) and (2) and
6 amounts distributed under paragraphs (4) and (5)
7 for Federal-aid highway and highway safety con-
8 struction programs (other than the minimum guar-
9 antee program, but only to the extent that amounts
10 apportioned for the minimum guarantee program for
11 such fiscal year exceed \$2,639,000,000, and the Ap-
12 palachian development highway system program)
13 that are apportioned by the Secretary under this Act
14 and title 23, United States Code, in the ratio that—

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

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

21 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
22 THORITY.—Notwithstanding subsection (c), the Secretary
23 shall after August 1 of each of fiscal years 2004 through
24 2009 revise a distribution of the obligation authority made
25 available under subsection (c) if an amount made available

1 under this section will not be obligated during the fiscal
2 year and redistribute sufficient amounts to those States
3 able to obligate amounts in addition to those previously
4 distributed during that fiscal year. In making the redis-
5 tribution, the Secretary shall give priority to those States
6 having large unobligated balances of funds apportioned
7 under sections 104 and 144 of title 23, United States
8 Code.

9 (e) APPLICABILITY OF OBLIGATION LIMITATIONS TO
10 TRANSPORTATION RESEARCH PROGRAMS.—Obligation
11 limitations imposed by subsection (a) shall apply to trans-
12 portation research programs carried out under chapter 5
13 of title 23, United States Code, and under title V of this
14 Act; except that obligation authority made available for
15 such programs under such limitations shall remain avail-
16 able for a period of 3 fiscal years.

17 (f) REDISTRIBUTION OF CERTAIN AUTHORIZED
18 FUNDS.—Not later than 30 days after the date of the dis-
19 tribution of obligation authority under subsection (c) for
20 each of fiscal years 2004 through 2009, the Secretary
21 shall distribute to the States any funds (1) that are au-
22 thorized to be appropriated for such fiscal year for Fed-
23 eral-aid highway programs, and (2) that the Secretary de-
24 termines will not be allocated to the States, and will not
25 be available for obligation, in such fiscal year due to the

1 imposition of any obligation limitation for such fiscal year.
2 Such distribution to the States shall be made in the same
3 ratio as the distribution of obligation authority under sub-
4 section (c)(6). The funds so distributed shall be available
5 for any purposes described in section 133(b) of title 23,
6 United States Code.

7 (g) SPECIAL RULE.—Obligation authority distributed
8 for a fiscal year under subsection (c)(4) for a section set
9 forth in subsection (c)(4) shall remain available until used
10 for obligation of funds for such section and shall be in
11 addition to the amount of any limitation imposed on obli-
12 gations for Federal-aid highway and highway safety con-
13 struction programs for future fiscal years.

14 (h) INCREASE IN OBLIGATION LIMIT.—Limitations
15 on obligations imposed by subsection (a) for a fiscal year
16 shall be increased by an amount equal to the amount de-
17 termined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the
18 Balanced Budget and Emergency Deficit Control Act of
19 1985 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc)) for such fiscal
20 year. Any such increase shall be distributed in accordance
21 with this section.

22 (i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRA-
23 TIVE EXPENSES.—Notwithstanding any other provision of
24 law, the total amount of all obligations under section
25 104(a) of title 23, United States Code, shall not exceed—

- 1 (1) \$390,000,000 for fiscal year 2004;
- 2 (2) \$395,000,000 for fiscal year 2005;
- 3 (3) \$395,000,000 for fiscal year 2006;
- 4 (4) \$395,000,000 for fiscal year 2007;
- 5 (5) \$395,000,000 for fiscal year 2008; and
- 6 (6) \$400,000,000 for fiscal year 2009.

7 **SEC. 1103. APPORTIONMENTS.**

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

10 (1) by striking paragraphs (1) and (2) and in-
11 serting the following:

12 “(1) IN GENERAL.—There are authorized to be
13 appropriated from the Highway Trust Fund (other
14 than the Mass Transit Account) for purposes de-
15 scribed in paragraph (2) \$390,000,000 for fiscal
16 year 2004, \$395,000,000 for fiscal year 2005,
17 \$395,000,000 for fiscal year 2006, \$395,000,000 for
18 fiscal year 2007, \$395,000,000 for fiscal year 2008,
19 and \$400,000,000 for fiscal year 2009.

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

23 “(A) To administer the provisions of law to
24 be financed from appropriations for the Fed-

1 eral-aid highway program and programs au-
2 thorized under chapter 2.

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

8 (2) in paragraph (3) by striking “sum deducted
9 under” and inserting “amounts authorized to be ap-
10 propriated by”; and

11 (3) in paragraph (4)—

12 (A) by striking “sums deducted under”
13 and inserting “amounts authorized to be appro-
14 priated by”; and

15 (B) by striking “and the Federal Motor
16 Carrier Safety Administration”.

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

19 (1) by striking “the deduction authorized by
20 subsection (a) and”; and

21 (2) in paragraph (1)(A)—

22 (A) by striking “\$36,400,000 for each fis-
23 cal year” and inserting “\$40,000,000 for fiscal
24 year 2004, \$40,000,000 for fiscal year 2005,
25 \$40,000,000 for fiscal year 2006, \$50,000,000

1 for fiscal year 2007, \$50,000,000 for fiscal year
2 2008, and \$50,000,000 for fiscal year 2009”;
3 and

4 (B) by striking “\$18,800,000 for each of
5 fiscal years 1998 through 2002” and inserting
6 “\$20,000,000 for fiscal year 2004 and
7 \$30,000,000 for each of fiscal years 2005
8 through 2009”.

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

11 (1) in subsection (f)(1)—

12 (A) by striking “, after making the deduc-
13 tion authorized by subsection (a) of this sec-
14 tion,”; and

15 (B) by striking “remaining”; and

16 (2) in subsection (i) by striking “deducted” and
17 inserting “authorized to be appropriated”.

18 (d) PUERTO RICO HIGHWAY PROGRAM.—Section
19 1214(r) of the Transportation Equity Act for the 21st
20 Century (112 Stat. 209; 117 Stat. 1114; 118 Stat. 1149)
21 is amended—

22 (1) in paragraph (1) by striking “1101(a)(15)
23 for each of fiscal years 1998 through 2005” and in-
24 serting “1101(a)(24) for each of fiscal years 2004

1 through 2009 of the Transportation Equity Act: A
2 Legacy for Users”; and

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

6 **SEC. 1104. MINIMUM GUARANTEE.**

7 To be supplied.

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

9 Section 106 of title 23, United States Code, is
10 amended by striking subsection (h) and inserting the fol-
11 lowing:

12 “(h) OVERSIGHT PROGRAM.—

13 “(1) IN GENERAL.—The Secretary shall estab-
14 lish an oversight program to monitor the effective
15 and efficient use of funds authorized to carry out
16 this title. At a minimum, the program shall be re-
17 sponsive to all areas related to financial integrity
18 and project delivery.

19 “(2) FINANCIAL INTEGRITY.—

20 “(A) FINANCIAL MANAGEMENT SYS-
21 TEMS.—The Secretary shall perform annual re-
22 views that address elements of the State trans-
23 portation departments’ financial management
24 systems that affect projects approved under
25 subsection (a).

1 “(B) PROJECT COSTS.—The Secretary
2 shall develop minimum standards for estimating
3 project costs and shall periodically evaluate the
4 States’ practices for estimating project costs,
5 awarding contracts, and reducing project costs.

6 “(C) RESPONSIBILITY OF THE STATES.—
7 The States are responsible for determining that
8 subrecipients of Federal funds under this title
9 have sufficient accounting controls to properly
10 manage such Federal funds. The Secretary
11 shall periodically review the States’ monitoring
12 of subrecipients.

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

18 “(4) RESPONSIBILITY OF THE STATES.—The
19 States are responsible for determining that sub-
20 recipients of Federal funds under this title have ade-
21 quate project delivery systems for projects approved
22 under this section. The Secretary shall periodically
23 review the States’ monitoring of subrecipients.

24 “(5) SPECIFIC OVERSIGHT RESPONSIBIL-
25 ITIES.—Nothing in this section shall affect or dis-

1 charge any oversight responsibility of the Secretary
2 specifically provided for under this title or other
3 Federal law. In addition, the Secretary shall retain
4 full oversight responsibilities for the design and con-
5 struction of all Appalachian development highways
6 under section 14501 of title 40.

7 “(i) MAJOR PROJECTS.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision in this section, a recipient of Federal fi-
10 nancial assistance for a project under this title with
11 an estimated total cost of \$500,000,000 or more, or
12 any other project in the discretion of the Secretary,
13 shall submit to the Secretary a project management
14 plan and an annual financial plan.

15 “(2) PROJECT MANAGEMENT PLAN.—The
16 project management plan shall document the proce-
17 dures and processes in place to provide timely infor-
18 mation to the project decision makers to manage ef-
19 fectively the scope, costs, schedules, and quality, and
20 the Federal requirements of the project and the role
21 of the agency leadership and management team in
22 the delivery of the project.

23 “(3) FINANCIAL PLAN.—The financial plan
24 shall be based on detailed estimates of the cost to
25 complete the project. Annual updates shall be sub-

1 mitted based on reasonable assumptions, as deter-
2 mined by the Secretary, of future increases in the
3 cost to complete the project.

4 “(j) OTHER PROJECTS.—A recipient of Federal fi-
5 nancial assistance for a project under this title with an
6 estimated total cost of \$100,000,000 or more that is not
7 covered by subsection (h) shall prepare an annual financial
8 plan. Annual financial plans prepared under this sub-
9 section shall be made available to the Secretary for review
10 upon the Secretary’s request.”.

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

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

14 (1) by striking “(e) No funds” and inserting
15 the following:

16 “(e) INSTALLATION OF SAFETY DEVICES.—

17 “(1) HIGHWAY AND RAILROAD GRADE CROSS-
18 INGS AND DRAWBRIDGES.—No funds”; and

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

20 “(2) TEMPORARY TRAFFIC CONTROL DE-
21 VICES.—No funds shall be approved for expenditure
22 on any Federal-aid highway, or highway affected
23 under chapter 2 of this title, unless proper tem-
24 porary traffic control devices to improve safety in
25 work zones will be installed and maintained during

1 construction, utility, and maintenance operations on
2 that portion of the highway with respect to which
3 such expenditures are to be made. Installation and
4 maintenance of the devices shall be in accordance
5 with the Manual on Uniform Traffic Control De-
6 vices.”.

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

9 (1) by striking subsection (f);

10 (2) by redesignating subsection (g) as sub-
11 section (f); and

12 (3) by adding at the end the following:

13 “(g) TEMPORARY TRAFFIC CONTROL DEVICES.—

14 “(1) ISSUANCE OF REGULATIONS.—The Sec-
15 retary, after consultation with appropriate Federal
16 and State officials, shall issue regulations estab-
17 lishing the conditions for the appropriate use of, and
18 expenditure of funds for, uniformed law enforcement
19 officers, positive protective measures between work-
20 ers and motorized traffic, and installation and main-
21 tenance of temporary traffic control devices during
22 construction, utility, and maintenance operations.

23 “(2) EFFECTS OF REGULATIONS.—Based on
24 regulations issued under paragraph (1), a State
25 shall—

1 “(A) develop separate pay items for the
2 use of uniformed law enforcement officers, posi-
3 tive protective measures between workers and
4 motorized traffic, and installation and mainte-
5 nance of temporary traffic control devices dur-
6 ing construction, utility, and maintenance oper-
7 ations; and

8 “(B) incorporate such pay items into con-
9 tract provisions to be included in each contract
10 entered into by the State with respect to a
11 highway project to ensure compliance with sec-
12 tion 109(e)(2).

13 “(3) LIMITATION.—Nothing in the regulations
14 shall be construed to prohibit a State from imple-
15 menting standards that are more stringent than
16 those required under the regulations.

17 “(4) POSITIVE PROTECTIVE MEASURES DE-
18 FINED.—In this subsection, the term ‘positive pro-
19 tective measures’ means temporary traffic barriers,
20 crash cushions, and other strategies to avoid traffic
21 accidents in work zones, including full road clo-
22 sures.”.

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

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

1 (1) by striking “2000” and inserting “2006”;

2 (2) by inserting after “such fiscal year” the fol-
3 lowing: “and the succeeding fiscal year”.

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

6 (1) by striking “2000” and inserting “2006”;

7 (2) by striking “October 1 of the succeeding”
8 and inserting “October 15 of such”; and

9 (3) by inserting after “Account)” the following:
10 “for such fiscal year and the succeeding fiscal year”.

11 (c) GENERAL DISTRIBUTION.—Section 110(b)(1)(A)
12 of such title is amended by striking “Transportation Eq-
13 uity Act for the 21st Century” and inserting “Transpor-
14 tation Equity Act: A Legacy for Users”.

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

18 **SEC. 1108. EMERGENCY RELIEF.**

19 (a) IN GENERAL.—Effective October 1, 2004, section
20 125(c)(1) of title 23, United States Code, is amended by
21 striking “\$100,000,000” and inserting “\$120,000,000”.

22 (b) AUTHORIZATIONS OF APPROPRIATIONS FROM
23 GENERAL FUND.—There is authorized to be appropriated
24 for a fiscal year such sums as may be necessary for alloca-
25 tions by the Secretary described in subsections (a) and (b)

1 of sections 125 of title 23, United States Code, if the total
2 of those allocations in such fiscal year are in excess of
3 \$120,000,000.

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

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

7 (1) by striking “1998 through 2000” and in-
8 serting “2004 through 2006”; and

9 (2) by striking “2001 through 2003” and in-
10 serting “2007 through 2009”.

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

12 (a) ELIGIBLE ACTIVITIES.—

13 (1) INTERGOVERNMENTAL ENFORCEMENT EF-
14 FORTS.—Section 143(b)(2) of title 23, United States
15 Code, is amended by inserting before the period the
16 following: “; except that of funds so made available
17 for each of fiscal years 2004 through 2009,
18 \$2,000,000 shall be available only to carry out inter-
19 governmental enforcement efforts, including research
20 and training”.

21 (2) CONDITIONS ON FUNDS ALLOCATED TO IN-
22 TERNAL REVENUE SERVICE.—Section 143(b)(3) of
23 such title is amended by striking “The” and insert-
24 ing “Except as otherwise provided in this section,
25 the”.

1 (3) LIMITATION ON USE OF FUNDS.—Section
2 143(b)(4) of such title is amended—

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

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

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

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

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

15 (4) REPORTS.—Section 143(b) of such title is
16 amended by adding at the end the following:

17 “(9) REPORTS.—The Commissioner of the In-
18 ternal Revenue Service and each State shall submit
19 to the Secretary an annual report that describes the
20 projects, examinations, and criminal investigations
21 funded by and carried out under this section. Such
22 report shall specify the annual yield estimated for
23 each project funded under this section.”.

24 (b) EXCISE FUEL REPORTING SYSTEM.—

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

3 (A) by striking “August 1, 1998,” and in-
4 sserting “90 days after the date of enactment of
5 the Transportation Equity Act: A Legacy for
6 Users,”;

7 (B) by striking “development” and insert-
8 ing “completion, operation,”; and

9 (C) by striking “an excise fuel reporting
10 system (in this subsection referred to as ‘the
11 system’)” and inserting “an excise summary
12 terminal activity reporting system”.

13 (2) ELEMENTS OF MEMORANDUM OF UNDER-
14 STANDING.—Section 143(c)(2) of such title is
15 amended—

16 (A) by striking “the system” the first place
17 it appears and inserting “the excise summary
18 terminal activity reporting system”;

19 (B) in subparagraph (A) by striking “de-
20 velop” and inserting “complete”;

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

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

25 (E) by adding at the end the following:

1 “(D) the Commissioner of the Internal
2 Revenue Service shall submit and the Secretary
3 shall approve a budget and project plan for the
4 completion, operation, and maintenance of the
5 system.”; and

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

8 “(3) FUNDING.—Of the amounts made avail-
9 able to carry out this section for each of fiscal years
10 2004 through 2009, the Secretary shall make avail-
11 able to the Internal Revenue Service such funds as
12 may be necessary to complete, operate, and maintain
13 the excise summary terminal activity reporting sys-
14 tem in accordance with this subsection.”.

15 (c) REGISTRATION SYSTEM AND ELECTRONIC DATA-
16 BASE.—Section 143 of such title is further amended by
17 adding at the end the following:

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

20 “(1) IN GENERAL.—Not later than 90 days
21 after the date of enactment of this subsection, the
22 Secretary shall enter into a memorandum of under-
23 standing with the Commissioner of the Internal Rev-
24 enue Service for the purposes of the development,
25 operation, and maintenance of a registration system

1 for pipelines, vessels, and barges, and operators of
2 such pipelines, vessels, and barges, that make bulk
3 transfers of taxable fuel.

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

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

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

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

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

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

1 may be necessary to complete, operate, and maintain
2 a registration system for pipelines, vessels, and
3 barges, and operators of such pipelines, vessels, and
4 barges, that make bulk transfers of taxable fuel in
5 accordance with this subsection.

6 “(e) HEAVY VEHICLE USE TAX PAYMENT DATA-
7 BASE.—

8 “(1) IN GENERAL.—Not later than 90 days
9 after the date of enactment of this subsection, the
10 Secretary shall enter into a memorandum of under-
11 standing with the Commissioner of the Internal Rev-
12 enue Service for the purposes of the establishment,
13 operation, and maintenance of an electronic data-
14 base of heavy vehicle highway use tax payments.

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

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

21 “(B) the Commissioner of the Internal
22 Revenue Service shall submit and the Secretary
23 shall approve a budget and project plan for es-
24 tablishment, operation, and maintenance of the
25 electronic database;

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

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

8 “(3) FUNDING.—Of the amounts made avail-
9 able to carry out this section for each of fiscal years
10 2004 through 2009, the Secretary shall make avail-
11 able to the Internal Revenue Service such funds as
12 may be necessary to establish, operate, and maintain
13 an electronic database of heavy vehicle highway use
14 tax payments in accordance with this subsection.

15 “(f) REPORTS.—Not later than March 31 and Sep-
16 tember 30 of each year, the Commissioner of the Internal
17 Revenue Service shall provide reports to the Secretary on
18 the status of the Internal Revenue Service projects funded
19 under this section related to the excise summary terminal
20 activity reporting system, the pipeline, vessel, and barge
21 registration system, and the heavy vehicle use tax elec-
22 tronic database.”.

1 **SEC. 1111. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
2 **TEM.**

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

9 (b) APPLICABILITY OF TITLE 23.—Funds made
10 available by section 1101(a)(7) of this Act for the Appa-
11 lachian development highway system shall be available for
12 obligation in the same manner as if such funds were ap-
13 portioned under chapter 1 of title 23, United States Code;
14 except that the Federal share of the cost of any project
15 under this section shall be determined in accordance with
16 such section 14501 of title 40, United States Code, and
17 such funds shall be available to construct highways and
18 access roads under such section and shall remain available
19 until expended.

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

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

3 (a) IN GENERAL.—Subchapter I of chapter 1 of title
4 23, United States Code, is amended by adding at the end
5 the following:

6 **“§ 165. Construction of ferry boats and ferry terminal**
7 **facilities**

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

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

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

17 “(d) SET-ASIDE FOR PROJECTS ON NHS.—

18 “(1) IN GENERAL.—\$20,000,000 of the amount
19 made available to carry out this section for each of
20 fiscal years 2004 through 2009 shall be obligated for
21 the construction or refurbishment of ferry boats and
22 ferry terminal facilities and approaches to such fa-
23 cilities within marine highway systems that are part
24 of the National Highway System.

25 “(2) ALASKA.—\$10,000,000 of the
26 \$20,000,000 for a fiscal year made available under

1 paragraph (1) shall be made available to the State
2 of Alaska.

3 “(3) NEW JERSEY.—\$5,000,000 of the
4 \$20,000,000 for a fiscal year made available under
5 paragraph (1) shall be made available to the State
6 of New Jersey.

7 “(4) WASHINGTON.—\$5,000,000 of the
8 \$20,000,000 for a fiscal year made available under
9 paragraph (1) shall be made available to the State
10 of Washington.

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

17 (b) CONFORMING AMENDMENT.—The analysis for
18 subchapter I of chapter 1 of such title is amended by add-
19 ing at the end the following:

“165. Construction of ferry boats and ferry terminal facilities.”.

20 (c) NATIONAL FERRY DATABASE.—

21 (1) ESTABLISHMENT.—The Secretary, acting
22 through the Bureau of Transportation Statistics,
23 shall establish and maintain a national ferry data-
24 base.

1 (2) CONTENTS.—The database shall contain
2 current information regarding ferry systems, includ-
3 ing information regarding routes, vessels, passengers
4 and vehicles carried, funding sources and such other
5 information as the Secretary considers useful.

6 (3) UPDATE REPORT.—Using information col-
7 lected through the database, the Secretary shall pe-
8 riodically modify as appropriate the report submitted
9 under section 1207(c) of the Transportation Equity
10 Act for the 21st Century (23 U.S.C. 129 note; 112
11 Stat. 185–186).

12 (4) REQUIREMENTS.—The Secretary shall—

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

16 (B) ensure that the database is easily ac-
17 cessible to the public;

18 (C) make available, from the ferry boat
19 and ferry terminal program authorized under
20 section 165 of title 23, United States Code, not
21 more than \$500,000 for each of fiscal years
22 2005 through 2009 to establish the database.

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

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

1 (1) by striking subsection (c);

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

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

6 (b) CONFORMING AMENDMENT.—Section 103(d)(1)
7 of such title is amended by striking “or 118(e)”.

8 (c) TECHNICAL AMENDMENTS.—

9 (1) SECTION 114.—Section 114(a) of such title
10 is amended by striking “Except as provided in sec-
11 tion 117 of this title, such” and inserting “Such”.

12 (2) SECTION 116.—Section 116(b) of such title
13 is amended by striking “highway department” and
14 inserting “transportation department”.

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

18 (4) SECTION 126.—Section 126(a) of such title
19 is amended by inserting “under” before “section
20 104(b)(3)”.

21 (5) SECTION 127.—Section 127 of such title is
22 amended by striking “118(b)(1)” and inserting
23 “118(b)(2)”.

24 (6) BICYCLE AND PEDESTRIAN SAFETY
25 GRANTS.—Section 1212(i) of the Transportation Eq-

1 uity Act for the 21st Century (112 Stat. 196–197)
2 is amended by redesignating subparagraphs (D) and
3 (E) as paragraphs (2) and (3), respectively, and
4 moving such paragraphs 2 ems to the left.

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

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

13 **SEC. 1114. HIGHWAY BRIDGE.**

14 (a) SCOUR COUNTERMEASURES.—Section 144(d) of
15 title 23, United States Code, is amended to read as fol-
16 lows:

17 “(d) APPLICATIONS FOR AND APPROVAL OF ASSIST-
18 ANCE.—

19 “(1) BRIDGE REPLACEMENT OR REHABILITA-
20 TION.—Whenever any State or States make applica-
21 tion to the Secretary for assistance in replacing or
22 rehabilitating a highway bridge which the priority
23 system established under subsections (b) and (c)
24 shows to be eligible, the Secretary may approve Fed-

1 eral participation in replacing such bridge with a
2 comparable facility or in rehabilitating such bridge.

3 “(2) PREVENTIVE MAINTENANCE, SCOUR MEAS-
4 URES, AND APPLICATIONS OF CERTAIN COMPOSI-
5 TIONS.—Whenever any State makes application to
6 the Secretary for assistance in painting, seismic ret-
7 rofit, or preventive maintenance of, or installing
8 scour countermeasures or applying calcium magne-
9 sium acetate, sodium acetate/formate, or other envi-
10 ronmentally acceptable, minimally corrosive anti-
11 icing and de-icing compositions to, the structure of
12 a highway bridge, the Secretary may approve Fed-
13 eral participation in the painting, seismic retrofit, or
14 preventive maintenance of, or installation of scour
15 countermeasures or application of acetate or sodium
16 acetate/formate or such anti-icing or de-icing com-
17 position to, such structure.

18 “(3) ELIGIBILITY.—The Secretary shall deter-
19 mine the eligibility of highway bridges for replace-
20 ment or rehabilitation for each State based upon the
21 unsafe highway bridges in such State; except that a
22 State may carry out a project for preventive mainte-
23 nance on a bridge, seismic retrofit of a bridge, or in-
24 stalling scour countermeasures to a bridge under
25 this section without regard to whether the bridge is

1 eligible for replacement or rehabilitation under this
2 section.”.

3 (b) BRIDGE DISCRETIONARY SET-ASIDE.—Section
4 144(g)(1) of such title is amended by adding at the end
5 the following:

6 “(D) FISCAL YEARS 2004 THROUGH 2009.—

7 Of the amounts authorized to be appropriated
8 to carry out the bridge program under this sec-
9 tion for each of the fiscal years 2004 through
10 2009, all but \$100,000,000 shall be appor-
11 tioned as provided in subsection (e). Such
12 \$100,000,000 shall be available at the discre-
13 tion of the Secretary; except that \$25,000,000
14 shall be available only for projects for the seis-
15 mic retrofit of bridges, and of which
16 \$10,000,000 shall be available only for the seis-
17 mic retrofit of a bridge described in subsection
18 (l), and except as provided in subparagraph
19 (E).

20 “(E) GRAVINA ACCESS.—

21 “(i) IN GENERAL.—Of the amounts
22 authorized to be appropriated to carry out
23 the bridge program under this paragraph,
24 for each of the fiscal years 2005 through
25 2009, \$10,000,000 shall be set aside from

1 the \$100,000,000 available at the discre-
2 tion of the Secretary under subparagraph
3 (D) for the construction of a bridge joining
4 the Island of Gravina to the community of
5 Ketchikan in Alaska.

6 “(ii) SCORING.—The project described
7 in this subparagraph shall not be counted
8 for purposes of the reduction set forth in
9 the fourth sentence of subsection (e).”.

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

12 (1) by striking “15 percent” and inserting “20
13 percent”;

14 (2) by striking “1987” and inserting “2005”;

15 (3) by striking “2004” the first place it appears
16 and all that follows through “2005,” and inserting
17 “2009 for the bridge program,”;

18 (4) by inserting “, perform systematic preven-
19 tive maintenance,” after “paint”; and

20 (5) by inserting a comma before “to highway
21 bridges”.

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

1 **SEC. 1115. TRANSPORTATION AND COMMUNITY AND SYS-**
2 **TEM PRESERVATION PROGRAM.**

3 (a) **EXTENSION.**—Section 1221(e)(1) of Transpor-
4 tation Equity Act for the 21st Century (23 U.S.C. 101
5 note; 112 Stat. 223; 118 Stat. 879; 118 Stat. 1149) is
6 amended—

7 (1) by striking “1999 and” and inserting
8 “1999,”; and

9 (2) by striking “2004” the first place it appears
10 and all that follows through “2005” and inserting
11 the following: “, and \$25,000,000 for fiscal year
12 2004, \$30,000,000 for fiscal year 2005,
13 \$35,000,000 for fiscal year 2006, \$35,000,000,000
14 for fiscal year 2007, and \$35,000,000 for each of
15 fiscal years 2008 and 2009”.

16 (b) **FEDERAL SHARE.**—Section 1221(e)(2) of such
17 Act is amended by inserting before the period at the end
18 “; except that such funds shall not be transferable and
19 the Federal share for projects and activities carried out
20 with such funds shall be determined in accordance with
21 section 120(b) of title 23, United States Code”.

22 (c) **PLANNING ACTIVITIES PILOT PROGRAM.**—Sec-
23 tion 1221 of such Act is amended by adding at the end
24 the following:

25 “(f) **PLANNING ACTIVITIES PILOT PROGRAM.**—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish a pilot program using funds set aside under
3 paragraph (4) to support planning and public par-
4 ticipation activities related to highway and public
5 transportation projects.

6 “(2) ELIGIBLE ACTIVITIES.—Activities eligible
7 to be carried out under the pilot program may in-
8 clude the following:

9 “(A) Improving data collection and anal-
10 ysis to improve freight movement, intermodal
11 connections, and transportation access and effi-
12 ciency for all users, including children, older in-
13 dividuals, individuals with disabilities, low-in-
14 come individuals, and minority communities.

15 “(B) Supporting public participation by
16 holding public meetings using an interactive
17 workshop format facilitated by design or plan-
18 ning experts (or both) to consider public input
19 at the initial stages of project development and
20 during other phases of a project.

21 “(C) Using innovative planning or design
22 visualization and simulation tools to improve
23 the evaluation of alternatives and their impacts
24 and to enhance public participation in the
25 transportation planning process, including tools

1 having a structure that enables modifications to
2 scenarios and assumptions in real time.

3 “(D) Enhancing coordination among trans-
4 portation, land use, workforce development,
5 human service, economic development, and
6 other agencies to strengthen access to job train-
7 ing services, daycare centers, health care facili-
8 ties, senior centers, public schools, universities,
9 and residential areas, including the use of inte-
10 grated planning and service delivery, especially
11 for transit dependent and low-income individ-
12 uals.

13 “(E) Contracting with nonprofit organiza-
14 tions, universities, and local agencies to deliver
15 community-oriented transportation plans and
16 projects, including public outreach, context sen-
17 sitive design, transit-oriented development,
18 multimodal corridor investments, commuter
19 benefits deployment, and brownfield redevelop-
20 ment.

21 “(F) Measuring and reporting on the an-
22 nual performance of the transportation system
23 (or parts of) relative to State or locally-estab-
24 lished criteria regarding—

1 “(i) maintenance and operating costs
2 of the transportation system, vehicle miles
3 traveled, peak-period travel times, trans-
4 portation choices, and mode shares;

5 “(ii) location of housing units, jobs,
6 medical facilities, and commercial centers
7 to transit;

8 “(iii) improvements directed to low-in-
9 come families and older individuals;

10 “(iv) transportation-related pollution
11 emissions into the air and water;

12 “(v) land consumption; and

13 “(vi) other locally-significant factors.

14 “(G) Improving regional travel and emis-
15 sion modeling to examine factors not currently
16 considered, such as induced travel and land use
17 effects of transportation alternatives, types of
18 vehicles owned and used by households, time-of-
19 day of travel and linkage of trips to each other
20 throughout the day, effects of urban design and
21 pedestrian and bicycle environment on travel
22 behavior, and impacts of alternatives on the dis-
23 tribution of benefits and burdens among various
24 groups protected under title VI of the Civil
25 Rights Act of 1964 (42 U.S.C. 2000d et seq.).

1 “(3) FEDERAL SHARE.—Notwithstanding sub-
2 section (e)(2), the Federal share of the cost of ac-
3 tivities carried out under the pilot program shall be
4 100 percent.

5 “(4) SET ASIDE.—The Secretary shall make
6 available \$1,500,000 of the amounts made available
7 to carry out this section for each of fiscal years
8 2005 through 2009 to carry out the pilot program
9 under this subsection.”.

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

12 (a) DEFINITIONS.—In this section, the following defi-
13 nitions apply:

14 (1) ELIGIBLE PROJECT COSTS.—The term “eli-
15 gible project costs”—

16 (A) means the capital cost of the fixed
17 guideway infrastructure of a MAGLEV project,
18 including land, piers, guideways, propulsion
19 equipment and other components attached to
20 guideways, power distribution facilities (includ-
21 ing substations), control and communications
22 facilities, access roads, and storage, repair, and
23 maintenance facilities, but not including costs
24 incurred for a new station; and

1 (B) includes the costs of preconstruction
2 planning activities.

3 (2) FULL PROJECT COSTS.—The term “full
4 project costs” means the total capital costs of a
5 MAGLEV project, including eligible project costs
6 and the costs of stations, vehicles, and equipment.

7 (3) MAGLEV.—The term “MAGLEV” means
8 transportation systems employing magnetic levita-
9 tion that would be capable of safe use by the public
10 at a speed in excess of 240 miles per hour.

11 (4) STATE.—The term “State” has the mean-
12 ing such term has under section 101(a) of title 23,
13 United States Code.

14 (b) IN GENERAL.—

15 (1) ASSISTANCE FOR ELIGIBLE PROJECTS.—
16 The Secretary shall make available financial assist-
17 ance to pay the Federal share of full project costs
18 of eligible projects authorized by this section.

19 (2) USE OF ASSISTANCE.—Financial assistance
20 provided under paragraph (1) shall be used only to
21 pay eligible project costs of projects authorized by
22 this section.

23 (3) APPLICABILITY OF OTHER LAWS.—Finan-
24 cial assistance made available under this section,
25 and projects assisted with such assistance, shall be

1 subject to section 5333(a) of title 49, United States
2 Code.

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

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

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

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

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated from the Highway Trust
14 Fund (other than the Mass Transit Account) to carry out
15 this section \$15,000,000 for fiscal year 2005 and
16 \$20,000,000 for each of fiscal years 2006 through 2009.

17 (e) APPLICABILITY OF TITLE 23, UNITED STATES
18 CODE.—Funds authorized to be appropriated by this sec-
19 tion shall be available for obligation in the same manner
20 as if such funds were apportioned under chapter 1 of title
21 23, United States Code; except that the Federal share of
22 the full project costs of an eligible project shall be 80 per-
23 cent, and such funds shall remain available until expended
24 and shall not be transferable.

1 **SEC. 1117. RECREATIONAL TRAILS.**

2 (a) RECREATIONAL TRAILS PROGRAM FORMULA.—

3 Section 104(h)(1) of title 23, United States Code, is
4 amended by striking “research and technical” and all that
5 follows through “Committee” and inserting “research,
6 technical assistance, and training under the recreational
7 trails program”.

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

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

13 “(A) maintenance and restoration of exist-
14 ing recreational trails;

15 “(B) development and rehabilitation of
16 trailside and trailhead facilities and trail link-
17 ages for recreational trails;

18 “(C) purchase and lease of recreational
19 trail construction and maintenance equipment;

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

24 “(i) permissible under other law;

25 “(ii) necessary and recommended by a
26 statewide comprehensive outdoor recreation

1 plan that is required by the Land and
2 Water Conservation Fund Act of 1965 (16
3 U.S.C. 460l–4 et seq.) and that is in ef-
4 fect;

5 “(iii) approved by the administering
6 agency of the State designated under sub-
7 section (c)(1); and

8 “(iv) approved by each Federal agency
9 having jurisdiction over the affected lands
10 under such terms and conditions as the
11 head of the Federal agency determines to
12 be appropriate, except that the approval
13 shall be contingent on compliance by the
14 Federal agency with all applicable laws, in-
15 cluding the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.), the
17 Forest and Rangeland Renewable Re-
18 sources Planning Act of 1974 (16 U.S.C.
19 1600 et seq.), and the Federal Land Policy
20 and Management Act of 1976 (43 U.S.C.
21 1701 et seq.);

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

1 “(F) assessment of trail conditions for ac-
2 cessibility and maintenance;

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

9 “(H) payment of costs to the State in-
10 curred in administering the program, but in an
11 amount not to exceed 7 percent of the appor-
12 tionment made to the State for the fiscal year
13 to carry out this section.”.

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

16 (1) by striking subparagraph (C);

17 (2) by redesignating subparagraph (D) as sub-
18 paragraph (C); and

19 (3) in subparagraph (C) (as so redesignated) by
20 striking “(2)(F)” and inserting “(2)(H)”.

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

23 (1) in paragraph (1)—

1 (A) by inserting “and the Federal share of
2 the administrative costs of a State” after
3 “project”; and

4 (B) by striking “not exceed 80 percent”
5 and inserting “be determined in accordance
6 with section 120(b)”;

7 (2) in paragraph (2)(A) by striking “80 percent
8 of” and inserting “the amount determined in accord-
9 ance with section 120(b) for”;

10 (3) in paragraph (2)(B) by inserting “spon-
11 soring the project” after “Federal agency”;

12 (4) by striking paragraph (5);

13 (5) by redesignating paragraph (4) as para-
14 graph (5);

15 (6) in paragraph (5) (as so redesignated) by
16 striking “80 percent” and inserting “the Federal
17 share as determined in accordance with section
18 120(b)”;

19 (7) by inserting after paragraph (3) the fol-
20 lowing:

21 “(4) USE OF RECREATIONAL TRAILS PROGRAM
22 FUNDS TO MATCH OTHER FEDERAL PROGRAM
23 FUNDS.—Notwithstanding any other provision of
24 law, funds made available under this section may be

1 used toward the non-Federal matching share for
2 other Federal program funds that are—

3 “(A) expended in accordance with the re-
4 quirements of the Federal program relating to
5 activities funded and populations served; and

6 “(B) expended on a project that is eligible
7 for assistance under this section.”.

8 (e) PLANNING AND ENVIRONMENTAL ASSESSMENT
9 COSTS INCURRED PRIOR TO PROJECT APPROVAL.—Sec-
10 tion 206(h)(1) of such title is amended by adding at the
11 end the following:

12 “(C) PLANNING AND ENVIRONMENTAL AS-
13 SESSMENT COSTS INCURRED PRIOR TO PROJECT
14 APPROVAL.—The Secretary may allow pre-ap-
15 proval planning and environmental compliance
16 costs to be credited toward the non-Federal
17 share of the cost of a project described under
18 subsection (d)(2) (other than subparagraph (I))
19 in accordance with subsection (f), limited to
20 costs incurred less than 18 months prior to
21 project approval.”.

22 (f) ENCOURAGEMENT OF USE OF YOUTH CONSERVA-
23 TION OR SERVICE CORPS.—The Secretary shall encourage
24 the States to enter into contracts and cooperative agree-
25 ments with qualified youth conservation or service corps

1 to perform construction and maintenance of recreational
2 trails under section 206 of title 23, United States Code.

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

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

7 “(3) CONTRACTS AND AGREEMENTS WITH IN-
8 DIAN TRIBES.—

9 “(A) IN GENERAL.—Notwithstanding any
10 other provision of law or any interagency agree-
11 ment, program guideline, manual, or policy di-
12 rective, all funds made available to an Indian
13 tribal government under this title for a high-
14 way, road, bridge, parkway, or transit facility
15 project that is located on an Indian reservation
16 or provides access to the reservation or a com-
17 munity of the Indian tribe shall be made avail-
18 able, on the request of the Indian tribal govern-
19 ment, to the Indian tribal government for use
20 in carrying out, in accordance with the Indian
21 Self-Determination and Education Assistance
22 Act (25 U.S.C. 450 et seq.), contracts and
23 agreements for the planning, research, engi-
24 neering, and construction relating to such
25 project.

1 “(B) EXCLUSION OF AGENCY PARTICIPA-
2 TION.—In accordance with subparagraph (A),
3 all funds for a project to which subparagraph
4 (A) applies shall be paid to the Indian tribal
5 government without regard to the organiza-
6 tional level at which the Department of the In-
7 terior has previously carried out, or the Depart-
8 ment of Transportation has previously carried
9 out under the Federal lands highway programs,
10 the programs, functions, services, or activities
11 involved.

12 “(C) CONSORTIA.—Two or more Indian
13 tribes that are otherwise eligible to participate
14 in a project to which this title applies may form
15 a consortium to be considered as a single In-
16 dian tribe for the purpose of participating in
17 the project under this section.

18 “(D) FUNDING.—The amount an Indian
19 tribal government receives for a project under
20 subparagraph (A) shall equal the sum of the
21 funding that the Indian tribal government
22 would otherwise receive for the project in ac-
23 cordance with the funding formula established
24 under this subsection and such additional
25 amount as the Secretary determines equal the

1 amounts that would have been withheld for the
2 costs of the Bureau of Indian Affairs for ad-
3 ministration of the project.

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

19 “(F) ASSUMPTION OF FUNCTIONS AND DU-
20 TIES.—An Indian tribal government receiving
21 funding under subparagraph (A) for a project
22 shall assume all functions and duties that the
23 Secretary of the Interior would have performed
24 with respect to projects under this chapter,
25 other than those functions and duties that in-

1 herently cannot be legally transferred under the
2 Indian Self-Determination and Education As-
3 sistance Act (25 U.S.C. 450b et seq.).

4 “(G) POWERS.—An Indian tribal govern-
5 ment receiving funding under subparagraph (A)
6 for a project shall have all powers that the Sec-
7 retary of the Interior would have exercised in
8 administering the funds transferred to the In-
9 dian tribal government for such project under
10 this section if such funds had not been trans-
11 ferred, except to the extent that such powers
12 are powers that inherently cannot be legally
13 transferred under the Indian Self-Determina-
14 tion and Education Assistance Act (25 U.S.C.
15 450b et seq.).

16 “(H) DISPUTE RESOLUTION.—In the event
17 of a disagreement between the Secretary of
18 Transportation or the Secretary of the Interior
19 and an Indian tribe over whether a particular
20 function, duty, or power may be lawfully trans-
21 ferred under the Indian Self-Determination and
22 Education Assistance Act (25 U.S.C. 450b et
23 seq.), the Indian tribe shall have the right to
24 pursue all alternative dispute resolutions and
25 appeal procedures authorized by such Act, in-

1 including regulations issued to carry out such
2 Act.”.

3 (b) ALASKA NATIVE VILLAGE INVENTORY.—Section
4 202(d)(2) of such title is amended by adding at the end
5 the following:

6 “(E) ALASKA NATIVE ROAD INVENTORY.—

7 “(i) IN GENERAL.—For fiscal year
8 2005 and each fiscal year thereafter, any
9 allocation of sums authorized to be appro-
10 priated for Indian reservation roads in
11 Alaska shall be based on an inventory of
12 roads within the exterior boundaries of vil-
13 lage corporation land selected pursuant to
14 the Alaska Native Claims Settlement Act
15 (43 U.S.C. 1601 et seq.) that includes all
16 routes previously included in such an in-
17 ventory. The Secretary of Transportation
18 and the Secretary of the Interior may in-
19 clude, in the inventory of roads, those pro-
20 posed for inclusion by tribal village govern-
21 ments from among community streets
22 within the village and those proposed pri-
23 mary access routes for inclusion by tribal
24 village governments, including roads and
25 trails between villages (including links over

1 water), roads and trails to landfills, roads
2 and trails to drinking water sources, roads
3 and trails to natural resources identified
4 for economic development, and roads and
5 trails that provide access to intermodal ter-
6 mini, such as airports, harbors, or boat
7 landings.

8 “(ii) LIMITATION ON PRIMARY ACCESS
9 ROUTES.—For purposes of this subpara-
10 graph, a proposed primary access route is
11 the shortest practicable route connecting 2
12 points of the proposed route.”.

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

22 (d) DEPUTY ASSISTANT SECRETARY OF TRANSPOR-
23 TATION FOR TRIBAL GOVERNMENT AFFAIRS.—Section
24 102 of title 49, United States Code, is amended—

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

3 (2) by inserting after subsection (e) the fol-
4 lowing:

5 “(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL
6 GOVERNMENT AFFAIRS.—The Department of Transpor-
7 tation shall have, within the office of the Secretary, a Dep-
8 uty Assistant Secretary for Tribal Government Affairs ap-
9 pointed by the President to plan, coordinate, and imple-
10 ment the Department of Transportation policy and pro-
11 grams serving Indian tribes and tribal organizations and
12 to coordinate tribal transportation programs and activities
13 in all offices and administrations of the Department and
14 to be a participant in any negotiated rulemaking related
15 to, or has impact on, projects, programs, or funding asso-
16 ciated with the tribal transportation program.”.

17 (e) ALASKA NATIVE VILLAGE TRANSPORTATION
18 PROGRAM.—

19 (1) ESTABLISHMENT.—Not later than 3
20 months after the date of enactment of this Act, the
21 Secretary and the Denali Commission, in coordina-
22 tion with the Alaska Federation of Natives, shall es-
23 tablish an Alaska Native Village transportation pro-
24 gram to pay the costs of planning, design, construc-
25 tion, and maintenance of road and other surface

1 transportation facilities identified by Alaska Native
2 Villages.

3 (2) ALASKA NATIVE VILLAGE DEFINED.—In
4 this subsection, the term “Alaska Native Village”
5 has the same meaning such term has as used by the
6 Bureau of Indian Affairs in administering the In-
7 dian reservation road program under section 202 of
8 title 23, United States Code.

9 **SEC. 1119. CONSERVATION MEASURES.**

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

12 (1) by striking “and” at the end of subpara-
13 graph (B);

14 (2) by redesigning subparagraph (C) as sub-
15 paragraph (D);

16 (3) by inserting after subparagraph (B) the fol-
17 lowing:

18 “(C) construction, maintenance, and im-
19 provement of wildlife observation infrastructure;
20 and”; and

21 (4) in subparagraph (D) (as so redesignated)
22 by striking “maintenance and improvements” and
23 inserting “construction, maintenance, and improve-
24 ments”.

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

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

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

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

13 (c) WILDLIFE VEHICLE COLLISION REDUCTION
14 STUDY.—

15 (1) IN GENERAL.—The Secretary shall conduct
16 a study of methods to reduce collisions between
17 motor vehicles and wildlife (in this subsection re-
18 ferred to as “wildlife vehicle collisions”).

19 (2) CONTENTS.—

20 (A) AREAS OF STUDY.—The study shall in-
21 clude an assessment of the causes and impacts
22 of wildlife vehicle collisions and solutions and
23 best practices for reducing such collisions.

1 (B) METHODS FOR CONDUCTING THE
2 STUDY.—In carrying out the study, the Sec-
3 retary shall—

4 (i) conduct a thorough literature re-
5 view; and

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

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

11 (4) REPORT.—

12 (A) IN GENERAL.—Not later than 2 years
13 after the date of enactment of this Act, the Sec-
14 retary shall transmit to Congress a report on
15 the results of the study.

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

18 (i) Causes of wildlife vehicle collisions.

19 (ii) Impacts of wildlife vehicle colli-
20 sions.

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

23 (5) MANUAL.—

24 (A) DEVELOPMENT.—Based upon the re-
25 sults of the study, the Secretary shall develop a

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

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

7 (C) CONTENTS.—The manual shall in-
8 clude, at a minimum, the following:

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

11 (ii) A list of information, technical,
12 and funding resources for addressing wild-
13 life vehicle collisions.

14 (iii) Recommendations for addressing
15 wildlife vehicle collisions.

16 (iv) Guidance for developing a State
17 action plan to address wildlife vehicle colli-
18 sions

19 (6) TRAINING.—Based upon the manual devel-
20 oped under paragraph (5), the Secretary shall de-
21 velop a training course on addressing wildlife vehicle
22 collisions for transportation professionals.

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

24 (a) SAFE ROUTES TO SCHOOL PROGRAM.—

1 (1) ESTABLISHMENT.—Subject to the require-
2 ments of this subsection, the Secretary shall estab-
3 lish and carry out a safe routes to school program
4 for the benefit of children in primary and middle
5 schools.

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

8 (A) to enable and encourage children, in-
9 cluding those with disabilities, to walk and bicy-
10 cle to school;

11 (B) to make bicycling and walking to
12 school a safer and more appealing transpor-
13 tation alternative, thereby encouraging a
14 healthy and active lifestyle from an early age;
15 and

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

21 (3) APPORTIONMENT OF FUNDS.—

22 (A) IN GENERAL.—Subject to subpara-
23 graphs (B) and (C), amounts made available to
24 carry out this subsection for a fiscal year shall

1 be apportioned among the States in the ratio
2 that—

3 (i) the total student enrollment in pri-
4 mary and middle schools in each State;
5 bears to

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

9 (B) MINIMUM APPORTIONMENT.—No
10 State shall receive an apportionment under this
11 subsection for a fiscal year of less than
12 \$2,000,000.

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

20 (D) DETERMINATION OF STUDENT EN-
21 ROLLMENTS.—Determinations under this para-
22 graph concerning student enrollments shall be
23 made by the Secretary.

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

1 administered by the State’s department of transpor-
2 tation.

3 (5) ELIGIBLE RECIPIENTS.—Amounts appor-
4 tioned to a State under this subsection shall be used
5 by the State to provide financial assistance to State,
6 local, and regional agencies, including nonprofit or-
7 ganizations, that demonstrate an ability to meet the
8 requirements of this subsection.

9 (6) ELIGIBLE PROJECTS AND ACTIVITIES.—

10 (A) INFRASTRUCTURE-RELATED
11 PROJECTS.—

12 (i) IN GENERAL.—Amounts appor-
13 tioned to a State under this subsection
14 may be used for the planning, design, and
15 construction of infrastructure-related
16 projects that will substantially improve the
17 ability of students to walk and bike to
18 school, including sidewalk improvements,
19 traffic calming and speed reduction im-
20 provements, pedestrian and bicycle cross-
21 ing improvements, on-street bicycle facili-
22 ties, off-street bicycle and pedestrian facili-
23 ties, secure bicycle parking facilities, and
24 traffic diversion improvements in the vicin-
25 ity of schools.

1 (ii) LOCATION OF PROJECTS.—Infra-
2 structure-related projects under subpara-
3 graph (A) may be carried out on any pub-
4 lic road or any bicycle or pedestrian path-
5 way or trail in the vicinity of schools.

6 (B) NONINFRASTRUCTURE-RELATED AC-
7 TIVITIES.—

8 (i) IN GENERAL.—In addition to
9 projects described in subparagraph (A),
10 amounts apportioned to a State under this
11 subsection may be used for noninfrastruc-
12 ture-related activities to encourage walking
13 and bicycling to school, including public
14 awareness campaigns and outreach to
15 press and community leaders, traffic edu-
16 cation and enforcement in the vicinity of
17 schools, student sessions on bicycle and pe-
18 destrian safety, health, and environment,
19 and funding for training, volunteers, and
20 managers of safe routes to school pro-
21 grams.

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

1 used for noninfrastructure-related activities
2 under this subparagraph.

3 (C) SAFE ROUTES TO SCHOOL COORDI-
4 NATOR.—Each State receiving an appor­tion-
5 ment under this subsection for a fiscal year
6 shall use a sufficient amount of the appor­tion-
7 ment to fund a full-time position of coordinator
8 of the State’s safe routes to school program.

9 (7) CLEARINGHOUSE.—

10 (A) IN GENERAL.—The Secretary shall
11 make grants to a national nonprofit organiza-
12 tion engaged in promoting safe routes to
13 schools to—

14 (i) operate a national safe routes to
15 school clearinghouse;

16 (ii) develop information and edu-
17 cational programs on safe routes to school;
18 and

19 (iii) provide technical assistance and
20 disseminate techniques and strategies used
21 for successful safe routes to school pro-
22 grams.

23 (B) FUNDING.—The Secretary shall carry
24 out this paragraph using amounts set aside for

1 administrative expenses under paragraph
2 (3)(C).

3 (8) TASK FORCE.—

4 (A) IN GENERAL.—The Secretary shall es-
5 tablish a national safe routes to school task
6 force composed of leaders in health, transpor-
7 tation, and education, including representatives
8 of appropriate Federal agencies, to study and
9 develop a strategy for advancing safe routes to
10 school programs nationwide.

11 (B) REPORT.—Not later than March 31,
12 2006, the Secretary shall transmit to Congress
13 a report containing the results of the study con-
14 ducted, and a description of the strategy devel-
15 oped, under subparagraph (A) and information
16 regarding the use of funds for infrastructure-re-
17 lated and noninfrastructure-related activities
18 under subparagraphs (A) and (B) of paragraph
19 (6).

20 (C) FUNDING.—The Secretary shall carry
21 out this paragraph using amounts set aside for
22 administrative expenses under paragraph
23 (3)(C).

24 (9) APPLICABILITY OF TITLE 23.—Funds made
25 available to carry out this subsection shall be avail-

1 able for obligation in the same manner as if such
2 funds were apportioned under chapter 1 of title 23,
3 United States Code; except that such funds shall not
4 be transferable and shall remain available until ex-
5 pended and the Federal share of the cost of a
6 project or activity under this section shall be 100
7 percent. Notwithstanding any other provision of law,
8 projects assisted under this subsection shall be treat-
9 ed as projects on a Federal-aid system under such
10 chapter.

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

13 (A) IN THE VICINITY OF SCHOOLS.—The
14 term “in the vicinity of schools” means, with
15 respect to a school, the area within bicycling
16 and walking distance of the school (approx-
17 imately 2 miles).

18 (B) PRIMARY AND MIDDLE SCHOOLS.—
19 The term “primary and middle schools” means
20 schools providing education from kindergarten
21 through eighth grade.

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

1 (b) NONMOTORIZED TRANSPORTATION PILOT PRO-
2 GRAM.—

3 (1) ESTABLISHMENT.—The Secretary shall es-
4 tablish and carry out a nonmotorized transportation
5 pilot program to construct, in 4 communities se-
6 lected by the Secretary, a network of nonmotorized
7 transportation infrastructure facilities, including
8 sidewalks, bicycle lanes, and pedestrian and bicycle
9 trails, that connect directly with transit stations,
10 schools, residences, businesses, recreation areas, and
11 other community activity centers.

12 (2) PURPOSE.—The purpose of the program
13 shall be to demonstrate the extent to which bicycling
14 and walking can carry a significant part of the
15 transportation load, and represent a major portion
16 of the transportation solution, within selected com-
17 munities.

18 (3) GRANTS.—In carrying out the program, the
19 Secretary may make grants to State, local, and re-
20 gional agencies, that the Secretary determines are
21 suitably equipped and organized to carry out the ob-
22 jectives and requirements of this subsection. An
23 agency that receives a grant under this subsection
24 may suballocate grant funds to a nonprofit organiza-
25 tion to carry out the program under this subsection.

1 (4) APPLICABILITY OF TITLE 23.—Funds made
2 available to carry out this subsection shall be avail-
3 able for obligation in the same manner as if such
4 funds were apportioned under chapter 1 of title 23,
5 United States Code; except that the Federal share of
6 the cost of a project carried out under this sub-
7 section shall be 80 percent, and such funds shall not
8 be transferable and shall remain available until ex-
9 pended.

10 (5) STATISTICAL INFORMATION.—In carrying
11 out the program, the Secretary shall develop statis-
12 tical information on changes in motor vehicle, non-
13 motorized transportation, and public transportation
14 usage in communities participating in the program
15 and assess how such changes decrease congestion
16 and energy usage, increase the frequency of biking
17 and walking, and promote better health and a clean-
18 er environment.

19 (6) REPORTS.—The Secretary shall transmit to
20 Congress an interim report not later than September
21 30, 2007, and a final report not later than Sep-
22 tember 30, 2010, on the results of the program.

23 **SEC. 1121. NATIONAL COMMISSIONS.**

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

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

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

8 (B) a study evaluating alternative long-
9 term sources of revenue to support the Highway
10 Trust Fund, considering the findings, conclu-
11 sions, and recommendations of a recent study
12 by the Transportation Research Board of the
13 National Academy of Sciences on alternatives to
14 the fuel tax to support highway program financ-
15 ing and other relevant prior research.

16 (2) FUNCTIONS.—The Commission shall—

17 (A) develop recommendations to generate
18 Highway Trust Fund revenue necessary to ac-
19 complish the requirements of section 1124;

20 (B) oversee a comprehensive investigation
21 of alternatives to replace the fuel tax as the
22 principal revenue source to support the High-
23 way Trust Fund over at least the next 30 years;

24 (C) consult with the Secretary of Trans-
25 portation and the Secretary of the Treasury to

1 assure that their views concerning essential at-
2 tributes of Highway Trust Fund revenue alter-
3 natives are understood;

4 (D) assure that State transportation agen-
5 cy views on alternative revenue sources to sup-
6 port State transportation improvement pro-
7 grams are appropriately considered and that
8 any recommended Federal financing strategy
9 take into account State financial requirements;
10 and

11 (E) make specific recommendations re-
12 garding actions that need to be taken to develop
13 alternative revenue sources to support the
14 Highway Trust Fund and when those actions
15 must be taken.

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

19 (A) advantages and disadvantages of alter-
20 native revenue sources to meet anticipated Fed-
21 eral surface transportation financial require-
22 ments;

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

1 alternative revenue sources to support the
2 Highway Trust Fund;

3 (C) recommendations concerning the most
4 promising revenue sources to support long-term
5 Federal surface transportation financing re-
6 quirements;

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

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

15 (F) the extent to which revenues should re-
16 flect the relative use of the highway system.

17 (4) MATTERS TO CONSIDER AND EVALUATE.—

18 To the maximum extent feasible, the Commission, in
19 conducting the study under paragraph (1)(B), shall
20 consider and evaluate other related work that has
21 been done by the Department of Transportation, the
22 Department of Energy, the Transportation Research
23 Board, and others. In developing recommendations
24 under paragraph (2), the Commission shall con-
25 sider—

1 (A) the ability to generate sufficient reve-
2 nues to meet anticipated long term surface
3 transportation financing needs;

4 (B) the roles of the various levels of gov-
5 ernment and the private sector in meeting fu-
6 ture surface transportation financing needs;

7 (C) administrative costs, including enforce-
8 ment, to implement each option;

9 (D) potential taxpayer privacy concerns;

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

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

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

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

19 (5) MEMBERSHIP.—

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

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

1 (ii) two members shall be appointed
2 by the Speaker of the House of Represent-
3 atives;

4 (iii) one member shall be appointed by
5 the minority leader of the House of Rep-
6 resentatives;

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

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

11 (B) QUALIFICATIONS.—Members ap-
12 pointed under subparagraph (A) shall have ex-
13 perience in public finance, surface transpor-
14 tation program administration, managing orga-
15 nizations that use surface transportation facili-
16 ties, academic research into related issues, or
17 other activities that provide unique perspectives
18 on current and future requirements for revenue
19 sources to support the Highway Trust Fund.

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

22 (D) VACANCIES.—A vacancy on the Com-
23 mission shall be filled in the manner in which
24 the original appointment was made.

1 (E) TRAVEL EXPENSES.—Members shall
2 serve without pay but shall receive travel ex-
3 penses, including per diem in lieu of subsist-
4 ence, in accordance with sections 5702 and
5 5703 of title 5, United States Code.

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

8 (6) STAFF.—

9 (A) IN GENERAL.—The Commission may
10 engage the services of an appropriate organiza-
11 tion, agency, or firm to conduct the studies
12 under this subsection, but the Commission shall
13 provide strategic guidance for the studies.

14 (B) DETAIL STAFF.—Upon request of the
15 Commission, the Secretary may detail, on a re-
16 imburseable basis, any of the personnel of the
17 Department of Transportation to the Commis-
18 sion to assist the Commission in carrying out
19 its duties under this subsection.

20 (C) COOPERATION.—The Secretary shall
21 cooperate with the Commission in conducting
22 the studies under this subsection, including pro-
23 viding the Commission with such nonconfiden-
24 tial data and information as necessary for con-
25 ducting and completing the study.

1 (7) ADMINISTRATIVE SUPPORT SERVICES.—

2 Upon the request of the Commission, the Secretary
3 shall provide to the Commission, on a reimbursable
4 basis, the administrative support and services nec-
5 essary for the Commission to carry out its respon-
6 sibilities under this subsection.

7 (8) REPORTS AND RECOMMENDATIONS.—

8 (A) REVENUE ACTIONS.—Not later than
9 September 30, 2005, the Commission shall
10 transmit to Congress a report on revenue ac-
11 tions that would support the requirements of
12 section 1124.

13 (B) ALTERNATIVE LONG-TERM SOURCES
14 OF REVENUE.—Not later than September 30,
15 2006, the Commission shall transmit to Con-
16 gress a report on the results of the study con-
17 ducted under paragraph (1)(B), relating to al-
18 ternative long-term sources of revenue to sup-
19 port the Highway Trust Fund, including rec-
20 ommendations to address the needs identified in
21 the study.

22 (9) TERMINATION.—The Commission shall ter-
23 minate on the 180th day following the date of trans-
24 mittal of the report under paragraph (8)(B). By
25 such 180th day, the Commission shall deliver all

1 records and papers of the Commission to the Archi-
2 vist of the United States for deposit in the National
3 Archives.

4 (10) AUTHORIZATION OF APPROPRIATIONS.—

5 There is authorized to be appropriated from the
6 Highway Trust Fund (other than the Mass Transit
7 Account) \$1,500,000 for each of fiscal years 2005
8 and 2006 to carry out this subsection.

9 (11) APPLICABILITY OF TITLE 23.—Funds

10 made available to carry out this subsection shall be
11 available for obligation in the same manner as if
12 such funds were apportioned under chapter 1 of title
13 23, United States Code; except that the Federal
14 share of the cost of activities carried out under this
15 subsection shall be 100 percent, and such funds
16 shall remain available until expended.

17 (b) DECLARATION OF POLICY REGARDING FUTURE
18 OF THE INTERSTATE HIGHWAY SYSTEM STUDY.—Section
19 101(b) of title 23, United States Code, is amended by
20 striking the last paragraph and inserting the following:

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

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

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

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

1 Defense Highways (in this subsection referred to as
2 the ‘Interstate System’).

3 (2) FUNCTION.—The Commission shall—

4 (A) conduct a study of the current condi-
5 tion and future of the Interstate System and
6 develop a conceptual plan with alternative ap-
7 proaches for the future of the Interstate System
8 to assure that the Interstate System will con-
9 tinue to serve the needs of the Nation;

10 (B) assure that State transportation agen-
11 cy views are considered; and

12 (C) make specific recommendations regard-
13 ing those design standards, Federal policies,
14 and legislative changes that must be made to
15 assure the national interests are served in meet-
16 ing future Interstate System needs.

17 (3) SPECIFIC MATTERS TO BE ADDRESSED.—

18 The Commission shall assure that the study under
19 this subsection specifically addresses the following:

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

1 (B) FUTURE ASSESSMENT.—The future of
2 the Interstate System, based on a range of leg-
3 islative and policy approaches for 15-, 30-, and
4 50-year horizons.

5 (4) SPECIFIC ISSUES AND DETAILS TO AD-
6 DRESS.—The following specific issues and details
7 shall be addressed as a part of the study under this
8 subsection:

9 (A) DEMOGRAPHICS.—Expected demo-
10 graphics and business uses that impact trans-
11 portation.

12 (B) USAGE.—Expected system use and ef-
13 fects of changing vehicle types, fleet size and
14 weights, and traffic volumes.

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

17 (D) DESIGN STANDARDS.—Desirable de-
18 sign policies and standards for future improve-
19 ments, including safety improvement and addi-
20 tional access points.

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

23 (F) POTENTIAL SYSTEM EXPANSION, UP-
24 GRADES, OR OTHER CHANGES.—Deployment of
25 advanced materials and intelligent technologies;

1 critical multi-state rural corridors needing ca-
2 pacity, safety, and operational enhancements;
3 urban and multi-state corridor additions; by-
4 passes of major cities that ensure efficient long-
5 haul travel; improvements to inter-modal link-
6 ages; strategies to enhance asset preservation;
7 and implementation strategies.

8 (G) COMMUNITY VALUES.—Consideration
9 of alternative approaches to maintaining or en-
10 hancing community values in those neighbor-
11 hoods adjacent to the Interstate System.

12 (H) ENVIRONMENTAL ISSUES.—Consider-
13 ation of alternative approaches to addressing
14 environmental concerns relative to rec-
15 ommended alternatives.

16 (I) SYSTEM PERFORMANCE.—Evaluation
17 and assessment of the current and future capa-
18 bilities for conducting system-wide real-time
19 performance data collection and analysis, traffic
20 monitoring, system operations and manage-
21 ment.

22 (5) ALTERNATIVES.—A range of policy rec-
23 ommendations shall be developed as a part of the
24 plan under this subsection to address identified fu-
25 ture needs of the Interstate System. The alternatives

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

3 (6) MEMBERSHIP.—

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

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

8 (ii) two members shall be appointed
9 by the Speaker of the House of Represent-
10 atives;

11 (iii) one member shall be appointed by
12 the minority leader of the House of Rep-
13 resentatives;

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

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

18 (B) QUALIFICATIONS.—Members ap-
19 pointed under subparagraph (A) shall be ap-
20 pointed from among individuals that have a
21 concern for maintaining a strong role for the
22 Interstate System in the future of the Nation
23 and may include representatives from Federal,
24 State, and local governments, other transpor-
25 tation authorities or agencies, and organizations

1 representing surface transportation owners and
2 operators.

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

5 (D) VACANCIES.—A vacancy in the Com-
6 mission shall be filled in the manner in which
7 the original appointment was made.

8 (E) TRAVEL EXPENSES.—Member shall
9 serve without pay but shall receive travel ex-
10 penses, including per diem in lieu of subsist-
11 ence, in accordance with sections 5702 and
12 5703 of title 5, United States Code.

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

15 (7) STAFF.—

16 (A) IN GENERAL.—The Commission may
17 engage the services of an appropriate organiza-
18 tion, agency, or firm to conduct the study under
19 this subsection, but the Commission shall pro-
20 vide strategic guidance for the study.

21 (B) DETAIL STAFF.—Upon request of the
22 Commission, the Secretary may detail, on a re-
23 imburseable basis, any of the personnel of the
24 Department of Transportation to the Commis-

1 sion to assist the Commission in carrying out
2 its duties under this subsection.

3 (C) COOPERATION.—The Secretary shall
4 cooperate with the Commission in the study, in-
5 cluding providing the Commission with such
6 nonconfidential data and information as nec-
7 essary for conducting and completing the study.

8 (8) ADMINISTRATIVE SUPPORT SERVICES.—
9 Upon the request of the Commission, the Secretary
10 shall provide to the Commission, on a reimbursable
11 basis, the administrative support and services nec-
12 essary for the Commission to carry out its respon-
13 sibilities under this subsection.

14 (9) REPORT AND RECOMMENDATIONS.—Not
15 later than September 30, 2006, the Commission
16 shall transmit to Congress a final report on the re-
17 sults of the study conducted under this subsection,
18 including recommendations to address the needs
19 identified in the study.

20 (10) TERMINATION.—The Commission shall
21 terminate on the 180th day following the date of
22 transmittal of the report under paragraph (9). By
23 such 180th day, the Commission shall deliver all
24 records and papers of the Commission to the Archi-

1 (A) by improving the quality of data per-
2 taining to public road hazards and design fea-
3 tures that affect or increase the severity of
4 motor vehicle crashes;

5 (B) by developing and carrying out a pub-
6 lic awareness campaign to educate State and
7 local transportation officials, public safety offi-
8 cials, and motorists regarding the extent to
9 which public road hazards and design features
10 are a factor in motor vehicle crashes; and

11 (C) by promoting public road safety re-
12 search and technology transfer activities.

13 (2) FUNDING.—There is authorized to be ap-
14 propriated from the Highway Trust Fund (other
15 than the Mass Transit Account) \$500,000 for each
16 of fiscal years 2005 through 2009 to carry out this
17 subsection.

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

24 (b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

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

4 (A) to operate a national bicycle and pe-
5 destrian clearinghouse;

6 (B) to develop information and educational
7 programs; and

8 (C) to disseminate techniques and strate-
9 gies for improving bicycle and pedestrian safety.

10 (2) FUNDING.—There is authorized to be ap-
11 propriated from the Highway Trust Fund (other
12 than the Mass Transit Account) \$500,000 for each
13 of fiscal years 2004 through 2009 to carry out this
14 subsection.

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

21 **SEC. 1124. EQUITY REQUIREMENT.**

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

1 2006 unless, after the date of enactment of this Act, a
2 law has been enacted that—

3 (1) increases the guaranteed rate of return pur-
4 suant to section 105 of title 23, United States Code,
5 to 92 percent in fiscal year 2006, 93 percent in fis-
6 cal year 2007, 94 percent in fiscal year 2008, and
7 95 percent in fiscal year 2009; and

8 (2) requires that each State receive appor-
9 tions for such programs for each of such fiscal
10 years that in the aggregate are at least equal to the
11 greater of—

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

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

22 (b) APPLICABILITY.—The withholding of appor-
23 tioned funds under subsection (a) shall apply to the following
24 programs:

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

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

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

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

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

11 (6) The highway bridge replacement and reha-
12 bilitation program under section 144 of title 23,
13 United States Code.

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

17 (8) The recreational trails program under sec-
18 tion 206 of such title.

19 (9) The Appalachian development highway sys-
20 tem under subtitle IV of title 40, United States
21 Code.

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

24 (11) The coordinated border infrastructure pro-
25 gram under section 1302 of this Act.

1 (12) The high risk rural road safety improve-
2 ment program under section 1403 of this Act.

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

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

7 (c) CONSIDERATION OF COMMISSION FINDINGS.—In
8 considering a law that increases the guaranteed rate of
9 return referred to in subsection (a), Congress should con-
10 sider the findings of the report on alternative short-term
11 sources of Highway Trust Fund revenue to be published
12 by the National Commission on Future Revenue Sources
13 to Support the Highway Trust Fund pursuant to section
14 1121 of this Act.

15 **Subtitle B—Congestion Relief**

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

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

19 ‘§ 139. Motor vehicle congestion relief

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

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

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

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

10 ‘(2) 10 percent; by

11 ‘(3) the percentage of the State’s population re-
12 siding in urbanized areas of the State with an ur-
13 banized area population of over 200,000 individuals.

14 ‘(c) ALLOCATION BETWEEN UNDER ONE AND
15 UNDER THREE CONGESTION RELIEF ACTIVITIES.—Of
16 the total amount of a State’s apportionments to be obli-
17 gated for congestion relief activities for a fiscal year as
18 calculated under subsection (b)—

19 ‘(1) 40 percent shall be obligated for under one
20 congestion relief activities;

21 ‘(2) 35 percent shall be obligated for under
22 three congestion relief activities; and

23 ‘(3) 25 percent shall be obligated at the discre-
24 tion of the State department of transportation for 1
25 or more of the following:

1 ‘(A) Under one congestion relief activities.

2 ‘(B) Under three congestion relief activi-
3 ties.

4 ‘(C) Capital costs for transit projects that
5 are eligible for assistance under chapter 53 of
6 title 49.

7 ‘(D) Demand relief projects and activities
8 that shift demand to non-peak hours or to other
9 modes of transportation or that reduce the
10 overall level of demand for roads through such
11 means as telecommuting, ridesharing, alter-
12 native work hour programs, and value pricing.

13 ‘(d) OBLIGATION OF AMOUNTS.—

14 ‘(1) IN GENERAL.—In complying with the re-
15 quirements of this section, the amounts obligated by
16 a State for congestion relief activities under sub-
17 section (a) shall be allocated among the individual
18 programs for which funds are apportioned under
19 sections 104(b)(1), 104(b)(2), 104(b)(3), and
20 104(b)(4).

21 ‘(2) LIMITATION ON STATUTORY CONSTRUC-
22 TION.—Nothing in this subsection shall be construed
23 as requiring a State to obligate proportional or equal
24 amounts under sections 104(b)(1), 104(b)(2),

1 104(b)(3), and 104(b)(4) for any congestion relief
2 activity under this section.

3 ‘(e) LIMITATION ON STATUTORY CONSTRUCTION.—
4 Nothing in this section shall be construed as altering or
5 otherwise affecting the applicability of the requirements
6 of this chapter (including requirements relating to the eli-
7 gibility of a project for assistance under the program, the
8 location of the project, and the Federal-share payable on
9 account of the project) to amounts apportioned to a State
10 for a program under section 104(b) that are obligated by
11 the State for congestion relief activities under subsection
12 (a).

13 ‘(f) JOINT RESPONSIBILITY.—Each State, each af-
14 fected metropolitan planning organization, and the Sec-
15 retary shall jointly ensure compliance with this section.

16 ‘(g) TRANSFERS.—

17 ‘(1) IN GENERAL.—A State may transfer a por-
18 tion of the amount that the State must obligate for
19 under one congestion relief activities in a fiscal year
20 under this section to the amount the State must ob-
21 ligate for under three congestion relief activities
22 under this section if the State certifies to the Sec-
23 retary that there are no under one congestion relief
24 activities for which such portion can be obligated in
25 such fiscal year and the Secretary does not dis-

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

3 ‘(2) LIMITATION.—The amount that a State
4 may transfer in a fiscal year under this subsection
5 may not reduce the amount the State must obligate
6 for under one congestion relief activities to less than
7 10 percent of the total amount of the State’s appor-
8 tionments to be obligated for congestion relief activi-
9 ties for such fiscal year as calculated under sub-
10 section (b).

11 ‘(3) TREATMENT.—Amounts transferred by a
12 State under this subsection for a fiscal year shall be
13 included in the amount of the State’s apportion-
14 ments allocated for under three congestion relief ac-
15 tivities for such fiscal year under subsection (c)(2).

16 ‘(h) DEFINITIONS.—In this section, the following
17 definitions apply:

18 ‘(1) CONGESTION RELIEF ACTIVITIES.—

19 ‘(A) IN GENERAL.—The term “congestion
20 relief activity” means any activity, project, or
21 program that has as its primary purpose, as de-
22 termined by the State transportation depart-
23 ment, the relief of motor vehicle congestion.

24 ‘(B) INCLUSIONS.—Such term includes the
25 following:

1 ‘(i) Relief of motor vehicle congestion
2 through additional capacity, construction
3 of additional lanes, improvements to inter-
4 changes, improved access to major termi-
5 nals, construction of parallel roads, con-
6 struction of truck only lanes, and major
7 arterial improvements.

8 ‘(ii) Transportation systemwide oper-
9 ational improvements targeted at increas-
10 ing motor vehicle travel reliability through
11 such means as incident management pro-
12 grams, traffic monitoring and surveillance,
13 and traveler information initiatives.

14 ‘(iii) Maximizing efficient use of exist-
15 ing motor vehicle travel capacity through
16 such means as reversible lanes, coordinated
17 traffic signalization, and managed lanes or
18 other lane management strategies.

19 ‘(C) EXCLUSIONS.—Such term does not in-
20 clude demand relief projects and activities that
21 shift demand to non-peak hours or to other
22 modes of transportation or that reduce the
23 overall level of demand for roads through such
24 means as telecommuting, ridesharing, alter-
25 native work hour programs, and value pricing.

1 ‘(2) UNDER ONE CONGESTION RELIEF ACTIVI-
2 TIES.—The term “under one congestion relief activ-
3 ity” means a congestion relief activity that—

4 ‘(A) will be completed within one year
5 after the date of commencement of onsite im-
6 provements;

7 ‘(B) has a total projected cost of less than
8 \$1,000,000; and

9 ‘(C) will improve conditions in the applica-
10 ble urbanized area or is an element of the con-
11 gestion management system of the applicable
12 metropolitan planning organization.

13 ‘(3) UNDER THREE CONGESTION RELIEF AC-
14 TIVITIES.—The term “under three congestion relief
15 activities” means congestion relief activities that—

16 ‘(A) will be completed within 3 years after
17 the date of commencement of onsite improve-
18 ments; and

19 ‘(B) will improve conditions in the applica-
20 ble urbanized area or is an element of the con-
21 gestion management system of the applicable
22 metropolitan planning organization.’.

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

‘139. Motor vehicle congestion relief.’.

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

3 (1) in section 154(a)(2), relating to the defini-
4 tion of motor vehicle, by inserting ‘streets, roads,
5 and’ before ‘highways’;

6 (2) by redesignating paragraph (2) of section
7 154(a) as paragraph (38);

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

10 (4) by redesignating paragraphs (3) and (4) of
11 section 154(a) as paragraphs (2) and (3), respec-
12 tively;

13 (5) in section 153(i)—

14 (A) by striking paragraph (2); and

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

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

20 (7) in section 405(f)—

21 (A) by striking paragraph (2); and

22 (B) by redesignating paragraphs (3), (4),
23 (5), and (6) as paragraphs (2), (3), (4), and
24 (5).

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

3 (a) DEFINITIONS.—

4 (1) OPERATING COSTS FOR TRAFFIC MONI-
5 TORING, MANAGEMENT, AND CONTROL.—Section
6 101(a)(17) of title 23, United States Code, is
7 amended by inserting ‘transportation systems man-
8 agement and operations and’ after ‘associated with’.

9 (2) OPERATIONAL IMPROVEMENT.—Section
10 101(a)(18)(A)(i) of such title is amended—

11 (A) by inserting ‘transportation systems
12 management and operations, including’ after
13 ‘for’; and

14 (B) by inserting ‘equipment and programs
15 for transportation response to natural disas-
16 ters,’ after ‘incident management programs,’.

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

20 ‘(39) TRANSPORTATION SYSTEMS MANAGEMENT
21 AND OPERATIONS.—

22 ‘(A) IN GENERAL.—The term “transpor-
23 tation systems management and operations”
24 means an integrated program to optimize the
25 performance of existing infrastructure through
26 the implementation of multimodal and inter-

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

5 ‘(B) INCLUDED ACTIVITIES AND IMPROVE-
6 MENTS.—The term includes regional operations
7 collaboration and coordination activities be-
8 tween transportation and public safety agencies
9 and improvements such as traffic detection and
10 surveillance, arterial management, freeway
11 management, demand management, work zone
12 management, emergency management, elec-
13 tronic toll collection, automated enforcement,
14 traffic operations measures to improve capacity,
15 traffic signal coordination, optimization of traf-
16 fic signal timing, traffic incident management,
17 roadway weather management, traveler infor-
18 mation services, commercial vehicle operations,
19 traffic control, freight management, and coordi-
20 nation of highway, rail, transit, bicycle, and pe-
21 destrian operations.’.

22 (b) SURFACE TRANSPORTATION PROGRAM ELIGI-
23 BILITY.—Section 133(b) of such title is amended—

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

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

2 (14) Regional transportation operations col-
3 laboration and coordination activities that are asso-
4 ciated with regional improvements, including activi-
5 ties for traffic incident management, technology de-
6 ployment, emergency management and response,
7 traveler information, and regional congestion relief.’.

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

11 (Q) Capital, operating, and systems main-
12 tenance costs for transportation systems man-
13 agement and operations.’.

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

17 **‘§ 166. Transportation systems management and oper-**
18 **ations**

19 (a) AUTHORITY.—The Secretary may—

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

1 and services, to collaborate and coordinate on a re-
2 gional level in a continuous and sustained manner
3 for improved transportation systems management
4 and operations, including, at a minimum—

5 ‘(A) developing a regional concept of oper-
6 ations that defines a regional strategy shared
7 by all transportation and public safety partici-
8 pants for how the region’s systems should be
9 managed, operated, and measured;

10 ‘(B) sharing of information among opera-
11 tors, service providers, public safety officials,
12 and the general public; and

13 ‘(C) guiding, in a regionally-coordinated
14 manner, the implementation of regional trans-
15 portation system management and operations
16 initiatives, including emergency evacuation and
17 response, traffic incident management, tech-
18 nology deployment, and traveler information
19 systems delivery, in a manner consistent with
20 and integrated into the ongoing metropolitan
21 and statewide transportation planning processes
22 and regional intelligent transportation system
23 architecture, if required; and

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

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

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

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

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

1 hardware, software, and software integration serv-
2 ices.’.

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

‘166. Transportation systems management and operations.’.

6 (f) INTELLIGENT TRANSPORTATION SYSTEM PRO-
7 CUREMENT POLICY.—

8 (1) STUDY.—The Secretary shall—

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

13 (B) develop a conceptual plan with alter-
14 native approaches for expediting and stream-
15 lining such procurements at the State level.

16 (2) RECOMMENDATIONS.—Based on the results
17 of the study, the Secretary shall make recommenda-
18 tions in the report under paragraph (4) regarding
19 procurement standards, including recommendations
20 regarding any changes in Federal and State stat-
21 utes, regulations, and policies necessary to ensure
22 that national interests are served in meeting future
23 intelligent transportation system needs.

1 (3) SPECIFIC MATTERS TO BE ADDRESSED.—

2 The study under this subsection shall specifically ad-
3 dress the following:

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

11 (B) ASSESSMENT OF NEED FOR POLICY
12 REFORM.—The ability of current practices and
13 policies to achieve the successful implementa-
14 tion of intelligent transportation system goals
15 and the need for national policy reform to expe-
16 dite and streamline procurements necessary to
17 meet such goals.

18 (C) ALTERNATIVES.—The range of legisla-
19 tive, regulatory, and policy alternatives to ad-
20 dress identified needs and goals, including fund-
21 ing needs.

22 (D) RECOMMENDATIONS.—Recommendations
23 regarding procurement standards, includ-
24 ing recommendations regarding any changes in
25 Federal and State statutes, regulations, and

1 policies necessary for expedited and streamlined
2 procurements.

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

9 (5) INITIATION OF RULEMAKING PRO-
10 CEEDING.—To the extent any recommendation made
11 by the Secretary under this subsection may be im-
12 plemented by regulation, the Secretary shall initiate
13 a rulemaking proceeding to address such rec-
14 ommendation not later than the 90th day following
15 the date of submission of the report under para-
16 graph (4).

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

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

1 United States Code; except that the Federal share of
2 the cost of the study under this subsection shall be
3 100 percent and such funds shall remain available
4 until expended.

5 **SEC. 1203. REAL-TIME SYSTEM MANAGEMENT INFORMA-**
6 **TION PROGRAM.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—The Secretary shall establish
9 a real-time system management information pro-
10 gram to provide, in all States, the capability to mon-
11 itor, in real-time, the traffic and travel conditions of
12 the Nation’s major highways and to share that in-
13 formation to improve the security of the surface
14 transportation system, to address congestion prob-
15 lems, to support improved response to weather
16 events and surface transportation incidents, and to
17 facilitate national and regional highway traveler in-
18 formation.

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

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

24 (B) identify longer range real-time high-
25 way and transit monitoring needs and develop

1 plans and strategies for meeting such needs;
2 and

3 (C) provide the capability and means to
4 share that data with State and local govern-
5 ments and the traveling public.

6 (b) NATIONAL STEERING COMMITTEE.—

7 (1) IN GENERAL.—The Secretary shall establish
8 a national steering committee to assist in the devel-
9 opment of data exchange formats under subsection
10 (c).

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

16 (3) PURPOSE.—The purpose of the national
17 steering committee shall be to provide guidance re-
18 garding the content and uniformity of data exchange
19 formats.

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

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

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

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

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

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

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

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

16 (g) STATEWIDE INCIDENT REPORTING SYSTEM DE-
17 FINED.—In this section, the term ‘statewide incident re-
18 porting system’ means a statewide system for facilitating
19 the real-time electronic reporting of surface transportation
20 incidents to a central location for use in monitoring the
21 event, providing accurate traveler information, and re-
22 sponding to the incident as appropriate.

1 **SEC. 1204. EXPEDITED NATIONAL INTELLIGENT TRANSPOR-**
2 **TATION SYSTEMS DEPLOYMENT PROGRAM.**

3 (a) ESTABLISHMENT.—The Secretary shall establish
4 a comprehensive program to accelerate the integration,
5 interoperability, and deployment of intelligent transpor-
6 tation systems in order to improve the performance of the
7 surface transportation system in metropolitan and rural
8 areas.

9 (b) SELECTION OF MODEL PROJECTS.—Under the
10 program, the Secretary may make grants, through com-
11 petitive solicitation, for projects that will serve as models
12 to improve transportation efficiency, promote surface
13 transportation safety (including safe freight movement),
14 increase traffic flow (including the flow of intermodal trav-
15 el at ports of entry), reduce emissions of air pollutants,
16 improve traveler information, enhance alternative trans-
17 portation modes, build on existing intelligent transpor-
18 tation system projects, and promote tourism.

19 (c) OTHER PROJECTS, PROGRAMS, AND ACTIVI-
20 TIES.—Under the program, the Secretary may make
21 grants for projects, programs, and activities in metropoli-
22 tan and rural areas that—

23 (1) contribute to national deployment goals and
24 objectives outlined in the national intelligent trans-
25 portation system program plan;

1 (2) promote cooperation among agencies, juris-
2 dictions, and the private sector, as evidenced by
3 signed memoranda of understanding that clearly de-
4 fine the responsibilities and relations of all parties to
5 a partnership arrangement, including institutional
6 relationships and financial agreements needed to
7 support deployment of intelligent transportation sys-
8 tems;

9 (3) encourage private sector involvement and fi-
10 nancial commitment to such deployment to the max-
11 imum extent practicable through innovative financial
12 arrangements, especially public-private partnerships,
13 including arrangements that generate revenue to off-
14 set public investment costs;

15 (4) enhance fully integrated intelligent trans-
16 portation system deployment;

17 (5) create technical capacity for effective oper-
18 ations and maintenance of such systems;

19 (6) improve safety, mobility, geographic and re-
20 gional diversity, and economic development in de-
21 ployment of such systems;

22 (7) advance deployment of the 511 traveler in-
23 formation program; and

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

1 tem, wireless e-911 system, and road weather infor-
2 mation system.

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

12 **SEC. 1205. INTELLIGENT TRANSPORTATION SYSTEMS DE-**
13 **PLOYMENT.**

14 (a) **PURPOSE.**—The purpose of this section is to en-
15 sure that a minimum of \$2,500,000,000 of the amounts
16 authorized to be appropriated for the National Highway
17 System, Interstate maintenance, surface transportation,
18 and congestion mitigation and air quality improvement
19 programs for fiscal years 2005 through 2009 is utilized
20 to expand deployment of intelligent transportation sys-
21 tems.

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

1 **‘§ 150. Deployment of intelligent transportation sys-**
2 **tems**

3 ‘(a) IN GENERAL.—In each of fiscal years 2005
4 through 2009, each State shall obligate a portion of the
5 funds apportioned to the State under sections 104(b)(1),
6 104(b)(2), 104(b)(3), and 104(b)(4) for such fiscal year,
7 calculated under subsection (b), for projects described in
8 subsection (c) that support deployment of intelligent
9 transportation systems in the State.

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

15 ‘(1) the aggregate of amounts apportioned to
16 the State for such fiscal year under sections
17 104(b)(1), 104(b)(2), 104(b)(3), and 104(b)(4);
18 bears to

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

21 ‘(c) INTELLIGENT TRANSPORTATION SYSTEMS DE-
22 PLOYMENT PROJECTS.—Projects for which funds must be
23 obligated under this section include the following:

24 ‘(1) PERFORMANCE.—Establishment and imple-
25 mentation of operations systems and services that
26 improve performance in the areas of traffic oper-

1 ations, emergency response to surface transportation
2 incidents, surface transportation incident manage-
3 ment, weather event response management by State
4 and local authorities, surface transportation network
5 and facility management, construction and work
6 zone management, and traffic flow information.

7 ‘(2) NETWORKS.—Conducting activities that
8 support the creation of networks that link metropoli-
9 tan and rural surface transportation systems into an
10 integrated data network, capable of collecting, shar-
11 ing, and archiving transportation system traffic con-
12 dition and performance information.

13 ‘(3) SAFETY.—Implementation of intelligent
14 transportation system technologies that improve
15 highway safety through linkages connecting the vehi-
16 cle, the infrastructure, and information to the driver.

17 ‘(4) OPERATION AND MANAGEMENT.—Provision
18 of services necessary to ensure the efficient oper-
19 ation and management of intelligent transportation
20 systems infrastructure, including costs associated
21 with communications, utilities, rent, hardware, soft-
22 ware, labor, administrative costs, training, and tech-
23 nical services.

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

1 portation agencies, police, emergency medical serv-
2 ices, private emergency operators, freight operators,
3 and shippers.

4 ‘(6) PLANNING.—Conducting cross-jurisdic-
5 tional planning and deployment of regional transpor-
6 tation systems operations and management ap-
7 proaches.

8 ‘(d) OBLIGATION OF AMOUNTS.—

9 ‘(1) IN GENERAL.—In complying with the re-
10 quirements of this section, the amounts obligated by
11 a State for projects under subsection (c) that sup-
12 port deployment of intelligent transportation systems
13 in such State under subsection (a) shall be allocated
14 among the individual programs for which funds are
15 apportioned under sections 104(b)(1), 104(b)(2),
16 104(b)(3), and 104(b)(4).

17 ‘(2) LIMITATION ON STATUTORY CONSTRUC-
18 TION.—Nothing in this subsection shall be construed
19 as requiring a State to obligate proportional or equal
20 amounts under sections 104(b)(1), 104(b)(2),
21 104(b)(3), and 104(b)(4) for any congestion relief
22 activity under this section.

23 ‘(e) LIMITATION ON STATUTORY CONSTRUCTION.—

24 Nothing in this section shall be construed as altering or
25 otherwise affecting the applicability of the requirements

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

7 ‘(f) JOINT RESPONSIBILITY.—Each State, each af-
8 fected metropolitan planning organization, and the Sec-
9 retary shall jointly ensure compliance with this section.’.

10 (c) CONFORMING AMENDMENT.—The analysis for
11 such chapter is amended by inserting after the item relat-
12 ing to section 149 the following:

‘150. Deployment of intelligent transportation systems.’.

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

16 (a) CATEGORICAL EXCLUSIONS.—Not later than one
17 year after the date of enactment of this Act, the Secretary
18 shall initiate a rulemaking process to establish, to the ex-
19 tent appropriate, categorical exclusions for activities that
20 support the deployment of intelligent transportation infra-
21 structure and systems from the requirement that an envi-
22 ronmental assessment or an environmental impact state-
23 ment be prepared under section 102 of the National Envi-
24 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

1 (42 U.S.C. 4332) in compliance with the standards for
2 categorical exclusions established by that Act.

3 (b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

4 (1) DEVELOPMENT.—The Secretary shall de-
5 velop a nationwide programmatic agreement gov-
6 erning the review of activities that support the de-
7 ployment of intelligent transportation infrastructure
8 and systems in accordance with section 106 of the
9 National Historic Preservation Act (16 U.S.C. 470f)
10 and the regulations of the Advisory Council on His-
11 toric Preservation.

12 (2) CONSULTATION.—The Secretary shall de-
13 velop the agreement under paragraph (1) in con-
14 sultation with the National Conference of State His-
15 toric Preservation Officers and the Advisory Council
16 on Historic Preservation established under title II of
17 the National Historic Preservation Act (26 U.S.C.
18 470i et seq.) and after soliciting the views of other
19 interested parties.

20 (c) INTELLIGENT TRANSPORTATION INFRASTRUC-
21 TURE AND SYSTEMS DEFINED.—In this section, the term
22 ‘intelligent transportation infrastructure and systems’
23 means intelligent transportation infrastructure and intel-
24 ligent transportation systems, as such terms are defined
25 in section 5607.

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

3 (a) IN GENERAL.—Subchapter I of chapter 1 of title
4 23, United States Code, is amended by adding at the end
5 the following:

6 **‘§ 167. State assumption of responsibilities for certain**
7 **programs and projects**

8 ‘(a) ASSUMPTION OF SECRETARY’S RESPONSIBIL-
9 ITIES UNDER APPLICABLE FEDERAL LAWS.—

10 ‘(1) PILOT PROGRAM.—

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

16 ‘(B) FIRST 3 FISCAL YEARS.—In the first
17 3 fiscal years following the date of enactment of
18 this section, the Secretary may allow up to 5
19 States to participate in the pilot program.

20 ‘(2) SCOPE OF PROGRAM.—Under the pilot pro-
21 gram, the Secretary may assign, and a State may
22 assume, any of the Secretary’s responsibilities (other
23 than responsibilities relating to federally recognized
24 Indian tribes) for environmental reviews, consulta-
25 tion, or decisionmaking or other actions required

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

3 ‘(A) Projects funded under section 104(h).

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

7 ‘(C) Projects as defined in section
8 101(a)(39) and section 5607 of the Transpor-
9 tation Equity Act: A Legacy for Users.

10 ‘(b) AGREEMENTS.—

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

17 ‘(2) CERTIFICATION.—Before the Secretary en-
18 ters into a memorandum of understanding with a
19 State under paragraph (1), the State shall certify
20 that the State has in effect laws (including regula-
21 tions) applicable to projects carried out and funded
22 under this title and chapter 53 of title 49 that au-
23 thorize the State to carry out the responsibilities
24 being assumed.

1 ‘(3) MAXIMUM DURATION.—A memorandum of
2 understanding with a State under this section shall
3 be established for an initial period of no more than
4 3 years and may be renewed by mutual agreement
5 on a periodic basis for periods of not more than 3
6 years.

7 ‘(4) COMPLIANCE.—

8 ‘(A) IN GENERAL.—After entering into a
9 memorandum of understanding under para-
10 graph (1), the Secretary shall review and deter-
11 mine compliance by the State with the memo-
12 randum of understanding.

13 ‘(B) RENEWALS.—The Secretary shall
14 take into account the performance of a State
15 under the pilot program when considering re-
16 newal of a memorandum of understanding with
17 the State under the program.

18 ‘(c) SELECTION OF STATES FOR PILOT PROGRAM.—

19 ‘(1) APPLICATION.—To be eligible to partici-
20 pate in the pilot program, a State shall submit to
21 the Secretary an application that contains such in-
22 formation as the Secretary may require. At a min-
23 imum, an application shall include—

1 ‘(A) a description of the projects or classes
2 of projects for which the State seeks to assume
3 responsibilities under subsection (a)(2); and

4 ‘(B) a certification that the State has the
5 capability to assume such responsibilities.

6 ‘(2) PUBLIC NOTICE.—Before entering into a
7 memorandum of understanding allowing a State to
8 participate in the pilot program, the Secretary
9 shall—

10 ‘(A) publish notice in the Federal Register
11 of the Secretary’s intent to allow the State to
12 participate in the program, including a copy of
13 the State’s application to the Secretary and the
14 terms of the proposed agreement with the
15 State; and

16 ‘(B) provide an opportunity for public com-
17 ment.

18 ‘(3) SELECTION CRITERIA.—The Secretary may
19 approve the application of a State to assume respon-
20 sibilities under the program only if—

21 ‘(A) the requirements under paragraph (2)
22 have been met; and

23 ‘(B) the Secretary determines that the
24 State has the capability to assume the respon-
25 sibilities.

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

6 ‘(d) STATE DEFINED.—With respect to the rec-
7 reational trails program, the term “State” means the
8 State agency designated by the Governor of the State in
9 accordance with section 206(c)(1).

10 ‘(e) PRESERVATION OF PUBLIC INTEREST CONSID-
11 ERATION.—Nothing in this section shall be construed to
12 limit the requirements under any applicable law providing
13 for the consideration and preservation of the public inter-
14 est, including public participation and community values
15 in transportation decisionmaking.’.

16 (b) CONFORMING AMENDMENT.—The analysis for
17 subchapter I of chapter 1 of such title is amended by add-
18 ing at the end the following:

 ‘167. State assumption of responsibilities for certain programs and projects.’.

19 **SEC. 1208. HOV FACILITIES.**

20 (a) IN GENERAL.—Subchapter I of chapter 1 of title
21 23, United States Code, is amended by adding at the end
22 the following:

23 ‘**§ 168. HOV facilities**

24 ‘(a) IN GENERAL.—

1 ‘(1) AUTHORITY OF STATE AGENCIES.—A State
2 agency that has jurisdiction over the operation of a
3 HOV facility shall establish the occupancy require-
4 ments of vehicles operating on the facility.

5 ‘(2) OCCUPANCY REQUIREMENT.—Except as
6 otherwise provided by this section, no fewer than 2
7 occupants per vehicle may be required for use of a
8 HOV facility.

9 ‘(b) EXCEPTIONS.—Notwithstanding the occupancy
10 requirements of subsection (a)(2), the following exceptions
11 shall apply with respect to a State agency operating a
12 HOV facility:

13 ‘(1) MOTORCYCLES AND BICYCLES.—

14 ‘(A) IN GENERAL.—Subject to subpara-
15 graph (B), the State agency shall allow motor-
16 cycles and bicycles to use the HOV facility.

17 ‘(B) SAFETY EXCEPTION.—A State agency
18 may restrict use of the HOV facility by motor-
19 cycles or bicycles (or both) if the agency cer-
20 tifies to the Secretary that such use would cre-
21 ate a safety hazard and the Secretary accepts
22 the certification. The Secretary may accept a
23 certification under this subparagraph only after
24 the Secretary publishes notice of the certifi-

1 cation in the Federal Register and provides an
2 opportunity for public comment.

3 ‘(2) PUBLIC TRANSPORTATION VEHICLES.—The
4 State agency may allow public transportation vehi-
5 cles to use the HOV facility if the agency—

6 ‘(A) establishes requirements for clearly
7 identifying the vehicles; and

8 ‘(B) establishes procedures for enforcing
9 the restrictions on the use of the facility by
10 such vehicles.

11 ‘(3) HIGH OCCUPANCY TOLL VEHICLES.—The
12 State agency may allow vehicles not otherwise ex-
13 empt pursuant to this subsection to use the HOV fa-
14 cility if the operators of such vehicles pay a toll
15 charged by the agency for use of the facility and the
16 agency—

17 ‘(A) establishes a program that addresses
18 how motorists can enroll and participate in the
19 toll program;

20 ‘(B) develops, manages, and maintains a
21 system that will automatically collect the toll;
22 and

23 ‘(C) establishes policies and procedures
24 to—

1 ‘(i) manage the demand to use the fa-
2 cility by varying the toll amount that is
3 charged;

4 ‘(ii) enforce violations of use of the fa-
5 cility; and

6 ‘(iii) permit low-income individuals to
7 pay reduced tolls.

8 ‘(4) LOW EMISSION AND ENERGY-EFFICIENT
9 VEHICLES.—

10 ‘(A) INHERENTLY LOW-EMISSION VEHI-
11 CLE.—Before September 30, 2009, the State
12 agency may allow vehicles that are certified as
13 inherently low-emission vehicles pursuant to
14 section 88.311–93 of title 40, Code of Federal
15 Regulations, and are labeled in accordance with
16 section 88.312–93 of such title, to use the HOV
17 facility if the agency establishes procedures for
18 enforcing the restrictions on the use of the fa-
19 cility by such vehicles.

20 ‘(B) OTHER LOW EMISSION AND ENERGY-
21 EFFICIENT VEHICLES.—Before September 30,
22 2009, the State agency may allow vehicles cer-
23 tified as low emission and energy-efficient vehi-
24 cles under subsection (e), and labeled in accord-
25 ance with subsection (e), to use the HOV facil-

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

4 ‘(i) establishes a program that ad-
5 dresses the selection of vehicles under this
6 paragraph; and

7 ‘(ii) establishes procedures for enforce-
8 ing the restrictions on the use of the facil-
9 ity by such vehicles.

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

13 ‘(c) REQUIREMENTS APPLICABLE TO TOLLS.—

14 ‘(1) IN GENERAL.—Tolls may be charged under
15 subsections (b)(3) and (b)(4) notwithstanding sec-
16 tion 301 and, except as provided in paragraphs (2)
17 and (3), subject to the requirements of section 129.

18 ‘(2) HOV FACILITIES ON THE INTERSTATE SYS-
19 TEM.—Notwithstanding section 129, tolls may be
20 charged under subsections (b)(3) and (b)(4) on a
21 HOV facility on the Interstate System.

22 ‘(3) EXCESS TOLL REVENUES.—If a State
23 agency makes a certification under the last sentence
24 of section 129(a)(3) with respect to toll revenues col-
25 lected under subsections (b)(3) and (b)(4), the

1 State, in the use of tolls revenues under that sen-
2 tence, shall give priority consideration to projects for
3 developing alternatives to single occupancy vehicle
4 travel and projects for improving highway safety.

5 ‘(d) HOV FACILITY MANAGEMENT, OPERATION,
6 MONITORING, AND ENFORCEMENT.—

7 ‘(1) IN GENERAL.—A State agency that allows
8 vehicles to use a HOV facility under subsection
9 (b)(3) or (b)(4) in a fiscal year shall certify to the
10 Secretary that the agency will carry out the fol-
11 lowing responsibilities with respect to the facility in
12 the fiscal year:

13 ‘(A) Establishing, managing, and sup-
14 porting a performance monitoring, evaluation,
15 and reporting program for the facility that pro-
16 vides for continuous monitoring, assessment,
17 and reporting on the impacts that such vehicles
18 may have on the operation of the facility and
19 adjacent highways.

20 ‘(B) Establishing, managing, and sup-
21 porting an enforcement program that ensures
22 that the facility is being operated in accordance
23 with the requirements of this section.

24 ‘(C) Limiting or discontinuing the use of
25 the facility by such vehicles if the presence of

1 such vehicles has degraded the operation of the
2 facility.

3 ‘(2) DEGRADED FACILITY.—

4 ‘(A) IN GENERAL.—For purposes of para-
5 graph (1), the operation of a HOV facility shall
6 be considered to be degraded if vehicles oper-
7 ating on the facility are failing to maintain a
8 minimum average operating speed 90 percent of
9 the time over a consecutive 6-month period dur-
10 ing morning or evening weekday peak hour pe-
11 riods (or both).

12 ‘(B) MINIMUM AVERAGE OPERATING
13 SPEED DEFINED.—In subparagraph (A), the
14 term “minimum average operating speed”
15 means—

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

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

23 ‘(e) CERTIFICATION OF LOW EMISSION AND EN-
24 ERGY-EFFICIENT VEHICLES.—Not later than 6 months
25 after the date of enactment of this section, the Adminis-

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

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

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

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

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

16 ‘(C) natural gas;

17 ‘(D) liquefied petroleum gas;

18 ‘(E) hydrogen;

19 ‘(F) coal derived liquid fuels;

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

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

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

1 petroleum and that would yield substantial en-
2 ergy security and environmental benefits.

3 ‘(2) HOV FACILITY.—The term “HOV facility”
4 means a high occupancy vehicle facility.

5 ‘(3) LOW EMISSION AND ENERGY EFFICIENT
6 VEHICLE.—The term “low emission and energy-effi-
7 cient vehicle” means a vehicle that—

8 ‘(A) has been certified by the Adminis-
9 trator of the Environmental Protection Agency
10 as meeting the Tier II emission level established
11 in regulations prescribed by the Administrator
12 under section 202(i) of the Clean Air Act (42
13 U.S.C. 7521(i)) for that make and model year
14 vehicle; and

15 ‘(B)(i) has been certified by the Adminis-
16 trator to have a 45-mile-per-gallon or greater
17 fuel economy highway rating; or

18 ‘(ii) is an alternative fuel vehicle.

19 ‘(4) PUBLIC TRANSPORTATION VEHICLE.—The
20 term “public transportation vehicle” means a vehicle
21 that provides public transportation (as defined in
22 section 5302(a) of title 49).

23 ‘(5) STATE AGENCY.—The term “State agen-
24 cy”, as used with respect to a HOV facility, means
25 an agency of a State or local government having ju-

1 jurisdiction over the operation of the facility and in-
2 cludes a State transportation department.’.

3 (b) CONFORMING AMENDMENTS.—

4 (1) PROGRAM EFFICIENCIES.—Section 102 of
5 title 23, United States Code, is amended by striking
6 subsection (a) and redesignating subsections (b) and
7 (c) as subsections (a) and (b), respectively.

8 (2) CHAPTER ANALYSIS.—The analysis for sub-
9 chapter I of chapter 1 of such title is amended by
10 adding at the end the following:

‘168. HOV facilities.’.

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

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

17 (a) ESTABLISHMENT.—Section 1012(b)(1) of the
18 Intermodal Surface Transportation Efficiency Act of 1991
19 (23 U.S.C. 149 note; 105 Stat. 1938) is amended to read
20 as follows:

21 (1) ESTABLISHMENT.—

22 (A) IN GENERAL.—The Secretary may
23 enter into cooperative agreements with State
24 and local governments to carry out not more
25 than 25 congestion pricing pilot projects.

1 ‘(B) PREVIOUSLY APPROVED PROJECTS.—
2 Projects carried out under paragraph (1) shall
3 include each project approved under this sub-
4 section before the date of enactment of the
5 Transportation Equity Act: A Legacy for Users
6 and under which highway tolls are being col-
7 lected as of such date of enactment.’.

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

10 ‘(7) REDUCED TOLLS FOR LOW-INCOME DRIV-
11 ERS.—Any congestion pricing pilot project carried
12 out under this subsection that involves the collection
13 of highway tolls shall include a program to permit
14 low-income drivers to pay a reduced toll amount.’.

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

18 ‘(D) SET-ASIDE FOR PROJECTS NOT IN-
19 VOLVING HIGHWAY TOLLS.—Of the amounts
20 made available to carry out this subsection,
21 \$3,000,000 per fiscal year shall be available
22 only for congestion pricing pilot projects that do
23 not involve highway tolls.’.

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

1 (1) in the subsection heading by striking
2 ‘VALUE PRICING’ and inserting ‘CONGESTION PRIC-
3 ING’;

4 (2) in paragraph (2)—

5 (A) by striking ‘(2) Notwithstanding’ and
6 inserting the following:

7 ‘(2) FEDERAL SHARE; ELIGIBLE COSTS.—Not-
8 withstanding’;

9 (B) in the first sentence by striking ‘pro-
10 grams’ and inserting ‘projects’; and

11 (C) in the second sentence by striking ‘pro-
12 gram’ and inserting ‘project’;

13 (3) in paragraph (3) by striking ‘(3) Revenues’
14 and inserting the following:

15 ‘(3) USE OF REVENUES.—Revenues’;

16 (4) in paragraph (4)—

17 (A) by striking ‘(4) Notwithstanding’ and
18 inserting the following:

19 ‘(4) USE OF TOLLS ON INTERSTATE SYSTEM.—
20 Notwithstanding’;

21 (B) by striking ‘value pricing pilot pro-
22 gram’ and inserting ‘congestion pricing pilot
23 project’;

24 (5) in paragraph (5)—

1 (A) by striking ‘(5) The Secretary’ and in-
2 serting the following:

3 ‘(5) MONITORING.—The Secretary’; and

4 (B) by striking ‘programs’ the first and
5 second place it appears and inserting ‘projects’;
6 and

7 (6) in paragraph (6) by striking ‘value pricing
8 pilot program’ and inserting ‘congestion pricing pilot
9 project’.

10 **SEC. 1210. CONGESTION MITIGATION AND AIR QUALITY IM-**
11 **PROVEMENT PROGRAM ELIGIBILITY.**

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

15 **SEC. 1211. SPECIAL RULES FOR STATE ASSUMPTION OF RE-**
16 **SPONSIBILITIES.**

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

20 ‘(3) LIMITATIONS.—

21 ‘(A) PROCEDURAL AND SUBSTANTIVE RE-
22 QUIREMENTS.—A State that assumes the re-
23 sponsibilities of the Secretary under this section
24 shall be subject to the same procedural and
25 substantive requirements as would apply if the

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

8 ‘(B) ASSUMPTION OF RESPONSIBILITIES.—

9 Any responsibility of the Secretary not assumed
10 by the State in a memorandum of under-
11 standing shall remain a responsibility of the
12 Secretary.

13 ‘(C) POWERS OF OTHER AGENCIES.—

14 Nothing in this section preempts or limits any
15 power, jurisdiction, responsibility, or authority
16 of an agency, other than the Department of
17 Transportation, with respect to a project.’.

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

23 ‘(5) ACCEPTANCE OF FEDERAL COURTS JURIS-

24 DICTION.—A memorandum of understanding with a
25 State under this section shall include a provision

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

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

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

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

1 **Subtitle C—Mobility and Efficiency**

2 **SEC. 1301. NATIONAL CORRIDOR INFRASTRUCTURE IM-** 3 **PROVEMENT PROGRAM.**

4 (a) IN GENERAL.—The Secretary shall establish and
5 implement a program to make allocations to States for
6 highway construction projects in corridors of national sig-
7 nificance to promote economic growth and international
8 or interregional trade pursuant to the selection factors
9 provided in this section. A State must submit an applica-
10 tion to the Secretary in order to receive an allocation
11 under this section.

12 (b) SELECTION PROCESS.—

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

22 (2) SELECTION FACTORS.—In making alloca-
23 tions under this section, the Secretary shall consider
24 the following factors:

1 (A) The extent to which the corridor pro-
2 vides a link between 2 existing segments of the
3 Interstate System.

4 (B) The extent to which the project will fa-
5 cilitate major multistate or regional mobility
6 and economic growth and development in areas
7 underserved by existing highway infrastructure.

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

10 (i) has increased since the date of en-
11 actment of the North American Free
12 Trade Agreement Implementation Act (16
13 U.S.C. 4401 et seq.); and

14 (ii) is projected to increase in the fu-
15 ture.

16 (D) The extent to which international
17 truck-borne commodities move through the cor-
18 ridor.

19 (E) The extent to which the project will
20 make improvements to an existing segment of
21 the Interstate System that will result in a de-
22 crease in congestion.

23 (F) The reduction in commercial and other
24 travel time through a major freight corridor ex-
25 pected as a result of the project.

1 (G) The value of the cargo carried by com-
2 mercial vehicle traffic in the corridor and the
3 economic costs arising from congestion in the
4 corridor.

5 (H) The extent of leveraging of Federal
6 funds provided to carry out this section, includ-
7 ing—

8 (i) use of innovative financing;

9 (ii) combination with funding provided
10 under other sections of this Act and title
11 23, United States Code; and

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

14 (c) PERIOD OF AVAILABILITY.—Funds allocated for
15 a project to a State under this section shall remain avail-
16 able for obligation in that State until 6 months from the
17 day on which they are allocated. Sums not obligated within
18 6 months of the day on which they are allocated shall be
19 available to the Secretary to be allocated for other projects
20 eligible under this section.

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

1 (e) APPLICABILITY OF TITLE 23.—Except as pro-
2 vided in subsections (c) and (d), funds made available by
3 section 1101(a)(10) of this Act to carry out this section
4 shall be available for obligation in the same manner as
5 if such funds were apportioned under chapter 1 of title
6 23, United States Code.

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

10 **SEC. 1302. COORDINATED BORDER INFRASTRUCTURE PRO-**
11 **GRAM.**

12 (a) GENERAL AUTHORITY.—The Secretary shall im-
13 plement a coordinated border infrastructure program
14 under which the Secretary shall distribute funds to border
15 States to improve the safe movement of motor vehicles at
16 or across the border between the United States and Can-
17 ada and the border between the United States and Mexico.

18 (b) ELIGIBLE USES.—A State may use funds appor-
19 tioned under this section only for—

20 (1) improvements in a border region to existing
21 transportation and supporting infrastructure that fa-
22 cilitate cross-border motor vehicle and cargo move-
23 ments;

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

1 that facilitate motor vehicle and cargo movements
2 related to international trade;

3 (3) operational improvements in a border re-
4 gion, including improvements relating to electronic
5 data interchange and use of telecommunications, to
6 expedite cross border motor vehicle and cargo move-
7 ment;

8 (4) modifications to regulatory procedures to
9 expedite safe and efficient cross border motor vehicle
10 and cargo movements; and

11 (5) international coordination of transportation
12 planning, programming, and border operation with
13 Canada and Mexico relating to expediting cross bor-
14 der motor vehicle and cargo movements.

15 (c) APPORTIONMENT OF FUNDS.—On October 1 of
16 each fiscal year, the Secretary shall apportion among bor-
17 der States sums authorized to be appropriated to carry
18 out this section for such fiscal year as follows:

19 (1) 20 percent in the ratio that—

20 (A) the total number of incoming commer-
21 cial trucks that pass through the land border
22 ports of entry within the boundaries of a border
23 State, as determined by the Secretary; bears to

24 (B) the total number of incoming commer-
25 cial trucks that pass through such ports of

1 entry within the boundaries of all the border
2 States, as determined by the Secretary.

3 (2) 30 percent in the ratio that—

4 (A) the total number of incoming personal
5 motor vehicles and incoming buses that pass
6 through land border ports of entry within the
7 boundaries of a border State, as determined by
8 the Secretary; bears to

9 (B) the total number of incoming personal
10 motor vehicles and incoming buses that pass
11 through such ports of entry within the bound-
12 aries of all the border States, as determined by
13 the Secretary.

14 (3) 25 percent in the ratio that—

15 (A) the total weight of incoming cargo by
16 commercial trucks that pass through land bor-
17 der ports of entry within the boundaries of a
18 border State, as determined by the Secretary;
19 bears to

20 (B) the total weight of incoming cargo by
21 commercial trucks that pass through such ports
22 of entry within the boundaries of all the border
23 States, as determined by the Secretary.

24 (4) 25 percent of the ratio that—

1 (A) the total number of land border ports
2 of entry within the boundaries of a border
3 State, as determined by the Secretary; bears to

4 (B) the total number of land border ports
5 of entry within the boundaries of all the border
6 States, as determined by the Secretary.

7 (d) APPLICABILITY OF TITLE 23.—Funds made
8 available to carry out this section shall be available for
9 obligation in the same manner as if such funds were ap-
10 portioned under chapter 1 of title 23, United States Code;
11 except that such funds shall not be transferable and shall
12 remain available until expended and the Federal share of
13 the cost of a project under this section shall be 80 percent.

14 (e) DEFINITIONS.—In this section, the following defi-
15 nitions apply:

16 (1) BORDER REGION.—The term ‘border re-
17 gion’ means any portion of a border State within 20
18 miles of an international land border with Canada or
19 Mexico.

20 (2) BORDER STATE.—The term ‘border State’
21 means any State that has an international land bor-
22 der with Canada or Mexico.

23 (3) COMMERCIAL TRUCK.—The term ‘commer-
24 cial truck’ means a commercial motor vehicle as de-

1 fined in section 31301(4) (other than subparagraph
2 (B)) of title 49, United States Code.

3 (4) MOTOR VEHICLE.—The term ‘motor vehicle’
4 has the meaning such term has under section 101(a)
5 of title 23, United States Code.

6 (5) STATE.—The term ‘State’ has the meaning
7 such term has in section 101(a) of such title 23.

8 **SEC. 1303. FREIGHT INTERMODAL CONNECTORS.**

9 (a) IN GENERAL.—

10 (1) ESTABLISHMENT.—The Secretary shall es-
11 tablish a freight intermodal connector program to
12 improve productivity and improve the efficiency of
13 the transportation of freight, while mitigating con-
14 gestion in the area of freight intermodal connectors.

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

17 (A) to facilitate and support intermodal
18 freight transportation initiatives at the State
19 and local levels in order to improve freight
20 intermodal connectors and mitigate the impact
21 of congestion in the area of such connectors;
22 and

23 (B) to provide capital funding to address
24 infrastructure and freight operational needs at
25 freight intermodal connectors.

1 (b) STATE RESPONSIBILITIES.—Under the program,
2 each State shall ensure that intermodal freight transpor-
3 tation and trade facilitation and are adequately addressed
4 integrated into the project development process, including
5 transportation planning, through final design and con-
6 struction of freight related transportation projects.

7 (c) ELIGIBLE PROJECTS.—

8 (1) IN GENERAL.—Projects eligible for funding
9 under this section may include the construction of
10 and improvements to publicly owned freight inter-
11 modal connectors, the provision of access to such
12 connectors, and operational improvements for such
13 connectors (including capital investment for intel-
14 ligent transportation systems); except that a project
15 located within the boundaries of an intermodal
16 freight facility shall only include highway infrastruc-
17 ture modifications necessary to facilitate direct inter-
18 modal access between the connector and the facility.

19 (2) SPECIAL RULE.—If a State that does not
20 have any freight intermodal connectors within its
21 boundaries or has only freight intermodal connectors
22 within its boundaries that are in good condition and
23 provide an adequate level of service, projects within
24 the boundaries of the State that are eligible for as-
25 sistance under section 103(b)(6) of title 23, United

1 States Code, relating to the National Highway Sys-
2 tem, shall be eligible for funding under this section.

3 (d) PRIORITY.—Under the program, a State shall
4 give priority to projects on freight intermodal connectors
5 to the National Highway System as identified according
6 to the criteria set forth in the report of the Department
7 of Transportation to Congress entitled ‘Pulling Together:
8 The NHS and its Connections to Major Intermodal Termi-
9 nals’.

10 (e) APPORTIONMENT.—On October 1 of each fiscal
11 year, the Secretary shall apportion among the States sums
12 made available to carry out this section for such fiscal year
13 as follows:

14 (1) 33.3 percent in the ratio that—

15 (A) the number of freight intermodal con-
16 nectors identified in the most recent Intermodal
17 Freight Connectors study of the Federal High-
18 way Administration within the boundaries of a
19 State; bears to

20 (B) the total number of such connectors
21 within the boundaries of all the States.

22 (2) 33.3 percent in the ratio that—

23 (A) the total of each State’s annual con-
24 tributions to the Highway Trust Fund (other

1 than the Mass Transit Account) attributable to
2 commercial motor vehicles; bears to

3 (B) the total of such annual contributions
4 by all States.

5 (3) 33.4 percent in the same ratios as funds are
6 apportioned for the National Highway System under
7 clauses (i), (ii), (iii), and (iv) of section 104(b)(1)(A)
8 of title 23, United States Code.

9 (f) APPLICABILITY OF TITLE 23.—Funds made avail-
10 able to carry out this section shall be available for obliga-
11 tion in the same manner as if such funds were apportioned
12 under chapter 1 of title 23, United States Code; except
13 that such funds shall not be transferable and shall remain
14 available until expended and the Federal share of the cost
15 of a project under this section shall be 80 percent.

16 (g) UPDATE REPORT.—Not later than August 1,
17 2005, the Secretary shall publish an update to the report
18 entitled ‘Pulling Together: the National Highway System
19 and its Connections to Major Intermodal Terminals’.

20 (h) DEFINITIONS.—In this section, the following defi-
21 nitions apply:

22 (1) FREIGHT INTERMODAL CONNECTORS.—The
23 term ‘freight intermodal connector’ means the road-
24 way that connects to an intermodal freight facility
25 that carries or will carry intermodal traffic.

1 (2) INTERMODAL FREIGHT FACILITY.—The
2 term ‘intermodal freight facility’ means a port, air-
3 port, truck-rail terminal, and pipeline-truck ter-
4 minal.

5 (3) STATE.—The term ‘State’ has the meaning
6 such term has in section 101(a) of title 23, United
7 States Code.

8 **SEC. 1304. PROJECTS OF NATIONAL AND REGIONAL SIG-**
9 **NIFICANCE.**

10 (a) FINDINGS.—Congress finds the following:

11 (1) Under current law, surface transportation
12 programs rely primarily on formula capital appor-
13 tionments to States.

14 (2) Despite the significant increase for surface
15 transportation program funding in the Transpor-
16 tation Equity Act of the 21st Century, current levels
17 of investment are insufficient to fund critical high-
18 cost transportation infrastructure facilities that ad-
19 dress critical national economic and transportation
20 needs.

21 (3) Critical high-cost transportation infrastruc-
22 ture facilities often include multiple levels of govern-
23 ment, agencies, modes of transportation, and trans-
24 portation goals and planning processes that are not

1 easily addressed or funded within existing surface
2 transportation program categories.

3 (4) Projects of national and regional signifi-
4 cance have national and regional benefits, including
5 improving economic productivity by facilitating inter-
6 national trade, relieving congestion, and improving
7 transportation safety by facilitating passenger and
8 freight movement.

9 (5) The benefits of such projects described in
10 paragraph (4) accrue to local areas, States, and the
11 Nation as a result of the effect such projects have
12 on the national transportation system.

13 (6) A program dedicated to constructing
14 projects of national and regional significance is nec-
15 essary to improve the safe, secure, and efficient
16 movement of people and goods throughout the
17 United States and improve the health and welfare of
18 the national economy.

19 (b) ESTABLISHMENT OF PROGRAM.—The Secretary
20 shall establish a program to provide grants to qualified
21 entities for projects of national and regional significance.

22 (c) DEFINITIONS.—

23 (1) ELIGIBLE PROJECT COSTS.—The term ‘eli-
24 gible project costs’ means the costs of—

1 (A) development phase activities, including
2 planning, feasibility analysis, revenue fore-
3 casting, environmental review, preliminary engi-
4 neering and design work, and other
5 preconstruction activities; and

6 (B) construction, reconstruction, rehabili-
7 tation, and acquisition of real property (includ-
8 ing land related to the project and improve-
9 ments to land), environmental mitigation, con-
10 struction contingencies, acquisition of equip-
11 ment, and operational improvements.

12 (2) ELIGIBLE PROJECT.—The term ‘eligible
13 project’ means any surface transportation project el-
14 igible for Federal assistance under title 23, United
15 States Code, including freight railroad projects and
16 activities eligible under such title.

17 (3) QUALIFIED ENTITY.—The term ‘qualified
18 entity’ means a State as defined in section 101(a)
19 of title 23, United States Code.

20 (d) ELIGIBILITY.—To be eligible for assistance under
21 this section, a project shall have eligible project costs that
22 are reasonably anticipated to equal or exceed the lesser
23 of—

24 (1) \$500,000,000; or

1 (2) 75 percent of the amount of Federal high-
2 way assistance funds apportioned for the most re-
3 cently completed fiscal year to the State in which
4 the project is located.

5 (e) APPLICATIONS.—Each qualified entity seeking to
6 receive a grant under this section for an eligible project
7 shall submit to the Secretary an application in such form
8 and in accordance with such requirements as the Secretary
9 shall establish.

10 (f) COMPETITIVE GRANT SELECTION AND CRITERIA
11 FOR GRANTS.—

12 (1) IN GENERAL.—The Secretary shall—

13 (A) establish criteria for selecting among
14 projects that meet the eligibility criteria speci-
15 fied in subsection (d);

16 (B) conduct a national solicitation for ap-
17 plications; and

18 (C) award grants on a competitive basis.

19 (2) CRITERIA FOR GRANTS.—The Secretary
20 may approve a grant under this section for a project
21 only if the Secretary determines that the project—

22 (A) is based on the results of preliminary
23 engineering;

24 (B) is justified based on the project's abil-
25 ity—

1 (i) to generate national economic ben-
2 efits, including creating jobs, expanding
3 business opportunities, and impacting the
4 gross domestic product;

5 (ii) to reduce congestion, including
6 impacts in the State, region, and Nation;

7 (iii) to improve transportation safety,
8 including reducing transportation acci-
9 dents, injuries, and fatalities;

10 (iv) to otherwise enhance the national
11 transportation system; and

12 (v) to garner support for non-Federal
13 financial commitments and provide evi-
14 dence of stable and dependable financing
15 sources to construct, maintain, and operate
16 the infrastructure facility; and

17 (C) is supported by an acceptable degree of
18 non-Federal financial commitments, including
19 evidence of stable and dependable financing
20 sources to construct, maintain, and operate the
21 infrastructure facility.

22 (3) SELECTION CONSIDERATIONS.—In selecting
23 a project under this section, the Secretary shall con-
24 sider the extent to which the project—

1 (A) leverages Federal investment by en-
2 couraging non-Federal contributions to the
3 project, including contributions from public-pri-
4 vate partnerships;

5 (B) uses new technologies, including intel-
6 ligent transportation systems, that enhance the
7 efficiency of the project.

8 (C) helps maintain or protect the environ-
9 ment.

10 (4) PRELIMINARY ENGINEERING.—In evalu-
11 ating a project under paragraph (2)(A), the Sec-
12 retary shall analyze and consider the results of pre-
13 liminary engineering for the project.

14 (5) NON-FEDERAL FINANCIAL COMMITMENT.—

15 (A) EVALUATION OF PROJECT.—In evalu-
16 ating a project under paragraph (2)(C), the
17 Secretary shall require that—

18 (i) the proposed project plan provides
19 for the availability of contingency amounts
20 that the Secretary determines to be reason-
21 able to cover unanticipated cost increases;
22 and

23 (ii) each proposed non-Federal source
24 of capital and operating financing is stable,

1 reliable, and available within the proposed
2 project timetable.

3 (B) CONSIDERATIONS.—In assessing the
4 stability, reliability, and availability of proposed
5 sources of non-Federal financing under sub-
6 paragraph (A), the Secretary shall consider—

7 (i) existing financial commitments;

8 (ii) the degree to which financing
9 sources are dedicated to the purposes pro-
10 posed;

11 (iii) any debt obligation that exists or
12 is proposed by the recipient for the pro-
13 posed project; and

14 (iv) the extent to which the project
15 has a non-Federal financial commitment
16 that exceeds the required non-Federal
17 share of the cost of the project.

18 (6) REGULATIONS.—Not later than 120 days
19 after the date of enactment of this Act, the Sec-
20 retary shall issue regulations on the manner in
21 which the Secretary will evaluate and rate the
22 projects based on the results of preliminary engi-
23 neering, project justification, and the degree of non-
24 Federal financial commitment, as required under
25 this subsection.

1 (7) PROJECT EVALUATION AND RATING.—A
2 proposed project may advance from preliminary en-
3 gineering to final design and construction only if the
4 Secretary finds that the project meets the require-
5 ments of this subsection and there is a reasonable
6 likelihood that the project will continue to meet such
7 requirements. In making such findings, the Sec-
8 retary shall evaluate and rate the project as ‘highly
9 recommended’, ‘recommended’, or ‘not rec-
10 ommended’ based on the results of preliminary engi-
11 neering, the project justification criteria, and the de-
12 gree of non-Federal financial commitment, as re-
13 quired under this subsection. In rating the projects,
14 the Secretary shall provide, in addition to the overall
15 project rating, individual ratings for each of the cri-
16 teria established under the regulations issued under
17 paragraph (6).

18 (g) LETTERS OF INTENT AND FULL FUNDING
19 GRANT AGREEMENTS.—

20 (1) LETTER OF INTENT.—

21 (A) IN GENERAL.—The Secretary may
22 issue a letter of intent to an applicant announc-
23 ing an intention to obligate, for a project under
24 this section, an amount from future available
25 budget authority specified in law that is not

1 more than the amount stipulated as the finan-
2 cial participation of the Secretary in the
3 project.

4 (B) NOTIFICATION.—At least 60 days be-
5 fore issuing a letter under subparagraph (A) or
6 entering into a full funding grant agreement,
7 the Secretary shall notify in writing the Com-
8 mittee on Transportation and Infrastructure of
9 the House of Representatives and the Com-
10 mittee on Environment and Public Works of the
11 Senate of the proposed letter or agreement. The
12 Secretary shall include with the notification a
13 copy of the proposed letter or agreement as well
14 as the evaluations and ratings for the project.

15 (C) NOT AN OBLIGATION.—The issuance
16 of a letter is deemed not to be an obligation
17 under sections 1108(c) and (d), 1501, and
18 1502(a) of title 31, United States Code, or an
19 administrative commitment.

20 (D) OBLIGATION OR COMMITMENT.—An
21 obligation or administrative commitment may
22 be made only when contract authority is allo-
23 cated to a project.

24 (2) FULL FUNDING GRANT AGREEMENT.—

1 (A) IN GENERAL.—A project financed
2 under this subsection shall be carried out
3 through a full funding grant agreement. The
4 Secretary shall enter into a full funding grant
5 agreement based on the evaluations and ratings
6 required under subsection (f)(7).

7 (B) TERMS.—If the Secretary makes a full
8 funding grant agreement with an applicant, the
9 agreement shall—

10 (i) establish the terms of participation
11 by the United States Government in a
12 project under this section;

13 (ii) establish the maximum amount of
14 Government financial assistance for the
15 project;

16 (iii) cover the period of time for com-
17 pleting the project, including a period ex-
18 tending beyond the period of an authoriza-
19 tion; and

20 (iv) make timely and efficient man-
21 agement of the project easier according to
22 the laws of the United States.

23 (C) AGREEMENT.—An agreement under
24 this paragraph obligates an amount of available
25 budget authority specified in law and may in-

1 clude a commitment, contingent on amounts to
2 be specified in law in advance for commitments
3 under this paragraph, to obligate an additional
4 amount from future available budget authority
5 specified in law. The agreement shall state that
6 the contingent commitment is not an obligation
7 of the Government. Interest and other financing
8 costs of efficiently carrying out a part of the
9 project within a reasonable time are a cost of
10 carrying out the project under a full funding
11 grant agreement, except that eligible costs may
12 not be more than the cost of the most favorable
13 financing terms reasonably available for the
14 project at the time of borrowing. The applicant
15 shall certify, in a way satisfactory to the Sec-
16 retary, that the applicant has shown reasonable
17 diligence in seeking the most favorable financ-
18 ing terms.

19 (3) AMOUNTS.—The total estimated amount of
20 future obligations of the Government and contingent
21 commitments to incur obligations covered by all out-
22 standing letters of intent and full funding grant
23 agreements may be not more than the greater of the
24 amount authorized to carry out this section or an
25 amount equivalent to the last 2 fiscal years of fund-

1 ing authorized to carry out this section less an
2 amount the Secretary reasonably estimates is nec-
3 essary for grants under this section not covered by
4 a letter. The total amount covered by new letters
5 and contingent commitments included in full funding
6 grant agreements may be not more than a limitation
7 specified in law.

8 (h) GRANT REQUIREMENTS.—

9 (1) IN GENERAL.—A grant for a project under
10 this section shall be subject to all of the require-
11 ments of title 23, United States Code, and chapter
12 52 of title 49, United States Code.

13 (2) OTHER TERMS AND CONDITIONS.—The Sec-
14 retary shall require that all grants under this section
15 be subject to all terms, conditions, and requirements
16 that the Secretary decides are necessary or appro-
17 priate for purposes of this section, including require-
18 ments for the disposition of net increases in value of
19 real property resulting from the project assisted
20 under this section.

21 (i) GOVERNMENT'S SHARE OF PROJECT COST.—

22 Based on engineering studies, studies of economic feasi-
23 bility, and information on the expected use of equipment
24 or facilities, the Secretary shall estimate the cost of a
25 project receiving assistance under this section. A grant for

1 the project is for 80 percent of the project cost, unless
2 the grant recipient requests a lower grant percentage. A
3 refund or reduction of the remainder may be made only
4 if a refund of a proportional amount of the grant of the
5 Government is made at the same time.

6 (j) FISCAL CAPACITY CONSIDERATIONS.—If the Sec-
7 retary gives priority consideration to financing projects
8 that include more than the non-Government share re-
9 quired under subsection (i) the Secretary shall give equal
10 consideration to differences in the fiscal capacity of State
11 and local governments.

12 (k) REPORTS.—

13 (1) ANNUAL REPORT.—Not later than the first
14 Monday in February of each year, the Secretary
15 shall submit to the Committee on Transportation
16 and Infrastructure of the House of Representatives
17 and the Committee on Environment and Public
18 Works of the Senate a report that includes a pro-
19 posal on the allocation of amounts to be made avail-
20 able to finance grants under this section.

21 (2) RECOMMENDATIONS ON FUNDING.—The
22 annual report under this paragraph shall include
23 evaluations and ratings, as required under sub-
24 section (f). The report shall also include rec-
25 ommendations of projects for funding based on the

1 evaluations and ratings and on existing commit-
2 ments and anticipated funding levels for the next 3
3 fiscal years and for the next 10 fiscal years based
4 on information currently available to the Secretary.

5 (l) **APPLICABILITY OF TITLE 23.**—Funds made avail-
6 able to carry out this section shall be available for obliga-
7 tion in the same manner as if such funds were apportioned
8 under chapter 1 of title 23, United States Code; except
9 that such funds shall not be transferable and shall remain
10 available until expended and the Federal share of the cost
11 of a project under this section shall be as provided in this
12 section.

13 **SEC. 1305. DEDICATED TRUCK LANES.**

14 (a) **IN GENERAL.**—The Secretary shall establish and
15 implement a pilot program to make allocations to States
16 for the construction of projects that separate commercial
17 truck traffic from other motor vehicle traffic. A State
18 must submit an application to the Secretary in order to
19 receive an allocation under this section.

20 (b) **SELECTION PROCESS.**—

21 (1) **PRIORITY.**—In the selection process under
22 this section, the Secretary shall give priority to
23 projects that provide additional capacity.

1 (2) SELECTION FACTORS.—In making alloca-
2 tions under this section, the Secretary shall consider
3 the following factors:

4 (A) The extent to which the project will
5 improve the safe and efficient movement of
6 freight.

7 (B) The extent to which the project pro-
8 vides positive separation of commercial trucks
9 from other motor vehicle traffic.

10 (C) The extent to which the project con-
11 nects an intermodal freight facility or an inter-
12 national port of entry to the Dwight D. Eisen-
13 hower National System of Interstate and De-
14 fense Highways by providing limited access
15 lanes that allow commercial truck traffic to
16 enter the Interstate System at the posted speed
17 limit.

18 (D) The extent to which the project will re-
19 move truck traffic from surface streets.

20 (E) The extent to which travel time is ex-
21 pected to be reduced as a result of the proposed
22 project.

23 (F) The extent of leveraging of Federal
24 funds provided to carry out this section, includ-
25 ing—

- 1 (i) use of innovative financing;
- 2 (ii) combination with funding provided
- 3 under other sections of this Act and title
- 4 23, United States Code; and
- 5 (iii) combination with other sources of
- 6 Federal, State, local, or private funding.

7 (c) FEDERAL SHARE.—The Federal share of the cost

8 of a project under this section shall be determined in ac-

9 cordance with section 120(b) of title 23, United States

10 Code.

11 (d) APPLICABILITY OF TITLE 23.—Except as pro-

12 vided in subsection (d), funds made available by section

13 1101(a)(22) of this Act to carry out this section shall be

14 available for obligation in the same manner as if such

15 funds were apportioned under chapter 1 of title 23, United

16 States Code.

17 (e) DEFINITIONS.—In this section the following defi-

18 nitions apply:

19 (1) COMMERCIAL TRUCK.—The term ‘commer-

20 cial truck’ means a self-propelled or towed vehicle

21 used on highways in commerce principally to trans-

22 port cargo if the vehicle has a gross vehicle weight

23 rating or gross vehicle weight of at least 10,001

24 pounds, whichever is greater.

1 (2) STATE.—The term ‘State’ has the meaning
2 such term has under section 101 of title 23, United
3 States Code.

4 **SEC. 1306. TRUCK PARKING FACILITIES.**

5 (a) ESTABLISHMENT.—In cooperation with appro-
6 priate State, regional, and local governments, the Sec-
7 retary shall establish a pilot program to address the short-
8 age of long-term parking for commercial motor vehicles
9 on the National Highway System.

10 (b) ALLOCATION OF FUNDS.—

11 (1) IN GENERAL.—The Secretary shall allocate
12 funds made available to carry out this section among
13 States, metropolitan planning organizations, and
14 local governments.

15 (2) APPLICATIONS.—To be eligible for an allo-
16 cation under this section, a State, metropolitan plan-
17 ning organization, or local government shall submit
18 to the Secretary an application at such time and
19 containing such information as the Secretary may
20 require.

21 (3) ELIGIBLE PROJECTS.—Funds allocated
22 under this subsection shall be used by the recipient
23 for projects described in an application approved by
24 the Secretary. Such projects shall serve the National
25 Highway System and may include the following:

1 (A) Constructing safety rest areas, as de-
2 fined in section 120(c) of title 23, United
3 States Code, that include parking for commer-
4 cial motor vehicles.

5 (B) Constructing commercial motor vehicle
6 parking facilities adjacent to commercial truck
7 stops and travel plazas.

8 (C) Opening existing facilities to commer-
9 cial motor vehicle parking, including inspection
10 and weigh stations and park-and-ride facilities.

11 (D) Promoting the availability of publicly
12 or privately provided commercial motor vehicle
13 parking on the National Highway System using
14 intelligent transportation systems and other
15 means.

16 (E) Constructing turnouts along the Na-
17 tional Highway System for commercial motor
18 vehicles.

19 (F) Making capital improvements to public
20 commercial motor vehicle parking facilities cur-
21 rently closed on a seasonal basis to allow the fa-
22 cilities to remain open year-round.

23 (G) Improving the geometric design of
24 interchanges on the National Highway System

1 to improve access to commercial motor vehicle
2 parking facilities.

3 (4) PRIORITY.—In allocating funds made avail-
4 able to carry out this section, the Secretary shall
5 give priority to applicants that—

6 (A) demonstrate a severe shortage of com-
7 mercial motor vehicle parking capacity in the
8 corridor to be addressed;

9 (B) have consulted with affected State and
10 local governments, community groups, private
11 providers of commercial motor vehicle parking,
12 and motorist and trucking organizations; and

13 (C) demonstrate that their proposed
14 projects are likely to have positive effects on
15 highway safety, traffic congestion, or air qual-
16 ity.

17 (c) FUNDING.—

18 (1) IN GENERAL.—There is authorized to be
19 appropriated from the Highway Trust Fund (other
20 than the Mass Transit Account) to carry out this
21 section \$5,000,000 for each of fiscal years 2005
22 through 2009.

23 (2) CONTRACT AUTHORITY.—Funds authorized
24 under this subsection shall be available for obligation

1 in the same manner as if the funds were apportioned
2 under chapter 1 of title 23, United States Code.

3 (d) REPORT TO CONGRESS.—Not later than 5 years
4 after the date of enactment of this Act, the Secretary shall
5 transmit to Congress a report on the results of the pilot
6 program.

7 (e) FEDERAL SHARE.—The Federal share of the cost
8 of a project carried out using amounts made available
9 under this section shall be determined in accordance with
10 sections 120(b) and 120(c) of title 23, United States Code.

11 (f) APPLICABILITY OF TITLE 23.—Notwithstanding
12 any other provision of law, projects funded under this sec-
13 tion shall be treated as projects on a Federal-aid system
14 under chapter 1 of title 23, United States Code.

15 **Subtitle D—Highway Safety**

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

17 (a) SAFETY IMPROVEMENT PROJECT DEFINED.—
18 Section 101(a)(30) of title 23, United States Code, is
19 amended by inserting ‘installs fluorescent, yellow-green
20 signs at pedestrian or bicycle crossings or school zones,’
21 after ‘call boxes,’.

22 (b) OPERATION LIFESAVER.—Section 104(d)(1) of
23 such title is amended—

24 (1) by striking ‘subsection (b)(3) of this section’
25 and inserting ‘section 130(f)’; and

1 (2) by striking ‘\$500,000’ and inserting
2 ‘\$600,000’.

3 (c) RAILWAY-HIGHWAY CROSSING HAZARD ELIMI-
4 NATION IN HIGH SPEED RAIL CORRIDORS.—

5 (1) IN GENERAL.—Section 104(d)(2) of such
6 title is amended—

7 (A) in subparagraph (A) by striking
8 ‘\$5,250,000’ and inserting ‘\$7,500,000 for each
9 of fiscal years 2004 and 2005, \$10,000,000 for
10 each of fiscal years 2006 and 2007, and
11 \$15,000,000 for each of fiscal years 2008 and
12 2009’; and

13 (B) in subparagraph (E)—

14 (i) by striking ‘Not less than
15 \$250,000 of such set-aside’ and inserting
16 ‘Of such set-aside, not less than \$875,000
17 for each of fiscal years 2004 and 2005,
18 \$1,500,000 for each of fiscal years 2006
19 and 2007, and \$2,750,000 for each of fis-
20 cal years 2008 and 2009’; and

21 (ii) by striking ‘per fiscal year’.

22 (2) DESIGNATION OF CORRIDORS.—Of the rail
23 corridors selected by the Secretary in accordance
24 with section 104(d)(2) of title 23, United States
25 Code—

1 (A) the Northern New England High
2 Speed Rail Corridor is expanded to include the
3 train routes from Boston, Massachusetts, to Al-
4 bany, New York, and from Springfield, Massa-
5 chusetts, to New Haven, Connecticut; and

6 (B) the South Central Corridor is ex-
7 panded to include the train route from Killeen,
8 Texas, to Houston, Texas, via Bryan-College
9 Station.

10 (d) RAILWAY-HIGHWAY CROSSINGS.—

11 (1) FUNDS FOR PROTECTIVE DEVICES.—Sec-
12 tion 130(e) of such title is amended—

13 (A) by striking ‘At’ and inserting the fol-
14 lowing:

15 ‘(1) IN GENERAL.—At’; and

16 (B) by adding at the end the following:

17 ‘(2) SPECIAL RULE.—If a State demonstrates
18 to the satisfaction of the Secretary that the State
19 has met all its needs for installation of protective de-
20 vices at railway-highway crossings, the State may
21 use funds made available by this subsection for other
22 purposes by this section.’.

23 (2) APPORTIONMENT.—Section 130(f) of such
24 title is amended to read as follows:

25 ‘(f) APPORTIONMENT.—

1 ‘(1) FORMULA.—Fifty percent of the funds au-
2 thorized to be appropriated to carry out this section
3 shall be apportioned to the States in accordance with
4 the formula set forth in section 104(b)(3)(A), and
5 50 percent of such funds shall be apportioned to the
6 States in the ratio that total public railway-highway
7 crossings in each State bears to the total of such
8 crossings in all States.

9 ‘(2) MINIMUM APPORTIONMENT.—Notwith-
10 standing paragraph (1), each State shall receive a
11 minimum of $\frac{1}{2}$ of 1 percent of the funds appor-
12 tioned under paragraph (1).

13 ‘(3) FEDERAL SHARE.—The Federal share pay-
14 able on account of any project financed with funds
15 authorized to be appropriated to carry out this sec-
16 tion shall be 90 percent of the cost thereof.’.

17 (3) BIENNIAL REPORT TO CONGRESS.—The
18 third sentence of section 130(g) of such title is
19 amended by striking ‘not later than April 1 of each
20 year,’ and inserting ‘, not later than April 1, 2006,
21 and every 2 years thereafter,’.

22 (4) EXPENDITURE OF FUNDS.—Section 130 of
23 such title is further amended by adding at the end
24 the following:

1 ‘(k) EXPENDITURE OF FUNDS.—Not more than 2
2 percent of funds apportioned to a State to carry out this
3 section may be used by the State for compilation and anal-
4 ysis of data in support of activities carried out under sub-
5 section (g).’.

6 (e) SURFACE TRANSPORTATION PROGRAM.—

7 (1) IN GENERAL.—Section 133(d) of such title
8 is amended—

9 (A) by striking paragraph (1); and

10 (B) by redesignating paragraphs (2)
11 through (5) as paragraphs (1) through (4), re-
12 spectively; and

13 (C) in paragraph (2) (as so redesignig-
14 nated)—

15 (i) in subparagraph (A) by striking
16 ‘80 percent’ and inserting ‘90 percent’;

17 (ii) in subparagraph (B) by striking
18 ‘tobe’ and inserting ‘to be’; and

19 (iii) in subparagraph (D) by adding a
20 period at the end.

21 (2) CONFORMING AMENDMENTS.—

22 (A) SECTION 133.—Section 133(e) is
23 amended by striking ‘(d)(2)’ and inserting
24 ‘(d)(1)’ in each of paragraphs (3)(B)(i), (5)(A),
25 and (5)(B).

1 (B) SECTION 126.—Section 126(b) of such
2 title is amended—

3 (i) by striking ‘to the last sentence of
4 section 133(d)(1) or’;

5 (ii) by striking ‘section 133(d)(3)’ and
6 inserting ‘section 133(d)(2)’; and

7 (iii) by striking ‘or 133(d)(2)’.

8 (f) HAZARD ELIMINATION PROGRAM.—

9 (1) PURPOSES.—Section 152(a)(1) of such title
10 is amended—

11 (A) by striking ‘and’ after ‘bicyclists,’; and

12 (B) by inserting after ‘pedestrians,’ the fol-
13 lowing: ‘and the disabled, identify roadway safe-
14 ty improvement needs for such locations, sec-
15 tions, and elements,’.

16 (2) HAZARDS.—Section 152(a)(2)(A) of such
17 title is amended by inserting ‘the disabled,’ after ‘pe-
18 destrians,’.

19 (3) APPROVAL OF PROJECTS.—Section 152(b)
20 of such title is amended by inserting before the pe-
21 riod at the end the following: ‘that reduces the likeli-
22 hood of crashes involving road departures, intersec-
23 tions, pedestrians, the disabled, bicyclists, older driv-
24 ers, or construction work zones’.

1 (4) EXPENDITURE OF FUNDS.—Section 152(c)
2 of such title is amended—

3 (A) in paragraph (2) by striking ‘or’ at the
4 end;

5 (B) in paragraph (3) by striking the period
6 at the end and inserting a semicolon; and

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

8 ‘(4) police assistance for traffic and speed man-
9 agement in construction work zones;

10 ‘(5) installation of barriers between construc-
11 tion work zones and traffic lanes for the safety of
12 motorists and workers; and

13 ‘(6) compilation and analysis of data under sub-
14 sections (f) and (g) if the funds used for this pur-
15 pose by a State do not exceed 2 percent of the
16 amount apportioned to such State to carry out this
17 section.’.

18 (5) APPORTIONMENT.—Section 152(d) of such
19 title is amended to read as follows:

20 ‘(d) APPORTIONMENT.—

21 ‘(1) FORMULA.—Funds authorized to be appro-
22 priated to carry out this section shall be apportioned
23 to the States in accordance with the formula set
24 forth in section 104(b)(3)(A).

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

5 ‘(3) FEDERAL SHARE.—The Federal share pay-
6 able on account of any project financed with funds
7 authorized to be appropriated to carry out this sec-
8 tion shall be 90 percent of the cost thereof.’.

9 (6) BIENNIAL REPORT TO CONGRESS.—

10 (A) IN GENERAL.—Section 152 of such
11 title is amended by adding at the end the fol-
12 lowing:

13 ‘(i) BIENNIAL REPORT TO CONGRESS.—Not later
14 than 2 years after the date of enactment of this sub-
15 section, and every 2 years thereafter, the Secretary shall
16 transmit to the Committee on Transportation and Infra-
17 structure of the House of Representatives and the Com-
18 mittee on Environment and Public Works of the Senate
19 a report on the results of the program under this section.
20 The report shall include, at a minimum, the following:

21 ‘(1) A summary of State projects completed
22 under this section categorized by the types of haz-
23 ards and a statement of the cost of such projects.

1 ‘(2) An analysis of the effectiveness of such cat-
2 egories of projects in reducing the number and se-
3 verity of crashes at high hazard locations.

4 ‘(3) An assessment of the adequacy of author-
5 ized funding for the program and State use of such
6 funding to address the national need for such
7 projects.

8 ‘(4) Recommendations for funding and program
9 improvements to reduce the number of high hazard
10 locations.

11 ‘(5) An analysis and evaluation of each State
12 program, an identification of any State found not to
13 be in compliance with the schedule of improvements
14 required by subsection (a), and recommendations for
15 future implementation of the hazard elimination pro-
16 gram.’.

17 (B) CONFORMING AMENDMENT.—Section
18 152(g) of such title is amended by striking the
19 third sentence through the last sentence.

20 (g) TECHNICAL AMENDMENT.—Section 133(b) of
21 such title is amended by redesignating paragraphs (13)
22 and (14) as paragraphs (12) and (13), respectively.

23 (h) EFFECTIVE DATE.—The amendments made by
24 subsections (b)(1), (d), (e), and (f) shall take effect on
25 September 30, 2005.

1 **SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW**
2 **OF VEHICULAR TRAFFIC.**

3 Not later than 1 year after the date of enactment
4 of this Act, the Secretary shall issue regulations to de-
5 crease the likelihood of worker injury and maintain the
6 free flow of vehicular traffic by requiring workers whose
7 duties place them on or in close proximity to a Federal-
8 aid highway (as defined in section 101 of title 23, United
9 States Code) to wear high visibility garments. Such regu-
10 lations may also require such other worker-safety meas-
11 ures for workers with those duties as the Secretary deter-
12 mines appropriate.

13 **SEC. 1403. HIGH RISK RURAL ROAD SAFETY IMPROVEMENT**
14 **PROGRAM.**

15 (a) **ESTABLISHMENT.**—The Secretary shall establish
16 and implement a high risk rural road safety improvement
17 program in accordance with this section.

18 (b) **ELIGIBLE PROJECTS.**—

19 (1) **IN GENERAL.**—Except as provided in para-
20 graph (2), a State may obligate funds apportioned
21 to it under this section only for construction and
22 operational improvement projects on high risk rural
23 roads and only if the primary purpose of the project
24 is to improve highway safety on a high risk rural
25 road.

1 (2) SPECIAL RULE.—A State may use funds
2 apportioned to it under this section for any project
3 approved by the Secretary under section 152 of title
4 23, United States Code, if the State certifies to the
5 Secretary that it has no projects described in para-
6 graph (1).

7 (c) STATE ALLOCATION SYSTEM.—Each State shall
8 establish a system for allocating funds apportioned to it
9 under this section among projects eligible for assistance
10 under this section that have the highest benefits to high-
11 way safety. Such system may include a safety manage-
12 ment system established by the State under section 303
13 of title 23, United States Code, or a survey established
14 pursuant to section 152(a) of such title.

15 (d) APPORTIONMENT OF FUNDS.—On October 1 of
16 each fiscal year, the Secretary shall apportion among
17 States sums authorized to be appropriated to carry out
18 this section for such fiscal year as follows:

19 (1) $\frac{1}{3}$ in the ratio that—

20 (A) each State's public road lane mileage
21 for rural minor collectors and rural local roads;
22 bears to

23 (B) the total public road lane mileage for
24 rural minor collectors and rural local roads of
25 all States.

1 (2) $\frac{1}{3}$ in the ratio that—

2 (A) the population of areas other than ur-
3 banized areas in each State, as shown by the
4 most recent Government decennial census of
5 population; bears to

6 (B) the population of all areas other than
7 urbanized areas in the United States, as shown
8 by that census.

9 (3) $\frac{1}{3}$ in the ratio that—

10 (A) the total vehicle miles traveled on pub-
11 lic roads in each State; bears to

12 (B) the total number of vehicle miles trav-
13 eled on public roads in all States.

14 (e) APPLICABILITY OF TITLE 23.—Funds made
15 available to carry out this section shall be available for
16 obligation in the same manner as if such funds were ap-
17 portioned under chapter 1 of title 23, United States Code;
18 except that such funds shall not be transferable and shall
19 remain available until expended and the Federal share of
20 the cost of a project under this section shall be 80 percent.
21 Notwithstanding any other provision of law, projects as-
22 sisted under this section shall be treated as projects on
23 a Federal-aid system under such chapter.

24 (f) DEFINITIONS.—In this section, the following defi-
25 nitions apply:

1 (1) HIGH RISK RURAL ROAD.—The term ‘high
2 risk rural road’ means any roadway functionally
3 classified as a rural major or minor collector or a
4 rural local road—

5 (A) on which the accident rate for fatali-
6 ties and incapacitating injuries exceeds the
7 statewide average for these functional classes of
8 roadway; or

9 (B) which will likely have increases in traf-
10 fic volume that are likely to create an accident
11 rate for fatalities and incapacitating injuries
12 that exceeds the statewide average for these
13 functional classes of roadway.

14 (2) STATE AND URBANIZED AREA.—The terms
15 ‘State’ and ‘urbanized area’ have the meaning such
16 terms have under section 101(a) of title 23, United
17 States Code.

18 **SEC. 1404. TRANSFERS OF APPORTIONMENTS TO SAFETY**
19 **PROGRAMS.**

20 (a) USE OF SAFETY BELTS AND MOTORCYCLE HEL-
21 METS.—Section 153(h) of title 23, United States Code,
22 is amended—

23 (1) in paragraph (2)—

1 (A) in the paragraph heading by striking
2 ‘THEREAFTER.—’ and inserting ‘FISCAL YEARS
3 1995–2004.—’; and

4 (B) by inserting ‘and ending before Octo-
5 ber 1, 2004,’ after ‘September 30, 1994,’;

6 (2) by redesignating paragraphs (3) through
7 (5) as paragraphs (4) through (6), respectively;

8 (3) by inserting after paragraph (2) the fol-
9 lowing:

10 ‘(3) FISCAL YEAR 2005 AND THEREAFTER.—On
11 October 1, 2004, and each October 1 thereafter, if
12 a State does not have in effect a law described in
13 subsection (a)(2), the Secretary shall transfer from
14 the funds apportioned to the State on that date
15 under each of subsections (b)(1), (b)(2), and (b)(3)
16 of section 104 to the apportionment of the State
17 under section 402 an amount equal to 3 percent of
18 the funds apportioned to the State under such sub-
19 sections for fiscal year 2003.’; and

20 (4) in paragraph (5) (as so redesignated)—

21 (A) by striking ‘which is determined by
22 multiplying’ and inserting ‘which, for fiscal year
23 2005 and each fiscal year thereafter, is deter-
24 mined by multiplying’; and

1 (B) in subparagraph (B) by striking ‘such
2 fiscal year’ each place it appears and inserting
3 ‘fiscal year 2003’.

4 (b) OPEN CONTAINER REQUIREMENTS.—Section
5 154(c) of title 23, United States Code, is amended—

6 (1) in paragraph (2)—

7 (A) in the paragraph heading by striking
8 ‘FISCAL YEARS THEREAFTER’ and inserting
9 ‘FISCAL YEAR 2004’ ; and

10 (B) by striking ‘and each October 1 there-
11 after,’;

12 (2) by redesignating paragraphs (3) through
13 (7) as paragraphs (4) through (8), respectively;

14 (3) by inserting after paragraph (2) the fol-
15 lowing:

16 ‘(3) FISCAL YEAR 2005 AND THEREAFTER.—On
17 October 1, 2004, and each October 1 thereafter, if
18 a State has not enacted or is not enforcing an open
19 container law described in subsection (b), the Sec-
20 retary shall transfer from the funds apportioned to
21 the State on that date under each of paragraphs (1),
22 (3), and (4) of section 104(b) an amount equal to
23 3 percent of the funds apportioned to the State
24 under such paragraphs for fiscal year 2003 to be

1 used or directed as described in subparagraph (A) or
2 (B) of paragraph (1).’;

3 (4) in paragraph (5) (as so redesignated) by
4 striking ‘paragraph (3)’ and inserting ‘paragraph
5 (4)’;

6 (5) in paragraphs (4), (5), and (6) (as so redesi-
7 gnated) by striking ‘paragraph (1) or (2)’ and in-
8 serting ‘paragraph (1), (2), or (3)’; and

9 (6) in paragraph (7)(B) (as so redesignated)—

10 (A) by striking ‘The amount’ and inserting
11 ‘For fiscal year 2005 and each fiscal year there-
12 after, the amount’; and

13 (B) in subclauses (I) and (II) of clause (ii)
14 by striking ‘the fiscal year’ and inserting ‘fiscal
15 year 2003’.

16 (c) MINIMUM PENALTIES FOR CERTAIN REPEAT OF-
17 FENDERS.—Section 164(b) of title 23, United States
18 Code, is amended—

19 (1) in paragraph (2)—

20 (A) in the paragraph heading by striking
21 ‘AND FISCAL YEARS THEREAFTER’ and insert-
22 ing ‘FISCAL YEAR 2004’ ; and

23 (B) by striking ‘and each October 1 there-
24 after,’;

1 (2) by redesignating paragraphs (3) through
2 (7) as paragraphs (4) through (8), respectively;

3 (3) by inserting after paragraph (2) the fol-
4 lowing:

5 ‘(3) FISCAL YEAR 2005 AND THEREAFTER.—On
6 October 1, 2004, and each October 1 thereafter, if
7 a State has not enacted or is not enforcing a repeat
8 intoxicated driver law, the Secretary shall transfer
9 from the funds apportioned to the State on that date
10 under each of paragraphs (1), (3), and (4) of section
11 104(b) an amount equal to 3 percent of the funds
12 apportioned to the State under such paragraphs for
13 fiscal year 2003 to be used or directed as described
14 in subparagraph (A) or (B) of paragraph (1).’;

15 (4) in paragraph (5) (as so redesignated) by
16 striking ‘paragraph (3)’ and inserting ‘paragraph
17 (4)’;

18 (5) in paragraphs (4), (5), and (6) (as so redesi-
19 gnated) by striking ‘paragraph (1) or (2)’ and in-
20 serting ‘paragraph (1), (2), or (3)’; and

21 (6) in paragraph (7)(B) (as so redesignated)—

22 (A) by striking ‘The amount’ and inserting
23 ‘For fiscal year 2005 and each fiscal year there-
24 after, the amount’; and

1 (B) in subclauses (I) and (II) of clause (ii)
2 by striking ‘the fiscal year’ and inserting ‘fiscal
3 year 2003’.

4 **SEC. 1405. SAFETY INCENTIVE GRANTS FOR USE OF SEAT**
5 **BELTS.**

6 Section 157(g)(1) of title 23, United States Code, is
7 amended by striking ‘for fiscal year 2004’ and all that
8 follows through ‘2005’ and inserting ‘and for each of fiscal
9 years 2003, 2004, and 2005’.

10 **SEC. 1406. SAFETY INCENTIVES TO PREVENT OPERATION**
11 **OF MOTOR VEHICLES BY INTOXICATED PER-**
12 **SONS.**

13 (a) CODIFICATION OF PENALTY.—Section 163 of
14 title 23, United States Code, is amended—

15 (1) by redesignating subsection (e) as sub-
16 section (f); and

17 (2) by inserting after subsection (d) the fol-
18 lowing:

19 ‘(e) PENALTY.—

20 ‘(1) IN GENERAL.—On October 1, 2003, and
21 October 1 of each fiscal year thereafter, if a State
22 has not enacted or is not enforcing a law described
23 in subsection (a), the Secretary shall withhold from
24 amounts apportioned to the State on that date
25 under each of paragraphs (1), (3), and (4) of section

1 104(b) an amount equal to the amount specified in
2 paragraph (2).

3 ‘(2) AMOUNT TO BE WITHHELD.—If a State is
4 subject to a penalty under paragraph (1), the Sec-
5 retary shall withhold for a fiscal year from the ap-
6 portionments of the State described in paragraph
7 (1) an amount equal to a percentage of the funds
8 apportioned to the State under paragraphs (1), (3),
9 and (4) of section 104(b) for fiscal year 2003. The
10 percentage shall be as follows:

11 ‘(A) For fiscal year 2004, 2 percent.

12 ‘(B) For fiscal year 2005, 4 percent.

13 ‘(C) For fiscal year 2006, 6 percent.

14 ‘(D) For fiscal year 2007, and each fiscal
15 year thereafter, 8 percent.

16 ‘(3) FAILURE TO COMPLY.—If, within 4 years
17 from the date that an apportionment for a State is
18 withheld in accordance with this subsection, the Sec-
19 retary determines that the State has enacted and is
20 enforcing a law described in subsection (a), the ap-
21 portionment of the State shall be increased by an
22 amount equal to the amount withheld. If, at the end
23 of such 4-year period, any State has not enacted or
24 is not enforcing a law described in subsection (a)

1 any amounts so withheld from such State shall
2 lapse.’.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
4 163(f)(1) of such title, as redesignated by subsection
5 (a)(1) of this section, is amended by striking ‘for fiscal
6 year 2004’ and all that follows through ‘2005’ and insert-
7 ing ‘and for each of fiscal years 2004 and 2005’.

8 (c) REPEAL.—Section 351 of the Department of
9 Transportation and Related Agencies Appropriations Act,
10 2001 (23 U.S.C. 163 note; 114 Stat. 1356A–34) is re-
11 pealed.

12 **SEC. 1407. REPEAT OFFENDERS FOR DRIVING WHILE IN-**
13 **TOXICATED.**

14 Section 164(a)(5)(A) of title 23, United States Code,
15 is amended to read as follows:

16 ‘(A) receive (i) a driver’s license suspension
17 for not less than 1 year, or (ii) a combination
18 of suspension of all driving privileges of an indi-
19 vidual for the first 45 days of the suspension
20 period followed by a reinstatement of limited
21 driving privileges for the propose of getting to
22 and from work, school, or an alcohol treatment
23 program if an ignition interlock device is in-
24 stalled on each of the motor vehicles owned or
25 operated, or both, by the individual;’.

1 **SEC. 1408. REPAIR OR REPLACEMENT OF HIGHWAY FEAT-**
2 **TURES ON NATIONAL HIGHWAY SYSTEM.**

3 (a) RULEMAKING PROCEEDING.—The Secretary shall
4 conduct a rulemaking proceeding to determine the appro-
5 priate conditions under which a State when choosing to
6 repair or replace damaged highway features on the Na-
7 tional Highway System with State funds (rather than with
8 available Federal financial assistance) should be required
9 to repair or replace such features with highway features
10 that have been tested, evaluated, and found to be accept-
11 able under the guidelines contained in the report of the
12 Transportation Research Board of the National Research
13 Council entitled ‘NCHRP Report 350-Recommended Pro-
14 cedures for the Safety Performance Evaluation of High-
15 way Features’.

16 (b) MATTERS TO BE CONSIDERED.—The rulemaking
17 proceeding shall cover those highway features that are cov-
18 ered by the guidelines referred to in subsection (a). The
19 conditions to be considered by the Secretary in the rule-
20 making proceeding shall include types of highway features,
21 cost-effectiveness, and practicality of replacement with
22 highway features that have been found to be acceptable
23 under such guidelines.

24 (c) REGULATIONS.—Not later than 1 year after the
25 date of enactment of this Act, the Secretary shall issue
26 regulations regarding the conditions under which States

1 when choosing to repair or replace damaged highway fea-
2 tures described in subsection (a) will be required to repair
3 or replace such features with highway features that have
4 been tested, evaluated, and found to be acceptable as de-
5 scribed in subsection (a).

6 **Subtitle E—Construction and**
7 **Contract Efficiencies**

8 **SEC. 1501. DESIGN-BUILD.**

9 (a) **QUALIFIED PROJECTS.**—Section 112(b)(3)(C) of
10 title 23, United States Code, is amended to read as fol-
11 lows:

12 ‘(C) **QUALIFIED PROJECTS.**—A qualified
13 project referred to in subparagraph (A) is a
14 project under this chapter for which the Sec-
15 retary has approved the use of design-build con-
16 tracting under criteria specified in regulations
17 issued by the Secretary.’.

18 (b) **EXPERIMENTAL PROCUREMENT.**—Section
19 112(b)(3) of such title is further amended—

20 (1) by redesigning subparagraph (D) as sub-
21 paragraph (G); and

22 (2) by inserting after subparagraph (C) the fol-
23 lowing:

24 ‘(D) **EXPERIMENTAL PROCUREMENT.**—As
25 part of any experimental program carried out

1 under this section, the Secretary shall evaluate
2 the use of procurement procedures under this
3 paragraph where subjective evaluation criteria
4 account for the majority of the selection deter-
5 mination.

6 ‘(E) LIMITATION ON STATUTORY CON-
7 STRUCTION.—Nothing in this section shall be
8 construed as effecting the authority to carry out
9 any experimental program concerning design-
10 build contracting that is being carried out by
11 the Secretary on the date of enactment of this
12 subparagraph.

13 ‘(F) REPORT.—Not later than 3 years
14 after the date of enactment of this subpara-
15 graph, the Secretary shall transmit to Congress
16 a report on the effectiveness of design-build
17 contracting procedures in which the majority of
18 the selection determinations are made based on
19 subjective criteria in accordance with subpara-
20 graph (D).’.

21 **SEC. 1502. WARRANTY HIGHWAY CONSTRUCTION PROJECT**
22 **PILOT PROGRAM.**

23 (a) IN GENERAL.—The Secretary shall establish and
24 implement a pilot program designed to encourage States

1 to incorporate warranties in the letting of contracts for
2 highway construction projects.

3 (b) MAXIMUM NUMBER OF PROJECTS.—The Sec-
4 retary may allow not more than 15 projects a year to be
5 carried out under the pilot program.

6 (c) FEDERAL SHARE.—The Federal share of the
7 costs of a project under the pilot program may not exceed
8 90 percent.

9 (d) MINIMUM PROJECT COST.—The estimated total
10 cost of a project to be carried out under the pilot program
11 must be greater than \$15,000,000.

12 (e) SELECTION PROCESS.—In the selection process
13 for the pilot program, the Secretary shall select, to the
14 extent possible, projects from several different regions of
15 the United States in order to demonstrate the effects that
16 different climates and traffic patterns have on warranty
17 highway construction projects.

18 (f) RULEMAKING.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary
21 shall issue a rule to implement the pilot program.
22 The rule shall include the following factors for eligi-
23 bility of a highway construction project to be in-
24 cluded in the program:

1 (A) A requirement that the contract for
2 the project must include a long-term limited
3 warranty that is of a duration sufficient to en-
4 sure that—

5 (i) the cost to the State of the project
6 that will be carried out is less than the es-
7 timated cost to construct the project with-
8 out the warranty plus the estimated costs
9 that would be incurred by the State and
10 that would otherwise be covered during the
11 proposed warranty period if a warranty
12 were in effect; and

13 (ii) the estimated cost to road users
14 during the warranty period is less than
15 such estimated cost without a warranty.

16 (B) In determining the sufficient duration
17 of a long-term limited warranty under subpara-
18 graph (A), the Secretary shall establish sepa-
19 rate sufficient durations for different types of
20 projects, such as initial construction, pavement
21 resurfacing and rehabilitation, and pavement
22 markings.

23 (C) A requirement that the limited war-
24 ranty must address, at a minimum—

1 (i) the responsibilities of the warranty
2 provider;

3 (ii) the responsibilities of the Depart-
4 ment of Transportation;

5 (iii) the terms of the warranty, includ-
6 ing duration and, if applicable, traffic vol-
7 umes and vehicle classification; and

8 (iv) performance criteria to be met to
9 determine if maintenance is required.

10 (2) FACTORS TO CONSIDER.—In issuing the
11 rule, the Secretary may consider the following fac-
12 tors as requirements for the warranty contract for
13 eligibility under the pilot program:

14 (A) A plan to account for inflation during
15 the warranty period.

16 (B) The frequency of performance assess-
17 ments performed.

18 (C) The response time for repairs.

19 (D) A plan for emergency repairs.

20 (E) Clearly set out limits of liability under
21 the warranty, if any.

22 (F) Dispute resolution provisions.

23 (G) A severability provision.

24 (H) Other provisions the Secretary con-
25 siders necessary for carrying out the program.

1 (g) SAVINGS.—Section 112 of title 23, United States
2 Code, shall apply to the projects carried out under this
3 section unless the Secretary determines that applying such
4 section to such projects is inconsistent with the provisions
5 of this section.

6 (h) REPORTS.—Not later than 5 years after the date
7 of enactment of this Act and every year thereafter, the
8 Secretary shall transmit to the Committee on Transpor-
9 tation and Infrastructure of the House of Representatives
10 and the Committee on Environment and Public Works of
11 the Senate a report outlining activities carried out under
12 the program and the results of the program.

13 **SEC. 1503. PRIVATE INVESTMENT STUDY.**

14 (a) STUDY.—Not later than 6 months after the date
15 of enactment of this Act, the Secretary shall enter into
16 an agreement with the National Academy of Sciences to
17 conduct a comprehensive study of private investment in
18 surface transportation infrastructure.

19 (b) MATTERS TO BE EVALUATED.—Under the agree-
20 ment, the National Academy of Sciences shall evaluate the
21 advantages and disadvantages of private investment in
22 surface transportation infrastructure and the impact of
23 such investment on the ability of State and local authori-
24 ties to use innovative financing, including—

25 (1) preconstruction funding requirements;

1 (2) integration of private investment in the
2 transportation planning process;

3 (3) use of toll revenues by State and local au-
4 thorities;

5 (4) use of toll credits by State and local au-
6 thorities;

7 (5) requirements for debt financing instru-
8 ments, reimbursable expenses, and conditions on
9 payments;

10 (6) limitation on fees charged at federally fund-
11 ed fringe and corridor parking facilities;

12 (7) revenues needed to provide a reasonable
13 rate of return to private investors;

14 (8) costs to users of facilities due to imposition
15 of tolls;

16 (9) sales-in-lease-out arrangement of transpor-
17 tation assets; and

18 (10) such other matters as the Secretary con-
19 siders appropriate.

20 (c) REPORT.—

21 (1) TO SECRETARY.—Under the agreement, the
22 National Academy of Sciences shall submit to the
23 Secretary a report on the results of the study by
24 such date as the Secretary may require.

1 (2) TO CONGRESS.—Not later than January 1,
2 2007, the Secretary shall transmit to the Committee
3 on Transportation and Infrastructure of the House
4 of Representatives and the Committee on Environ-
5 ment and Public Works of the Senate a copy of the
6 report of the National Academy of Sciences, together
7 with such recommendations as the Secretary con-
8 siders appropriate.

9 **SEC. 1504. HIGHWAYS FOR LIFE PILOT PROGRAM.**

10 (a) ESTABLISHMENT.—

11 (1) IN GENERAL.—The Secretary shall establish
12 and implement a pilot program to be known as the
13 ‘Highways for LIFE pilot program’.

14 (2) PURPOSE.—The purpose of the pilot pro-
15 gram shall be to advance longer-lasting highways
16 using innovative technologies and practices to ac-
17 complish the fast construction of efficient and safe
18 highways and bridges.

19 (3) OBJECTIVES.—Under the pilot program,
20 the Secretary shall provide leadership and incentives
21 to demonstrate and promote state-of-the-art tech-
22 nologies, elevated performance standards, and new
23 business practices in the highway construction pro-
24 cess that result in improved safety, faster construc-

1 tion, reduced congestion from construction, and im-
2 proved quality and user satisfaction.

3 (b) PROJECTS.—

4 (1) APPLICATIONS.—To be eligible to partici-
5 pate in the pilot program, a State shall submit to
6 the Secretary an application that is in such form
7 and contains such information as the Secretary re-
8 quires. Each application shall contain a description
9 of proposed projects to be carried by the State under
10 the pilot program.

11 (2) ELIGIBILITY.—A proposed project shall be
12 eligible for assistance under the pilot program if the
13 project—

14 (A) constructs, reconstructs, or rehabili-
15 tates a route or connection on a Federal-aid
16 highway eligible for assistance under chapter 1
17 of title 23, United States Code;

18 (B) uses innovative technologies, manufac-
19 turing processes, financing, or contracting
20 methods that improve safety, reduce congestion
21 due to construction, and improve quality; and

22 (C) meets additional criteria as determined
23 by the Secretary.

24 (3) PROJECT PROPOSAL.—A project proposal
25 submitted under paragraph (1) shall contain—

1 (A) an identification and description of the
2 projects to be delivered;

3 (B) a description of how the projects will
4 result in improved safety, faster construction,
5 reduced congestion due to construction, user
6 satisfaction, and improved quality;

7 (C) a description of the innovative tech-
8 nologies, manufacturing processes, financing,
9 and contracting methods that will be used for
10 the proposed projects; and

11 (D) such other information as the Sec-
12 retary may require.

13 (4) SELECTION CRITERIA.—In selecting
14 projects for approval under this section, the Sec-
15 retary shall ensure that the projects provide an eval-
16 uation of a broad range of technologies in a wide va-
17 riety of project types and shall give priority to the
18 projects that—

19 (A) address achieving the Highways for
20 LIFE performance standards for quality, safe-
21 ty, and speed of construction;

22 (B) deliver and deploy innovative tech-
23 nologies, manufacturing processes, financing,
24 contracting practices, and performance meas-
25 ures that will demonstrate substantial improve-

1 ments in safety, congestion, quality, and cost-
2 effectiveness;

3 (C) include innovation that will lead to
4 change in the administration of the State's
5 transportation program to more quickly con-
6 struct long-lasting, high-quality, cost-effective
7 projects that improve safety and reduce conges-
8 tion;

9 (D) are or will be ready for construction
10 within 12 months of approval of the project
11 proposal; and

12 (E) meet such other criteria as the Sec-
13 retary determines appropriate.

14 (5) FINANCIAL ASSISTANCE.—

15 (A) FUNDS FOR HIGHWAYS FOR LIFE
16 PROJECTS.—Out of amounts made available to
17 carry out this section for a fiscal year, the Sec-
18 retary may allocate to a State up to 20 percent,
19 but not more than \$15,000,000, of the total
20 cost of a project approved under this section.
21 Notwithstanding any other provision of law,
22 funds allocated to a State under this subpara-
23 graph may be applied to the non-Federal share
24 of the cost of construction of a project under
25 title 23, United States Code.

1 (B) USE OF APPORTIONED FUNDS.—A
2 State may obligate not more than 10 percent of
3 the amount apportioned to the State under 1 or
4 more of paragraphs (1), (2), (3), and (4) of sec-
5 tion 104(b) of title 23, United States Code, for
6 a fiscal year for projects approved under this
7 section.

8 (C) INCREASED FEDERAL SHARE.—Not-
9 withstanding sections 120 and 129 of title 23,
10 United States Code, the Federal share payable
11 on account of any project constructed with Fed-
12 eral funds allocated under this section, or ap-
13 portioned under section 104(b) of such title, to
14 a State under such title and approved under
15 this section may amount to 100 percent of the
16 cost of construction of such project.

17 (D) LIMITATION ON STATUTORY CON-
18 STRUCTION.—Except as provided in subpara-
19 graph (C), nothing in this subsection shall be
20 construed as altering or otherwise affecting the
21 applicability of the requirements of chapter 1 of
22 title 23, United States Code (including require-
23 ments relating to the eligibility of a project for
24 assistance under the program and the location
25 of the project), to amounts apportioned to a

1 State for a program under section 104(b) that
2 are obligated by the State for projects approved
3 under this subsection.

4 (6) PROJECT SELECTIONS.—In the period of
5 fiscal years 2005 through 2009, the Secretary shall
6 approve at least one project in each State for par-
7 ticipation in the pilot program and for financial as-
8 sistance under paragraph (5) if the State submits an
9 application and the project meets the eligibility re-
10 quirements and selection criteria under this sub-
11 section.

12 (c) TECHNOLOGY PARTNERSHIPS.—

13 (1) IN GENERAL.—The Secretary may make
14 grants or enter into cooperative agreements or other
15 transactions to foster the development, improvement,
16 and creation of innovative technologies and facilities
17 to improve safety, enhance the speed of highway
18 construction, and improve the quality and durability
19 of highways.

20 (2) FEDERAL SHARE.—The Federal share of
21 the cost of an activity carried out under this sub-
22 section shall not exceed 80 percent.

23 (d) TECHNOLOGY TRANSFER AND INFORMATION
24 DISSEMINATION.—

1 (1) IN GENERAL.—The Secretary shall conduct
2 a Highways for LIFE technology transfer program.

3 (2) AVAILABILITY OF INFORMATION.—The Sec-
4 retary shall ensure that the information and tech-
5 nology used, developed, or deployed under this sub-
6 section is made available to the transportation com-
7 munity and the public.

8 (e) STAKEHOLDER INPUT AND INVOLVEMENT.—The
9 Secretary shall establish a process for stakeholder input
10 and involvement in the development, implementation, and
11 evaluation of the Highways for LIFE pilot program. The
12 process may include participation by representatives of
13 State departments of transportation and other interested
14 persons.

15 (f) PROJECT MONITORING AND EVALUATION.—The
16 Secretary shall monitor and evaluate the effectiveness of
17 any activity carried out under this section.

18 (g) CONTRACT AUTHORITY.—Funds authorized to be
19 appropriated to carry out this section shall be available
20 for obligation in the same manner as if the funds were
21 apportioned under chapter 1 of title 23, United States
22 Code.

23 (h) STATE DEFINED.—In this section, the term
24 ‘State’ has the meaning such term has under section
25 101(a) of title 23, United States Code.

Subtitle F—Finance

SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.

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

(1) in paragraph (3)—

(A) by striking ‘category’; and

(B) by striking ‘offered into the capital markets’;

(2) by striking paragraph (7);

(3) by redesignating paragraphs (8) through (15) as paragraphs (7) through (14), respectively;

(4) by striking the period at the end of paragraph (8)(B) (as so redesignated) and inserting a semicolon; and

(5) in paragraph (10) (as so redesignated) by striking ‘bond’ and inserting ‘credit’.

(b) DETERMINATION OF ELIGIBILITY.—Section 182(a) of such title is amended—

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

‘(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement

1 to make available a Federal credit instrument is en-
2 tered into under this subchapter.

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

8 (2) in paragraph (3)(A)(i) by striking
9 ‘\$100,000,000’ and inserting ‘\$50,000,000’;

10 (3) in paragraph (3)(B) by striking
11 ‘\$30,000,000’ and inserting ‘\$15,000,000’; and

12 (4) in paragraph (4)—

13 (A) by striking ‘Project financing’ and in-
14 serting ‘The Federal credit instrument’; and

15 (B) by inserting before the period at the
16 end ‘that also secure the project obligations’.

17 (c) PROJECT SELECTION.—Section 182(b) of such
18 title is amended—

19 (1) in paragraph (1) by striking ‘criteria’ the
20 second place it appears and inserting ‘requirements’;
21 and

22 (2) in paragraph (2)(B) by inserting ‘, which
23 may be the Federal credit instrument,’ after ‘obliga-
24 tions’.

25 (d) SECURED LOANS.—

1 (1) AGREEMENTS.—Section 183(a)(1) of such
2 title is amended—

3 (A) in each of subparagraphs (A) and (B)
4 by inserting ‘of any project selected under sec-
5 tion 602’ after ‘costs’; and

6 (B) by striking the semicolon at the end of
7 subparagraph (B) and all that follows through
8 ‘under section 602’.

9 (2) INVESTMENT-GRADE RATING REQUIRE-
10 MENT.—Section 183(a)(4) of such title is amend-
11 ed—

12 (A) by striking ‘The funding’ and inserting
13 ‘The execution’; and

14 (B) by striking the first comma and all
15 that follows through ‘1 rating agency’.

16 (3) TERMS AND LIMITATIONS.—Section 183(b)
17 of such title is amended—

18 (A) in paragraph (2) by inserting ‘the less-
19 er of’ after ‘exceed’;

20 (B) in paragraph (2) by inserting ‘or the
21 amount of the senior project obligations’ after
22 ‘costs’;

23 (C) in paragraph (3)(A)(i) by inserting
24 ‘that also secure the senior project obligations’
25 after ‘sources’; and

1 (D) in paragraph (4) by striking ‘market-
2 able’.

3 (4) REPAYMENT.—Section 183(c) is amended—

4 (A) by striking paragraph (3); and

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

7 (e) LINES OF CREDIT.—

8 (1) TERMS AND LIMITATIONS.—Section 184(b)
9 of such title is amended—

10 (A) in paragraph (3)—

11 (i) by striking the first comma; and

12 (ii) by striking ‘any debt service re-
13 serve fund, and any other available reserve’
14 and inserting ‘but not including reasonably
15 required financing reserves’;

16 (B) in paragraph (4)—

17 (i) by striking ‘marketable’;

18 (ii) by striking ‘on which’ and insert-
19 ing ‘of execution of’; and

20 (iii) by striking ‘is obligated’ and in-
21 sserting ‘agreement’; and

22 (C) in paragraph (5)(A)(i) by inserting
23 ‘that also secure the senior project obligations’
24 after ‘sources’; and

1 (2) REPAYMENT.—Section 184(c) of such title
2 is amended—

3 (A) in paragraph (2)—

4 (i) by striking ‘scheduled’;

5 (ii) by inserting ‘be scheduled to’ after
6 ‘shall’; and

7 (iii) by striking ‘be fully repaid, with
8 interest,’ and inserting ‘conclude, with full
9 repayment of principal and interest,’; and
10 (B) by striking paragraph (3).

11 (f) PROGRAM ADMINISTRATION.—Section 185 of
12 such title is amended to read as follows:

13 **‘§ 185. Program Administration**

14 ‘(a) REQUIREMENT.—The Secretary shall establish a
15 uniform system to service the Federal credit instrument
16 made available under this chapter.

17 ‘(b) FEES.—The Secretary may establish fees at a
18 level to cover all or a portion of the costs to the Federal
19 Government of servicing the Federal credit instrument.

20 ‘(c) SERVICES.—The Secretary may identify a finan-
21 cial entity to assist the Secretary in servicing a Federal
22 credit instrument. The services—

23 ‘(1) shall act as the agent for the Secretary;
24 and

1 ‘(2) shall receive a servicing fee, subject to ap-
2 proval by the Secretary.

3 ‘(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
4 retary may retain the services of one or more expert firms,
5 including counsel, in the field of municipal and project fi-
6 nance to assist in the underwriting and servicing of Fed-
7 eral credit instruments.’.

8 (g) FUNDING.—Section 188 of such title is amended
9 to read as follows:

10 **‘§ 188. Funding**

11 ‘(a) FUNDING.—

12 ‘(1) IN GENERAL.—There are authorized to be
13 appropriated from the Highway Trust Fund (other
14 than the Mass Transit Account) \$130,000,000 for
15 fiscal year 2004 and \$140,000,000 for each of fiscal
16 years 2005 through 2009 to carry out this chapter.

17 ‘(2) ADMINISTRATIVE COSTS.—From funds
18 made available under paragraph (1), the Secretary
19 may use, for the administration of this subchapter,
20 not more than \$3,000,000 for each of fiscal years
21 2004 through 2009.

22 ‘(3) AVAILABILITY.—Amounts made available
23 under paragraph (1) shall remain available until ex-
24 pended.

25 ‘(b) CONTRACT AUTHORITY.—

1 ‘(1) IN GENERAL.—Notwithstanding any other
2 provision of law, approval by the Secretary of a Fed-
3 eral credit instrument that uses funds made avail-
4 able under this chapter shall be deemed to be ac-
5 ceptance by the United States of a contractual obli-
6 gation to fund the Federal credit instrument.

7 ‘(2) AVAILABILITY.—Amounts authorized under
8 this section for a fiscal year shall be available for ob-
9 ligation on October 1 of the fiscal year.

10 ‘(c) LIMITATIONS ON CREDIT AMOUNTS.—For each
11 of fiscal years 2004 through 2009, principal amounts of
12 Federal credit instruments made available under this
13 chapter shall be limited to \$2,600,000,000.’.

14 **SEC. 1602. STATE INFRASTRUCTURE BANKS.**

15 (a) IN GENERAL.—Section 189 of title 23, United
16 States Code, is amended to read as follows:

17 **‘§ 189. State infrastructure bank program**

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

20 ‘(1) CAPITAL PROJECT.—The term “capital
21 project” has the meaning such term has under sec-
22 tion 5302 of title 49, United States Code.

23 ‘(2) OTHER FORMS OF CREDIT ASSISTANCE.—
24 The term “other forms of credit assistance” includes
25 any use of funds in an infrastructure bank—

1 ‘(A) to provide credit enhancements;

2 ‘(B) to serve as a capital reserve for bond
3 or debt instrument financing;

4 ‘(C) to subsidize interest rates;

5 ‘(D) to insure or guarantee letters of credit
6 and credit instruments against credit risk of
7 loss;

8 ‘(E) to finance purchase and lease agree-
9 ments with respect to transit projects;

10 ‘(F) to provide bond or debt financing in-
11 strument security; and

12 ‘(G) to provide other forms of debt financ-
13 ing and methods of leveraging funds that are
14 approved by the Secretary and that relate to
15 the project with respect to which such assist-
16 ance is being provided.

17 ‘(3) STATE.—The term “State” has the mean-
18 ing such term has under section 401 of this title.

19 ‘(4) CAPITALIZATION.—The term “capitaliza-
20 tion” means the process used for depositing funds as
21 initial capital into a State infrastructure bank to es-
22 tablish the infrastructure bank.

23 ‘(5) COOPERATIVE AGREEMENT.—The term
24 “cooperative agreement” means written consent be-
25 tween a State and the Secretary which sets forth the

1 manner in which the infrastructure bank established
2 by the State in accordance with this section will be
3 administered.

4 ‘(6) LOAN.—The term “loan” means any form
5 of direct financial assistance from a State infra-
6 structure bank that is required to be repaid over a
7 period of time and that is provided to a project
8 sponsor for all or part of the costs of the project.

9 ‘(7) GUARANTEE.—The term “guarantee”
10 means a contract entered into by a State infrastruc-
11 ture bank in which the bank agrees to take responsi-
12 bility for all or a portion of a project sponsor’s fi-
13 nancial obligations for a project under specified con-
14 ditions.

15 ‘(8) INITIAL ASSISTANCE.—The term “initial
16 assistance” means the first round of funds that are
17 loaned or used for credit enhancement by a State in-
18 frastructure bank for projects eligible for assistance
19 under this section.

20 ‘(9) LEVERAGE.—The term “leverage” means a
21 financial structure used to increase funds in a State
22 infrastructure bank through the issuance of debt in-
23 struments.

24 ‘(10) LEVERAGED.—The term “leveraged”, as
25 used with respect to a State infrastructure bank,

1 means that the bank has total potential liabilities
2 that exceed the capital of the bank.

3 ‘(b) COOPERATIVE AGREEMENTS.—Subject to the
4 provisions of this section, the Secretary may enter into co-
5 operative agreements with States for the establishment of
6 State infrastructure banks for making loans and providing
7 other forms of credit assistance to public and private enti-
8 ties carrying out or proposing to carry out projects eligible
9 for assistance under this section.

10 ‘(d) FUNDING.—

11 ‘(1) HIGHWAY ACCOUNT.—Subject to sub-
12 section (j), the Secretary may permit a State enter-
13 ing into a cooperative agreement under this section
14 to establish a State infrastructure bank to deposit
15 into the highway account of the bank not to ex-
16 ceed—

17 ‘(A) 10 percent of the funds apportioned to
18 the State for each of fiscal years 2005 through
19 2009 under each of sections 104(b)(1),
20 104(b)(3), 104(b)(4), and 144; and

21 ‘(B) 10 percent of the funds allocated to
22 the State for each of such fiscal years under
23 section 105.

24 ‘(2) TRANSIT ACCOUNT.—Subject to subsection
25 (j), the Secretary may permit a State entering into

1 a cooperative agreement under this section to estab-
2 lish a State infrastructure bank, and any other re-
3 cipient of Federal assistance under section 5307,
4 5309, or 5311 of title 49, to deposit into the transit
5 account of the bank not to exceed 10 percent of the
6 funds made available to the State or other recipient
7 in each of fiscal years 2005 through 2009 for capital
8 projects under each of such sections.

9 ‘(3) RAIL ACCOUNT.—Subject to subsection (j),
10 the Secretary may permit a State entering into a co-
11 operative agreement under this section to establish
12 a State infrastructure bank, and any other recipient
13 of Federal assistance under subtitle V of title 49, to
14 deposit into the rail account of the bank funds made
15 available to the State or other recipient in each of
16 fiscal years 2005 through 2009 for capital projects
17 under such subtitle.

18 ‘(4) CAPITAL GRANTS.—

19 ‘(A) HIGHWAY ACCOUNT.—Federal funds
20 deposited into a highway account of a State in-
21 frastructure bank under paragraph (1) shall
22 constitute for purposes of this section a capital-
23 ization grant for the highway account of the
24 bank.

1 ‘(B) TRANSIT ACCOUNT.—Federal funds
2 deposited into a transit account of a State in-
3 frastructure bank under paragraph (2) shall
4 constitute for purposes of this section a capital-
5 ization grant for the transit account of the
6 bank.

7 ‘(C) RAIL ACCOUNT.—Federal funds de-
8 posited into a rail account of a State infrastruc-
9 ture bank under paragraph 3 shall constitute
10 for purposes of this section a capitalization
11 grant for the rail account of the bank.

12 ‘(5) SPECIAL RULE FOR URBANIZED AREAS OF
13 OVER 200,000.—Funds in a State infrastructure bank
14 that are attributed to urbanized areas of a State
15 with urbanized populations of over 200,000 under
16 section 133(d)(3) may be used to provide assistance
17 with respect to a project only if the metropolitan
18 planning organization designated for such area con-
19 curs, in writing, with the provision of such assist-
20 ance.

21 ‘(6) DISCONTINUANCE OF FUNDING.—If the
22 Secretary determines that a State is not imple-
23 menting the State’s infrastructure bank in accord-
24 ance with a cooperative agreement entered into
25 under subsection (b), the Secretary may prohibit the

1 State from contributing additional Federal funds to
2 the bank.

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

15 ‘(f) ELIGIBLE PROJECTS.—Subject to subsection (e),
16 funds in an infrastructure bank established under this sec-
17 tion may be used only to provide assistance for projects
18 eligible for assistance under this title and capital projects
19 defined in section 5302 of title 49, and any other projects
20 related to surface transportation that the Secretary deter-
21 mines to be appropriate.

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

1 ‘(1) deposit in cash, at a minimum, into each
2 account of the bank from non-Federal sources an
3 amount equal to 25 percent of the amount of each
4 capitalization grant made to the State and deposited
5 into such account; except that, if the deposit is into
6 the highway account of the bank and the State has
7 a non-Federal share under section 120(b) that is
8 less than 25 percent, the percentage to be deposited
9 from non-Federal sources shall be the lower percent-
10 age of such grant;

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

16 ‘(3) ensure that investment income derived
17 from funds deposited to an account of the bank
18 are—

19 ‘(A) credited to the account;

20 ‘(B) available for use in providing loans
21 and other forms of credit assistance to projects
22 eligible for assistance from the account; and

23 ‘(C) invested in United States Treasury se-
24 curities, bank deposits, or such other financing
25 instruments as the Secretary may approve to

1 earn interest to enhance the leveraging of
2 projects assisted by the bank;

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

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

12 ‘(6) ensure that the term for repaying any loan
13 will not exceed 30 years after the date of the first
14 payment on the loan; and

15 ‘(7) require the bank to make an annual report
16 to the Secretary on its status no later than Sep-
17 tember 30 of each year and such other reports as
18 the Secretary may require under guidelines issued to
19 carry out this section.

20 ‘(i) UNITED STATES NOT OBLIGATED.—The deposit
21 of Federal funds into an infrastructure bank established
22 under this section shall not be construed as a commitment,
23 guarantee, or obligation on the part of the United States
24 to any third party, nor shall any third party have any right
25 against the United States for payment solely by virtue of

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

6 ‘(j) MANAGEMENT OF FEDERAL FUNDS.—Sections
7 3335 and 6503 of title 31, shall not apply to funds depos-
8 ited into an infrastructure bank under this section.

9 ‘(k) PROGRAM ADMINISTRATION.—For each of fiscal
10 years 2005 through 2009, a State may expend not to ex-
11 ceed 2 percent of the Federal funds contributed to an in-
12 frastructure bank established by the State under this sec-
13 tion to pay the reasonable costs of administering the
14 bank.’.

15 (b) PREPARATORY AMENDMENTS.—

16 (1) SECTION 181.—Section 181 of such title is
17 further amended—

18 (A) by striking the section designator and
19 heading and inserting the following:

20 **‘§ 181. Generally applicable provisions’;**

21 (B) by striking ‘In this subchapter’ and in-
22 serting ‘(a) Definitions.—In this chapter’;

23 (C) in paragraph (5) by striking ‘184’ and
24 inserting ‘604’;

1 (D) in paragraph (11) (as redesignated by
2 section 1601(a) of this Act) by striking ‘183’
3 and inserting ‘603’; and

4 (E) by adding at the end the following:

5 ‘(b) TREATMENT OF CHAPTER.—For purposes of
6 this title, this chapter shall be treated as being part of
7 chapter 1.’.

8 (2) SECTION 182.—Section 182(b)(2)(A)(viii) of
9 such title is further amended by inserting ‘and chap-
10 ter 1’ after ‘this chapter’.

11 (3) SECTION 183.—Section 183(a) of such title
12 is further amended—

13 (A) in paragraph (1) by striking ‘182’ and
14 inserting ‘602’; and

15 (B) in paragraph (3) by striking
16 ‘182(b)(2)(B)’ and inserting ‘602(b)(2)(B)’.

17 (4) SECTION 184.—Section 184 of such title is
18 further amended—

19 (A) in subsection (a)(1) by striking ‘182’
20 and inserting ‘602’;

21 (B) in subsection (a)(3) by striking
22 ‘182(b)(2)(B)’ and inserting ‘602(b)(2)(B)’;
23 and

24 (C) in subsection (b)(10) by striking ‘183’
25 and inserting ‘603’.

1 (5) REFERENCES IN SUBCHAPTER.—Sub-
 2 chapter II of chapter 1 of such title is amended by
 3 striking ‘this subchapter’ each place it appears and
 4 inserting ‘chapter’.

5 (6) SUBCHAPTER HEADINGS.—Chapter 1 of
 6 such title is further amended—

7 (A) by striking ‘**SUBCHAPTER I—GEN-**
 8 **ERAL PROVISIONS**’ preceding section 101;
 9 and

10 (B) by striking ‘**SUBCHAPTER II—IN-**
 11 **FRASTRUCTURE FINANCE**’ preceding section
 12 181.

13 (c) CHAPTER 6.—Such title is further amended by
 14 adding at the end the following:

‘CHAPTER 6—INFRASTRUCTURE FINANCE

‘Sec.

- ‘601. Generally applicable provisions.
- ‘602. Determination of eligibility and project selection.
- ‘603. Secured loans.
- ‘604. Lines of credit.
- ‘605. Program administration.
- ‘606. State and local permits.
- ‘607. Regulations.
- ‘608. Funding.
- ‘609. State infrastructure bank program.’.

15 (d) MOVING AND REDESIGNATING.—Such title is fur-
 16 ther amended—

17 (1) by redesignating sections 181 through 189
 18 as sections 601 through 609, respectively;

1 (2) by moving such sections from chapter 1 to
2 chapter 6 (as added by subsection (c)); and

3 (3) by inserting such sections after the analysis
4 for chapter 6.

5 (e) ANALYSIS FOR CHAPTER 1 AND TABLE OF CHAP-
6 TERS.—

7 (1) ANALYSIS FOR CHAPTER 1.—The analysis
8 for chapter 1 of such title is amended—

9 (A) by striking the headings for sub-
10 chapters I and II; and

11 (B) by striking the items relating to sec-
12 tions 181 through 189.

13 (2) TABLE OF CHAPTERS.—The table of chap-
14 ters for such title is amended by inserting after the
15 item relating to chapter 5 the following:

‘6. Infrastructure Finance 601’.

16 **SEC. 1603. INTERSTATE SYSTEM RECONSTRUCTION AND**
17 **REHABILITATION TOLL PILOT PROGRAM.**

18 (a) ESTABLISHMENT.—The Secretary shall establish
19 and implement an Interstate System reconstruction and
20 rehabilitation toll pilot program under which the Sec-
21 retary, notwithstanding sections 129 and 301 of title 23,
22 United States Code, may permit a State to collect tolls
23 on a highway, bridge, or tunnel on the Interstate System
24 for the purpose of reconstructing and rehabilitating the
25 facility.

1 (b) LIMITATION ON NUMBER OF FACILITIES.—The
2 Secretary may permit the collection of tolls under this sec-
3 tion on 3 facilities on the Interstate System. Each of such
4 facilities shall be located in a different State.

5 (c) ELIGIBILITY.—To be eligible to participate in the
6 pilot program, a State shall submit to the Secretary an
7 application that contains, at a minimum, the following:

8 (1) An identification of the facility on the Inter-
9 state System proposed to be a toll facility, including
10 the age, condition, and intensity of use of the facil-
11 ity.

12 (2) In the case of a facility that affects a met-
13 ropolitan area, an assurance that the metropolitan
14 planning organization designated under chapter 52
15 of title 49, United States Code, for the area has
16 been consulted concerning the placement and
17 amount of tolls on the facility.

18 (3) An analysis demonstrating that financing
19 the reconstruction or rehabilitation of the facility
20 with the collection of tolls under the pilot program
21 is the most efficient and economical way to advance
22 the project.

23 (4) A facility management plan that includes—
24 (A) a plan for implementing the imposition
25 of tolls on the facility;

1 (B) a schedule and finance plan for the re-
2 construction or rehabilitation of the facility
3 using toll revenues;

4 (C) a description of the public transpor-
5 tation agency that will be responsible for imple-
6 mentation and administration of the pilot pro-
7 gram;

8 (D) a description of whether consideration
9 will be given to privatizing the maintenance and
10 operational aspects of the facility, while retain-
11 ing legal and administrative control of the por-
12 tion of the Interstate route; and

13 (E) such other information as the Sec-
14 retary may require.

15 (d) SELECTION CRITERIA.—The Secretary may ap-
16 prove the application of a State under subsection (c) only
17 if the Secretary determines that—

18 (1) the State’s analysis under subsection (c)(3)
19 is reasonable;

20 (2) the facility has a sufficient intensity of use,
21 age, or condition to warrant the collection of tolls;

22 (3) the State plan for implementing tolls on the
23 facility takes into account the interests of local, re-
24 gional, and interstate travelers;

1 (4) the State plan for reconstruction or reha-
2 bilitation of the facility using toll revenues is reason-
3 able;

4 (5) the State will develop, manage, and main-
5 tain a system that will automatically collect the tolls;

6 (6) in developing the State plan for imple-
7 menting tolls on the facility, the State includes a
8 program to permit low income drivers to pay a re-
9 duced toll amount; and

10 (7) the State has given preference to the use of
11 a public toll agency with demonstrated capability to
12 build, operate, and maintain a toll expressway sys-
13 tem meeting criteria for the Interstate System.

14 (e) PROHIBITION ON NONCOMPETE AGREEMENTS.—
15 Before the Secretary may permit a State to participate
16 in the pilot program, the State must enter into an agree-
17 ment with the Secretary that provides that the State will
18 not enter into an agreement with a private person under
19 which the State is prevented from improving or expanding
20 the capacity of public roads adjacent to the toll facility
21 to address conditions resulting from traffic diverted to
22 such roads from the toll facility, including—

23 (1) excessive congestion;

24 (2) pavement wear; and

1 (3) an increased incidence of traffic accidents,
2 injuries, or fatalities.

3 (f) LIMITATIONS ON USE OF REVENUES; AUDITS.—

4 Before the Secretary may permit a State to participate
5 in the pilot program, the State must enter into an agree-
6 ment with the Secretary that provides that—

7 (1) all toll revenues received from operation of
8 the toll facility will be used only for—

9 (A) debt service;

10 (B) reasonable return on investment of any
11 private person financing the project; and

12 (C) any costs necessary for the improve-
13 ment of and the proper operation and mainte-
14 nance of the toll facility, including reconstruc-
15 tion, resurfacing, restoration, and rehabilitation
16 of the toll facility; and

17 (2) regular audits will be conducted to ensure
18 compliance with paragraph (1) and the results of
19 such audits will be transmitted to the Secretary.

20 (g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—

21 During the term of the pilot program,
22 funds apportioned for Interstate maintenance under sec-
23 tion 104(b)(4) of title 23, United States Code, may not
24 be used on a facility for which tolls are being collected
25 under the program.

1 (h) PROGRAM TERM.—The Secretary may approve
2 an application of a State for permission to collect a toll
3 under this section only if the application is received by
4 the Secretary before the last day of the 10-year period
5 beginning on the date of enactment of this Act.

6 (i) INTERSTATE SYSTEM DEFINED.—In this section,
7 the term ‘Interstate System’ has the meaning such term
8 has under section 101 of title 23, United States Code.

9 (j) REPORT.—Not later than September 30, 2011,
10 the Secretary shall transmit to the Committee on Trans-
11 portation and Infrastructure of the House of Representa-
12 tives and the Committee on Environment and Public
13 Works of the Senate a report on traffic congestion on,
14 pavement wear of, and incidence of accidents, injuries, and
15 fatalities on public roads adjacent to toll facilities estab-
16 lished under this section and section 1604.

17 (k) REPEAL.—Section 1216(b) of the Transportation
18 Equity Act for the 21st Century (23 U.S.C. 129 note; 112
19 Stat. 212) is repealed.

20 **SEC. 1604. INTERSTATE SYSTEM CONSTRUCTION TOLL**
21 **PILOT PROGRAM.**

22 (a) ESTABLISHMENT.—The Secretary shall establish
23 and implement an Interstate System construction toll pilot
24 program under which the Secretary, notwithstanding sec-
25 tions 129 and 301 of title 23, United States Code, may

1 permit a State or an interstate compact of States to collect
2 tolls on a highway, bridge, or tunnel on the Interstate Sys-
3 tem for the purpose of constructing Interstate highways.

4 (b) LIMITATION ON NUMBER OF FACILITIES.—The
5 Secretary may permit the collection of tolls under this sec-
6 tion on 3 facilities on the Interstate System.

7 (c) ELIGIBILITY.—To be eligible to participate in the
8 pilot program, a State shall submit to the Secretary an
9 application that contains, at a minimum, the following:

10 (1) An identification of the facility on the Inter-
11 state System proposed to be a toll facility.

12 (2) In the case of a facility that affects a met-
13 ropolitan area, an assurance that the metropolitan
14 planning organization designated under chapter 52
15 of title 49, United States Code, for the area has
16 been consulted concerning the placement and
17 amount of tolls on the facility.

18 (3) An analysis demonstrating that financing
19 the construction of the facility with the collection of
20 tolls under the pilot program is the most efficient
21 and economical way to advance the project.

22 (4) A facility management plan that includes—
23 (A) a plan for implementing the imposition
24 of tolls on the facility;

1 (B) a schedule and finance plan for the
2 construction of the facility using toll revenues;

3 (C) a description of the public transpor-
4 tation agency that will be responsible for imple-
5 mentation and administration of the pilot pro-
6 gram;

7 (D) a description of whether consideration
8 will be given to privatizing the maintenance and
9 operational aspects of the facility, while retain-
10 ing legal and administrative control of the por-
11 tion of the Interstate route; and

12 (E) such other information as the Sec-
13 retary may require.

14 (d) SELECTION CRITERIA.—The Secretary may ap-
15 prove the application of a State under subsection (c) only
16 if the Secretary determines that—

17 (1) the State’s analysis under subsection (c)(3)
18 is reasonable;

19 (2) the State plan for implementing tolls on the
20 facility takes into account the interests of local, re-
21 gional, and interstate travelers;

22 (3) the State plan for construction of the facil-
23 ity using toll revenues is reasonable;

24 (4) the State will develop, manage, and main-
25 tain a system that will automatically collect the tolls;

1 (5) in developing the State plan for imple-
2 menting tolls on the facility, the State includes a
3 program to permit low-income drivers to pay a re-
4 duced toll amount; and

5 (6) the State has given preference to the use of
6 a public toll agency with demonstrated capability to
7 build, operate, and maintain a toll expressway sys-
8 tem meeting criteria for the Interstate System.

9 (e) PROHIBITION ON NONCOMPETE AGREEMENTS.—
10 Before the Secretary may permit a State to participate
11 in the pilot program, the State must enter into an agree-
12 ment with the Secretary that provides that the State will
13 not enter into an agreement with a private person under
14 which the State is prevented from improving or expanding
15 the capacity of public roads adjacent to the toll facility
16 to address conditions resulting from traffic diverted to
17 such roads from the toll facility, including—

18 (1) excessive congestion;

19 (2) pavement wear; and

20 (3) an increased incidence of traffic accidents,
21 injuries, or fatalities.

22 (f) LIMITATIONS ON USE OF REVENUES; AUDITS.—
23 Before the Secretary may permit a State to participate
24 in the pilot program, the State must enter into an agree-
25 ment with the Secretary that provides that—

1 (1) all toll revenues received from operation of
2 the toll facility will be used only for—

3 (A) debt service;

4 (B) reasonable return on investment of any
5 private person financing the project; and

6 (C) any costs necessary for the improve-
7 ment of and the proper operation and mainte-
8 nance of the toll facility, including reconstruc-
9 tion, resurfacing, restoration, and rehabilitation
10 of the toll facility; and

11 (2) regular audits will be conducted to ensure
12 compliance with paragraph (1) and the results of
13 such audits will be transmitted to the Secretary.

14 (g) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program,
15 funds apportioned for Interstate maintenance under sec-
16 tion 104(b)(4) of title 23, United States Code, may not
17 be used on a facility for which tolls are being collected
18 under the program.

19 (h) PROGRAM TERM.—The Secretary may approve
20 an application of a State for permission to collect a toll
21 under this section only if the application is received by
22 the Secretary before the last day of the 10-year period
23 beginning on the date of enactment of this Act.
24

1 (i) INTERSTATE SYSTEM DEFINED.—In this section,
2 the term ‘Interstate System’ has the meaning such term
3 has under section 101 of title 23, United States Code.

4 **SEC. 1605. USE OF EXCESS FUNDS.**

5 Section 106 of title 23, United States Code, is
6 amended by adding at the end the following:

7 ‘(i) USE OF EXCESS FUNDS.—

8 (1) AUDITS.—A State may audit projects fund-
9 ed with amounts apportioned under sections 104 and
10 144 to determine whether any amounts obligated for
11 a project are excess funds.

12 (2) PLANS FOR USE OF EXCESS FUNDS.—If a
13 State determines, after conducting an audit under
14 paragraph (1), that funds obligated for a project are
15 excess funds, the State may develop a plan for obli-
16 gating the funds for the design and construction of
17 one or more projects that are eligible for funding
18 under the program for which the funds were origi-
19 nally apportioned.

20 (3) CERTIFICATION TO THE SECRETARY.—A
21 State that has developed a plan under paragraph (2)
22 shall transmit to the Secretary a certification that
23 the State has conducted an audit under paragraph
24 (1) and developed the plan in accordance with para-
25 graph (2).

1 ‘(4) IMPLEMENTATION OF PLANS.—After trans-
2 mitting a certification to the Secretary with respect
3 to a plan under paragraph (3), the State may carry
4 out the plan.

5 ‘(5) APPLICABILITY OF REQUIREMENTS.—Ex-
6 cess funds used to carry out a project under this
7 section shall be subject to the requirements of this
8 title that are applicable to the program for which the
9 funds were originally apportioned.

10 ‘(6) EXCESS FUNDS DEFINED.—In this sub-
11 section, the term “excess funds” means funds obli-
12 gated for a project that remain available for the
13 project after the project has been completed.’.

14 **SEC. 1606. SPECIAL RULES RELATING TO STATE INFRA-**
15 **STRUCTURE BANK PROGRAM.**

16 (a) INTERSTATE COMPACTS.—Section 189 of title 23,
17 United States Code, as amended by section 1602(a) of this
18 Act, is amended by inserting after subsection (b) the fol-
19 lowing:

20 ‘(c) INTERSTATE COMPACTS.—

21 ‘(1) IN GENERAL.—Congress grants consent to
22 2 or more of the States, entering into a cooperative
23 agreement under subsection (a) with the Secretary
24 for the establishment by such States of a multi-State
25 infrastructure bank in accordance with this section,

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

3 ‘(2) RESERVATION OF RIGHTS.—The right to
4 alter, amend or repeal interstate compacts entered
5 into under this subsection is expressly reserved.’.

6 (b) APPLICABILITY OF FEDERAL LAW.—Section 189
7 of title 23, United States Code, as amended by section
8 1602(a) of this Act, is further amended by inserting after
9 subsection (g) the following:

10 ‘(h) APPLICABILITY OF FEDERAL LAW.—

11 ‘(1) IN GENERAL.—The requirements of this
12 title and title 49 that would otherwise apply to funds
13 made available under this title or such title and
14 projects assisted with those funds shall apply to—

15 ‘(A) funds made available under this title
16 or such title and contributed to an infrastruc-
17 ture bank established under this section, includ-
18 ing the non-Federal contribution required under
19 subsection (g); and

20 ‘(B) projects assisted by the bank through
21 the use of the funds;

22 except to the extent that the Secretary determines
23 that any requirement of such title (other than sec-
24 tions 113 and 114 of this title and section 5333 of

1 title 49), is not consistent with the objectives of this
2 section.

3 ‘(2) REPAYMENTS.—The requirements of this
4 title and title 49 shall apply to repayments from
5 non-Federal sources to an infrastructure bank from
6 projects assisted by the bank. Such a repayment
7 shall be considered to be Federal funds.’.

8 **Subtitle G—High Priority Projects**

9 **SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM.**

10 (a) AUTHORIZATION OF HIGH PRIORITY
11 PROJECTS.—Section 117(a) of title 23, United States
12 Code, is amended by striking ‘1602 of the Transportation
13 Equity Act for the 21st Century’ and inserting ‘1701 of
14 the Transportation Equity Act: A Legacy for Users’.

15 (b) ALLOCATION PERCENTAGES.—Section 117(b) of
16 such title is amended by striking paragraphs (1) through
17 (6) and inserting the following:

18 ‘(1) 22.4 percent of such amount shall be avail-
19 able for obligation beginning in fiscal year 2005;

20 ‘(2) 20.2 percent of such amount shall be avail-
21 able for obligation beginning in fiscal year 2006;

22 ‘(3) 19.3 percent of such amount shall be avail-
23 able for obligation beginning in fiscal year 2007;

24 ‘(4) 19.7 percent of such amount shall be avail-
25 able for obligation beginning in fiscal year 2008; and

1 ‘(5) 18.4 percent of such amount shall be avail-
2 able for obligation beginning in fiscal year 2009.’.

3 (c) FEDERAL SHARE.—Section 117(c) of such title
4 is amended by striking ‘; except’ and all that follows
5 through ‘cost thereof’.

6 (d) ADVANCE CONSTRUCTION.—Section 117(e) of
7 such title is amended by striking ‘1602 of the Transpor-
8 tation Equity Act for the 21st Century’ each place it ap-
9 pears and inserting ‘1701 of the Transportation Equity
10 Act: A Legacy for Users’.

11 (e) AVAILABILITY OF OBLIGATION LIMITATION.—
12 Section 117(g) of such title is amended by striking ‘Trans-
13 portation Equity Act for the 21st Century’ and inserting
14 ‘Transportation Equity Act: A Legacy for Users’.

15 (f) FEDERAL-STATE RELATIONSHIP.—Section
16 145(b) of such title is amended—

17 (1) by inserting after ‘described in’ the fol-
18 lowing: ‘section 1702 of the Transportation Equity
19 Act: A Legacy for Users,’;

20 (2) by inserting after ‘for such projects by’ the
21 following: ‘section 1101(a)(17) of the Transportation
22 Equity Act: A Legacy for Users,’; and

23 (3) by striking ‘117 of title 23, United States
24 Code,’ and inserting ‘section 117 of this title,’.

1 **SEC. 1702. PROJECT AUTHORIZATIONS.**

2 Subject to section 117 of title 23, United States
3 Code, the amount listed for each high priority project in
4 the following table shall be available (from amounts made
5 available by section 1101(a)(17) of the Transportation
6 Equity Act: A Legacy for Users) for fiscal years 2005
7 through 2009 to carry out each such project: To be sup-
8 plied.

9 **Subtitle H—Miscellaneous**
10 **Provisions**

11 **SEC. 1801. BUDGET JUSTIFICATION.**

12 The Department of Transportation and each agency
13 therein shall submit to the Committee on Transportation
14 and Infrastructure of the House of Representatives a
15 budget justification concurrently with the President's an-
16 nual budget submission to Congress under section 1105(a)
17 of title 31, United States Code.

18 **SEC. 1802. MOTORIST INFORMATION.**

19 Section 124 of of title I of division F of the Consoli-
20 dated Appropriations Act, 2004 (118 Stat. 296–297) is
21 repealed.

22 **SEC. 1803. MOTORIST INFORMATION CONCERNING FULL-**
23 **SERVICE RESTAURANTS.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Secretary shall initiate a rulemaking to
26 determine whether or not—

1 (1) full-service restaurants should be given pri-
2 ority on not more than 2 panels of the camping or
3 attractions logo specific service signs in the Manual
4 on Uniform Traffic Control Devices of the Depart-
5 ment of Transportation when the food logo specific
6 service sign is fully utilized; and

7 (2) full service restaurants should be given pri-
8 ority on not more than two panels of the food logo
9 specific service signs in such Manual when the
10 camping or attractions logo specific service signs are
11 fully utilized.

12 **SEC. 1804. HIGH PRIORITY CORRIDORS ON THE NATIONAL**
13 **HIGHWAY SYSTEM.**

14 Section 1105(c) of the Intermodal Surface Transpor-
15 tation Efficiency Act of 1991 (105 Stat. 2032) is amend-
16 ed—

17 (1) in paragraph (23) by inserting before the
18 period at the end the following: ‘and the connection
19 from Wichita, Kansas, to Sioux City, Iowa, which in-
20 cludes I–135 from Wichita, Kansas to Salina, Kan-
21 sas, United States Route 81 from Salina, Kansas, to
22 Norfolk, Nebraska, Nebraska State Route 35 from
23 Norfolk, Nebraska, to South Sioux City, Nebraska,
24 and the connection to I–29 in Sioux City, Iowa’;

1 (2) by striking paragraph (34) and inserting
2 the following:

3 ‘(34) The Alameda Corridor-East and South-
4 west Passage, California. The Alameda Corridor-
5 East is generally described as the corridor from East
6 Los Angeles (terminus of Alameda Corridor)
7 through Los Angeles, Orange, San Bernardino, and
8 Riverside Counties, to termini at Barstow in San
9 Bernardino County and Coachella in Riverside
10 County. The Southwest Passage shall follow I-10
11 from San Bernardino to the Arizona State line.’;

12 (3) by adding at the end the following:

13 ‘(46) Interstate Route 710 between the ter-
14 minus at Long Beach, California, to California State
15 Route 60.

16 ‘(47) Interstate Route 87 from the Quebec bor-
17 der to New York City.

18 ‘(48) The Route 50 High Plains Corridor along
19 the United States Route 50 corridor from Newton,
20 Kansas, to Pueblo, Colorado.

21 ‘(49) The Atlantic Commerce Corridor on Inter-
22 state Route 95 from Jacksonville, Florida, to Miami,
23 Florida.

24 ‘(50) The East-West Corridor commencing in
25 Watertown, New York, continuing northeast through

1 New York, Vermont, New Hampshire, and Maine,
2 and terminating in Calais, Maine.

3 ‘(51) The SPIRIT Corridor on United States
4 Route 54 from El Paso, Texas, through New Mex-
5 ico, Texas, and Oklahoma to Wichita, Kansas.

6 ‘(52) The route in Arkansas running south and
7 parallel to United States Route 226 from the reloca-
8 tion of United States Route 67 to the vicinity of
9 United States Route 49 and United States Route
10 63.

11 ‘(53) United States Highway Route 6 from
12 Interstate Route 70 to Interstate Route 15, Utah.

13 ‘(54) The California Farm-to-Market Corridor,
14 California State Route 99 from south of Bakersfield
15 to Sacramento, California.’; and

16 (4) by aligning paragraph (45) with paragraph
17 (46).

18 **SEC. 1805. ADDITIONS TO APPALACHIAN REGION.**

19 (a) KENTUCKY.—Section 14102(a)(1)(C) of title 40,
20 United States Code, is amended—

21 (1) by inserting ‘Nicholas,’ after ‘Morgan,’; and

22 (2) by inserting ‘Robertson,’ after ‘Pulaski,’.

23 (b) OHIO.—Section 14102(a)(1)(H) of such title is
24 amended—

25 (1) by inserting ‘Ashtabula,’ after ‘Adams,’;

1 (2) by inserting ‘Fayette,’ after ‘Coshocton,’;

2 (3) by inserting ‘Mahoning,’ after ‘Lawrence,’;

3 and

4 (4) by inserting ‘Trumbull,’ after ‘Scioto,’.

5 (c) TENNESSEE.—Section 14102(a)(1)(K) of such
6 title is amended—

7 (1) by inserting ‘Giles,’ after ‘Franklin,’; and

8 (2) by inserting ‘Lawrence, Lewis, Lincoln,’
9 after ‘Knox,’.

10 (d) VIRGINIA.—Section 14102(a)(1)(L) of such title
11 is amended—

12 (1) by inserting ‘Henry,’ after ‘Grayson,’; and

13 (2) by inserting ‘Patrick,’ after ‘Montgomery,’.

14 **SEC. 1806. TRANSPORTATION ASSETS AND NEEDS OF**
15 **DELTA REGION.**

16 (a) AGREEMENT.—Not later than 6 months after the
17 date of enactment of this Act, the Secretary shall enter
18 into an agreement with the Delta Regional Authority (re-
19 ferred to in this section as the ‘DRA’) to conduct a com-
20 prehensive study of transportation assets and needs for
21 all modes of transportation (including passenger and
22 freight transportation) in the 8 States comprising the
23 Delta region (Alabama, Arkansas, Illinois, Kentucky, Lou-
24 isiana, Mississippi, Missouri and Tennessee).

1 (b) CONSULTATION.—Under the agreement, the
2 DRA, in conducting the study, shall consult with the De-
3 partment of Transportation, State transportation depart-
4 ments, local planning and development districts, local and
5 regional governments, and metropolitan planning organi-
6 zations.

7 (c) REPORT.—Under the agreement, the DRA, not
8 later than 24 months after the date of entry into the
9 agreement, shall submit to the Secretary and the Com-
10 mittee on Transportation and Infrastructure of the House
11 of Representatives and the Committee on Environment
12 and Public Works of the Senate a final report on the re-
13 sults of the study, together with such recommendation as
14 the DRA considers appropriate.

15 (d) PLAN.—Under the agreement, the DRA, upon
16 completion of the report, shall establish a regional stra-
17 tegic plan to implement the recommendations of the re-
18 port.

19 (e) FUNDING.—

20 (1) AUTHORIZATION OF APPROPRIATIONS.—

21 There is authorized to be appropriated out of the
22 Highway Trust Fund (other than the Mass Transit
23 Account), \$500,000 for each of the fiscal years 2005
24 and 2006 to carry out this section.

1 (2) CONTRACT AUTHORITY.—Funds authorized
2 by this section shall be available for obligation in the
3 same manner and to the same extent as if such
4 funds were apportioned under chapter 1 of title 23,
5 United States Code; except that such funds shall re-
6 main available until expended and shall not be trans-
7 ferable.

8 **SEC. 1807. TOLL FACILITIES WORKPLACE SAFETY STUDY.**

9 (a) IN GENERAL.—The Secretary shall conduct a
10 study on the safety of highway toll collection facilities, in-
11 cluding toll booths, to determine the safety of the facilities
12 for the toll collectors who work in and around the facili-
13 ties, including consideration of—

14 (1) the effect of design or construction of the
15 facilities on the likelihood of vehicle collisions with
16 the facilities;

17 (2) the safety of crosswalks used by toll collec-
18 tors in transit to and from toll booths;

19 (3) the extent of the enforcement of speed lim-
20 its in the vicinity of the facilities;

21 (4) the use of warning devices, such as vibra-
22 tion and rumble strips, to alert drivers approaching
23 the facilities;

24 (5) the use of cameras to record traffic viola-
25 tions in the vicinity of the facilities;

1 (6) the use of traffic control arms in the vicin-
2 ity of the facilities;

3 (7) law enforcement practices and jurisdictional
4 issues that affect safety in the vicinity of the facili-
5 ties; and

6 (8) the incidence of accidents and injuries in
7 the vicinity of toll booths.

8 (b) DATA COLLECTION.—As part of the study, the
9 Secretary shall collect data regarding the incidence of acci-
10 dents and injuries in the vicinity of highway toll collection
11 facilities.

12 (c) REPORT.—Not later than 1 year after the date
13 of enactment of this Act, the Secretary shall transmit to
14 the Committee on Transportation and Infrastructure of
15 the House of Representatives and the Committee on Envi-
16 ronment and Public Works of the Senate a report on the
17 results of the study, together with recommendations for
18 improving toll facilities workplace safety.

19 (d) FUNDING.—

20 (1) AUTHORIZATION OF APPROPRIATIONS.—
21 There is authorized to be appropriated to carry out
22 this section, out of the Highway Trust Fund (other
23 than the Mass Transit Account), \$500,000 for fiscal
24 year 2005.

1 (2) CONTRACT AUTHORITY.—Funds authorized
2 to be appropriated by this section shall be available
3 for obligation in the same manner and to the same
4 extent as if such funds were apportioned under
5 chapter 1 of title 23, United States Code; expect
6 that the Federal share of the cost of the project
7 shall be 100 percent, and such funds shall remain
8 available until expended and shall not be transfer-
9 able.

10 **SEC. 1808. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.**
11

12 (a) IN GENERAL.—The Secretary shall conduct a
13 demonstration project in the State of Alaska, and a dem-
14 onstration project in the State of Tennessee, to study the
15 safety impacts, environmental impacts, and cost effective-
16 ness of different pavement marking systems and the effect
17 of State bidding and procurement processes on the quality
18 of pavement marking material employed in highway
19 projects. The demonstration projects shall each include an
20 evaluation of the impacts and effectiveness of increasing
21 the width of pavement marking edge lines from 4 inches
22 to 6 inches and an evaluation of advanced acrylic water-
23 borne pavement markings.

24 (b) REPORT.—Not later than June 30, 2009, the
25 Secretary shall transmit to Congress a report on the re-

1 sults of the demonstration projects, together with findings
2 and recommendations on methods that will optimize the
3 cost-benefit ratio of the use of Federal funds on pavement
4 marking.

5 (c) FUNDING.—

6 (1) AUTHORIZATION OF APPROPRIATIONS.—

7 There is authorized to be appropriated to carry out
8 this section, out of the Highway Trust Fund (other
9 than the Mass Transit Account), \$1,000,000 per fis-
10 cal year for each of the fiscal years 2005 through
11 2009.

12 (2) CONTRACT AUTHORITY.—Funds authorized
13 to be appropriated by this section shall be available
14 for obligation in the same manner and to the same
15 extent as if such funds were apportioned under
16 chapter 1 of title 23, United States Code; expect
17 that the Federal share of the cost of the demonstra-
18 tion projects shall be 100 percent, and such funds
19 shall remain available until expended and shall not
20 be transferable.

21 **SEC. 1809. WORK ZONE SAFETY GRANTS.**

22 (a) IN GENERAL.—The Secretary shall establish and
23 implement a work zone safety grant program under which
24 the Secretary may make grants to nonprofit organizations

1 to provide training to prevent or reduce highway work
2 zone injuries and fatalities.

3 (b) ELIGIBLE ACTIVITIES.—Grants may be made
4 under the program for the following purposes:

5 (1) Training for construction craft workers on
6 the prevention of injuries and fatalities in highway
7 and road construction.

8 (2) Development of guidelines for the preven-
9 tion of highway work zone injuries and fatalities.

10 (3) Training for State and local government
11 transportation agencies and other groups imple-
12 menting guidelines for the prevention of highway
13 work zone injuries and fatalities.

14 (c) FUNDING.—

15 (1) IN GENERAL.—There is authorized to be
16 appropriated from the Highway Trust Fund (other
17 than the Mass Transit Account) to carry out this
18 section \$5,000,000 for each of fiscal years 2005
19 through 2009.

20 (2) CONTRACT AUTHORITY.—Funds authorized
21 by this subsection shall be available for obligation in
22 the same manner as if the funds were apportioned
23 under chapter 1 of title 23, United States Code; ex-
24 cept that such funds shall not be transferable.

1 (d) CONSTRUCTION WORK IN ALASKA.—Section 114
2 of title 23, United States Code, is amended by adding at
3 the end the following:

4 ‘(c) CONSTRUCTION WORK IN ALASKA.—

5 ‘(1) IN GENERAL.—The Secretary shall ensure
6 that a worker who is employed on a remote project
7 for the construction of a highway or portion of a
8 highway located on a Federal-aid system in the
9 State of Alaska and who is not a domiciled resident
10 of the locality shall receive meals and lodging.

11 ‘(2) LODGING.—The lodging under paragraph
12 (1) shall be in accordance with section 1910.142 of
13 title 29, Code of Federal Regulations (relating to
14 temporary labor camp requirements).

15 ‘(3) DEFINITIONS.—In this subsection, the fol-
16 lowing definitions apply:

17 ‘(A) REMOTE.—The term “remote”, as
18 used with respect to a project, means that the
19 project is 75 miles or more from the United
20 States Post Office in either Fairbanks, Anchor-
21 age, Juno, or Ketchikan, Alaska, or is inaccess-
22 sible by road in a 2-wheel drive vehicle.

23 ‘(B) RESIDENT.—The term “resident”, as
24 used with respect to a project, means a person

1 living within 75 miles of the midpoint of the
2 project for at least 12 months.’.

3 **SEC. 1810. GRANT PROGRAM TO PROHIBIT RACIAL**
4 **PROFILING.**

5 (a) GRANTS.—Subject to the requirements of this
6 section, the Secretary shall make grants to a State that—

7 (1) (A) has enacted and is enforcing a law that
8 prohibits the use of racial profiling in the enforce-
9 ment of State laws regulating the use of Federal-aid
10 highways; and

11 (B) is maintaining and allows public inspection
12 of statistical information for each motor vehicle stop
13 made by a law enforcement officer on a Federal-aid
14 highway in the State regarding the race and eth-
15 nicity of the driver and any passengers; or

16 (2) provides assurances satisfactory to the Sec-
17 retary that the State is undertaking activities to
18 comply with the requirements of paragraph (1).

19 (b) ELIGIBLE ACTIVITIES.—A grant received by a
20 State under subsection (a) shall be used by the State—

21 (1) in the case of a State eligible under sub-
22 section (a)(1), for costs of—

23 (A) collecting and maintaining of data on
24 traffic stops;

25 (B) evaluating the results of the data; and

1 (C) developing and implementing programs
2 to reduce the occurrence of racial profiling, in-
3 cluding programs to train law enforcement offi-
4 cers; and

5 (2) in the case of a State eligible under sub-
6 section (a)(2), for costs of—

7 (A) activities to comply with the require-
8 ments of subsection (a)(1); and

9 (B) any eligible activity under paragraph
10 (1).

11 (c) RACIAL PROFILING.—To meet the requirement of
12 subsection (a)(1), a State law shall prohibit, in the en-
13 forcement of State laws regulating the use of Federal-aid
14 highways, a State or local law enforcement officer from
15 using the race or ethnicity of the driver or passengers to
16 any degree in making routine or spontaneous law enforce-
17 ment decisions, such as ordinary traffic stops on Federal-
18 aid highways. Nothing in this subsection shall alter the
19 manner in which a State or local law enforcement officer
20 considers race or ethnicity whenever there is trustworthy
21 information, relevant to the locality or time frame, that
22 links persons of a particular race or ethnicity to an identi-
23 fied criminal incident, scheme, or organization.

24 (d) LIMITATIONS.—

1 (1) MAXIMUM AMOUNT OF GRANTS.—The total
2 amount of grants received by a State under this sec-
3 tion in a fiscal year may not exceed 5 percent of the
4 amount made available to carry out this section in
5 the fiscal year.

6 (2) ELIGIBILITY.—A State may not receive a
7 grant under subsection (a)(2) in more than 2 fiscal
8 years.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—There is authorized to be
11 appropriated from the Highway Trust Fund (other
12 than the Mass Transit Account) to carry out this
13 section \$10,000,000 for each of fiscal years 2005
14 through 2009.

15 (2) CONTRACT AUTHORITY.—Funds authorized
16 by this subsection shall be available for obligation in
17 the same manner as if the funds were apportioned
18 under chapter 1 of title 23, United States Code, ex-
19 cept the Federal share of the cost of activities car-
20 ried out using such funds shall be 100 percent, and
21 such funds shall remain available until expended and
22 shall not be transferable.

23 **SEC. 1811. AMERICA'S BYWAYS RESOURCE CENTER.**

24 (a) IN GENERAL.—The Secretary shall allocate funds
25 made available to carry out this section to the America's

1 Byways Resource Center established pursuant to section
2 1215(b)(1) of the Transportation Equity Act for the 21st
3 Century (112 Stat. 209).

4 (b) TECHNICAL SUPPORT AND EDUCATION.—

5 (1) USE OF FUNDS.—The Center shall use
6 funds allocated to the Center under this section to
7 continue to provide technical support and conduct
8 educational activities for the national scenic byways
9 program established under section 162 of title 23,
10 United States Code.

11 (2) ELIGIBLE ACTIVITIES.—Technical support
12 and educational activities carried out under this sub-
13 section shall provide local officials and organizations
14 associated with National Scenic Byways and All-
15 American Roads with proactive, technical, and on-
16 site customized assistance, including training, com-
17 munications (including a public awareness series),
18 publications, conferences, on-site meetings, and
19 other assistance considered appropriate to develop
20 and sustain such byways and roads.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated out of the Highway Trust
23 Fund (other than the Mass Transit Account) to carry out
24 this section \$3,500,000 for each of fiscal years 2004
25 through 2009.

1 (d) APPLICABILITY OF TITLE 23.—Funds authorized
2 by this section shall be available for obligation in the same
3 manner as if such funds were apportioned under chapter
4 1 of title 23, United States Code; except that the Federal
5 share of the cost of any project or activity carried out
6 under this section shall be 100 percent and such funds
7 shall remain available until expended and shall not be
8 transferable.

9 **SEC. 1812. TECHNICAL ADJUSTMENT.**

10 (a) IN GENERAL.—The donee of the vessel with the
11 Unit Identification Code number 13862 is deemed to be
12 the owner of that vessel free and clear as of September
13 1, 2000.

14 (b) FEDERAL CLAIMS.—All Federal claims arising
15 from the donation or use of the vessel described in sub-
16 section (a) are permanently extinguished.

17 **SEC. 1813. ROAD USER CHARGE EVALUATION PILOT**
18 **PROJECT.**

19 (a) IN GENERAL.—The Secretary shall carry out a
20 national evaluation pilot project to assess how intelligent
21 transportation system technology can be applied to assess
22 mileage-based road user charges for the purposes of col-
23 lecting revenues for the Highway Trust Fund.

24 (b) MATTERS TO BE EVALUATED.—The following
25 matters shall be evaluated under the pilot project:

1 (1) Technical feasibility of imposing mileage-
2 based road user charges, including cost, reliability,
3 and security of on-board and intelligent transpor-
4 tation systems.

5 (2) Compatibility of technology for imposing
6 such charges with automobile and truck design.

7 (3) Design and testing of a collection system
8 for such charges that is secure, low cost, and easy
9 to use.

10 (4) Methods of ensuring privacy of road users
11 and assessing public attitudes and views of motorists
12 who participate in field tests of the equipment and
13 system.

14 (c) REPORTS.—The Secretary shall transmit annual
15 reports on the status of the pilot project and, not later
16 than June 30, 2009, a final report on the results of the
17 pilot project, together with findings and recommendations,
18 to the Secretary of the Treasury, the Committee on Trans-
19 portation and Infrastructure and the Committee on Ways
20 and Means of the House of Representatives, and the Com-
21 mittee on Environment and Public Works and the Com-
22 mittee on Finance of the Senate.

23 (d) AUTHORIZATION OF APPROPRIATION.—

24 (1) IN GENERAL.—There is authorize from the
25 Highway Trust Fund (other than the Mass Transit

1 Account) to carry out this section \$1,000,000 for
2 each of fiscal years 2005 and 2006 and \$3,500,000
3 for each of fiscal years 2007, 2008, and 2009.

4 (2) CONTRACT AUTHORITY.—Funds authorized
5 under this subsection shall be available for obligation
6 in the same manner as if the funds were apportioned
7 under chapter 1 of title 23, United States Code; ex-
8 cept the Federal share of the cost of the pilot project
9 shall be 100 percent, and such funds shall remain
10 available until expended and shall not be transfer-
11 able.

12 **SEC. 1814. THOMAS P. ‘TIP’ O’NEILL, JR. TUNNEL.**

13 (a) DESIGNATION.—In honor of his service to the
14 Commonwealth of Massachusetts and the United States
15 of America, and in recognition of his contributions toward
16 the construction of Central Artery Tunnel project in Bos-
17 ton, the northbound and southbound tunnel of Interstate
18 Route 93, located in the city of Boston, which extends
19 north of the intersection of Interstate Route 90 and Inter-
20 state Route 93 to the Leonard P. Zakim Bunker Hill
21 Bridge, is designated as the ‘Thomas P. “Tip” O’Neill,
22 Jr. Tunnel’.

23 (b) REFERENCES.—Any reference in law, map, regu-
24 lation, document, paper, or other record of the United
25 States to the tunnel referred to in subsection (a) shall be

1 deemed to be a reference to the “Thomas P. “Tip” O’Neill,
2 Jr. Tunnel’.

3 **SEC. 1815. CONFORMING AMENDMENT FOR TRANSPOR-**
4 **TATION PLANNING SECTIONS.**

5 (a) METROPOLITAN PLANNING.—Section 134 of title
6 23, United States Code is amended to read as follows:

7 **‘§ 134. Metropolitan planning**

8 ‘Metropolitan transportation planning programs
9 funded under section 104(f) shall be carried out in accord-
10 ance with the metropolitan planning provisions of chapter
11 52, title 49, United States Code.’.

12 (b) STATEWIDE PLANNING.—Section 135 of such
13 title is amended to read as follows:

14 **‘§ 135. Statewide planning**

15 ‘Statewide transportation planning programs funded
16 under section 104(f) shall be carried out in accordance
17 with the statewide planning provisions of chapter 52, title
18 49, United States Code.’.

19 **SEC. 1816. DISTRIBUTION OF METROPOLITAN PLANNING**
20 **FUNDS WITHIN STATES.**

21 Section 104(f)(4) of title 23, United States Code, is
22 amended by adding at the end the following: ‘Such dis-
23 tribution of funds to metropolitan planning organizations
24 shall be made within 30 days of the date of receipt of such
25 funds from the Secretary.’.

1 **SEC. 1817. TREATMENT OF OFF RAMP.**

2 The Harbor Boulevard off ramp from Interstate
3 Route 405 in Costa Mesa, California, is deemed to satisfy
4 the requirements of title 23, United States Code, that gov-
5 ern the approval of the placement of ramps off of a Fed-
6 eral-aid highway.

7 **SEC. 1818. LOAN FORGIVENESS.**

8 Debt outstanding as of the date of enactment of this
9 Act for project number Q–DPM–0013(001) carried out
10 under section 108(c) of title 23, United States Code, is
11 deemed satisfied.

12 **SEC. 1819. LEAD AGENCY DESIGNATION.**

13 The public entity established under California law in
14 1989 to acquire rights-of-way in northwestern California
15 to maintain surface transportation infrastructure is here-
16 by designated as the lead agency for the purpose of accept-
17 ing Federal funds authorized under item 13 of the table
18 contained in section 1108(b) of the Intermodal Surface
19 Transportation Efficiency Act of 1991 (105 Stat. 2061).

20 **SEC. 1820. USE OF DEBRIS FROM DEMOLISHED BRIDGES**
21 **AND OVERPASSES.**

22 The project agreement for a Federal-aid highway
23 project shall provide that any debris from demolition of
24 a bridge or overpass that is on the Federal-aid highway
25 must be made available for beneficial public use by Fed-
26 eral, State, and local governments. Any additional cost as-

1 sociated with making available the debris shall be borne
2 by the recipient of the debris.

3 **SEC. 1821. HUBZONE PROGRAM.**

4 Section 3(p)(4)(B)(ii) of the Small Business Act (15
5 U.S.C. 632(p)(4)(B)(ii)) is amended—

6 (1) in subclause (I) by striking ‘or’ at the end;

7 (2) in subclause (II) by striking the period at
8 the end and inserting ‘; or’ ; and

9 (3) by adding after subclause (II) the following:

10 (III) there is located a difficult
11 development area, as designated by
12 the Secretary of Housing and Urban
13 Development in accordance with sec-
14 tion 42(d)(5)(C)(iii) of the Internal
15 Revenue Code of 1986, within Alaska,
16 Hawaii, or any territory or possession
17 of the United States outside the 48
18 contiguous States.’.

19 **SEC. 1822. TECHNICAL AMENDMENTS TO TEA 21 PROJECTS.**

20 The table contained in section 1602 of the Transpor-
21 tation Equity Act for the 21st Century (112 Stat. 257)
22 is amended—

23 (1) in item number 35 by adding ‘and for other
24 related purposes’ after ‘Yard’;

1 (2) in item number 78 by striking ‘Third’ and
2 all that follows through ‘Bridge’ and inserting
3 ‘Bayview Transportation Improvements Project’;

4 (3) in item number 312 by inserting ‘through
5 construction’ after ‘engineering’;

6 (4) in item number 800 by striking ‘Fairview
7 Township’ and inserting ‘or other projects selected
8 by the York County, Pennsylvania MPO’;

9 (5) in item number 820 by striking ‘Conduct’
10 and all that follows through ‘interchange’ and insert-
11 ing ‘Conduct a transportation needs study and make
12 improvements to I-75 interchanges in the Grayling
13 area’;

14 (6) in item number 897 by striking ‘Upgrade’
15 and all that follows through ‘interchange’ and insert-
16 ing ‘Engineering and construction of a new access
17 road to a development near Interstate 57 and 167th
18 Street in Country Club Hills’;

19 (7) in item number 1121 by striking ‘Con-
20 struct’ and all that follows through ‘Douglaston
21 Parkway’ and inserting ‘Provide landscaping along
22 both sides of the Grand Central Parkway from
23 188th Street to 172nd Street’;

1 1 of title 23, United States Code, except the Federal share
2 of the cost of activities carried out using such funds shall
3 be 100 percent, and such funds shall remain available
4 until expended and shall not be transferable.

5 **SEC. 1824. TRANSPORTATION CONFORMITY.**

6 (a) CONFORMITY REDETERMINATIONS.—Section
7 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)) is
8 amended by adding at the end the following:

9 (E) The appropriate metropolitan planning or-
10 ganization shall redetermine conformity for existing
11 transportation plans and programs not later than 2
12 years after the date on which the Administrator—

13 (i) finds a motor vehicle emissions budget
14 in a submitted implementation plan to be ade-
15 quate in accordance with section 93.118(e)(4)
16 of title 40, Code of Federal Regulations (as in
17 effect on October 1, 2003); or

18 (ii) approves an implementation plan
19 under section 110(k) or promulgates an imple-
20 mentation plan under section 110(c) that estab-
21 lishes a motor vehicle emissions budget where
22 there was no prior budget or that establishes a
23 budget that significantly varies from any motor
24 vehicle emissions budget in effect pursuant to
25 an adequacy determination in accordance with

1 section 93.118(e)(4) of title 40, Code of Fed-
2 eral Regulations (as in effect on October 1,
3 2003) or as part of an implementation plan ap-
4 proved or promulgated under section 110.’.

5 (b) FREQUENCY OF CONFORMITY DETERMINATION
6 UPDATES.—Section 176(c)(4) of the Clean Air Act (42
7 U.S.C. 7506(c)(4)) is amended follows:

8 (1) By striking ‘one year after the date of en-
9 actment of the Clean Air Act Amendments of 1990’
10 and inserting ‘one year after the date of enactment
11 of the Transportation Equity Act: A Legacy for
12 Users’ .

13 (2) In subparagraph (B) by amending clause
14 (ii) to read as follows:

15 ‘(ii) provide that conformity determinations for
16 transportation plans and programs be determined
17 every 4 years in areas designated as nonattainment
18 or redesignated to attainment (unless a metropolitan
19 planning organization as designated in section
20 5213(b) of title 49, United States Code, elects to up-
21 date a transportation plan and program more fre-
22 quently or is required to determine conformity in ac-
23 cordance with paragraph (2)(E)).’.

24 (c) TIME HORIZON FOR CONFORMITY DETERMINA-
25 TIONS IN NONATTAINMENT AREAS.—Subsection (c) of

1 section 176 of the Clean Air Act (42 U.S.C. 7506(c)) is
2 amended by adding the following new paragraph at the
3 end thereof:

4 ‘(7) TIME HORIZON FOR DETERMINATIONS.—

5 Each conformity determination required under this
6 section for a transportation plan under section
7 5213(g) of title 49 of the United States Code shall
8 require a demonstration of conformity during the pe-
9 riod ending on either the final year of the transpor-
10 tation plan or, at the election of the metropolitan
11 planning organization and an air pollution control
12 agency, as defined in section 302(b), if such air pol-
13 lution control agency is responsible for developing
14 plans or controlling air pollution within the area cov-
15 ered by the transportation plan on the later of the
16 following dates (hereinafter in this paragraph re-
17 ferred to as the “final transportation conformity
18 date”):

19 ‘(A) The tenth year of the transportation
20 plan.

21 ‘(B) The attainment date set forth in the
22 applicable implementation plan for the air pol-
23 lutant concerned.

24 ‘(C) The year after the completion of a re-
25 gionally significant project, if the project will be

1 programmed in the transportation improvement
2 program or requires approval before the subse-
3 quent conformity determination.

4 Such conformity determination shall be accompanied
5 by a regional emissions analysis for any years of the
6 transportation plan that extend beyond such final
7 conformity date. In the case in which an area has
8 a revision to an implementation plan under section
9 175A(b) and the Administrator has found the motor
10 vehicle emissions budgets from that revision to be
11 adequate in accordance with section 93.118(e)(4) of
12 title 40, Code of Federal Regulations (as in effect
13 October 1, 2003), or has approved the revision, the
14 demonstration of conformity (at the election of the
15 metropolitan planning organization and an air pollu-
16 tion control agency, as defined in section 302(b), if
17 such air pollution control agency is responsible for
18 developing plans or controlling pollution within the
19 area covered by the transportation plan) and the
20 metropolitan planning organization shall be required
21 to extend only through the last year of the imple-
22 mentation plan required under section 175A(b).’.

23 (d) SUBSTITUTION OF TRANSPORTATION CONTROL
24 MEASURES.—Subsection 176(c) of the Clean Air Act (42

1 U.S.C. 7506(c)) is amended by adding at the end the end
2 the following new paragraph:

3 ‘(8)(A) Transportation control measures that
4 are specified in an implementation plan may be re-
5 placed in the implementation plan with substitute
6 transportation control measures if—

7 ‘(i) the substitute measures achieve equiva-
8 lent or greater emission reductions than the
9 control measures to be replaced, as determined
10 by the Administrator;

11 ‘(ii) the substitute measures utilize an
12 emissions impact analysis that is consistent
13 with the current methodology used for evalu-
14 ating replaced control measures in the imple-
15 mentation plan;

16 ‘(iii) the substitute control measures are
17 implemented not later than the date on which
18 such emission reductions are necessary to
19 achieve the purpose of the implementation plan;

20 ‘(iv) the substitute control measures were
21 developed with reasonable public notice and the
22 opportunity for comments; and

23 ‘(v) the metropolitan planning organization
24 finds that adequate funding is included in the
25 transportation improvement program to ensure

1 timely implementation of the substitute control
2 measures.

3 ‘(B) After the requirements of subparagraph
4 (A) are met, a State may adopt the substitute meas-
5 ures in the applicable implementation plan within a
6 reasonable period of time.

7 ‘(C) The substitution of a transportation con-
8 trol measure in accordance with this paragraph shall
9 not be contingent on the existence of any provision
10 in the applicable implementation plan that expressly
11 permits such substitution.

12 ‘(D) The substitution of a transportation con-
13 trol measure in accordance with this paragraph shall
14 not require—

15 ‘(i) a new conformity determination for the
16 transportation plan, or

17 ‘(ii) a revision of the applicable implemen-
18 tation plan.

19 ‘(E) A control measure that is being replaced
20 by a substitute control measure under this para-
21 graph shall remain in effect until the substitute con-
22 trol measure is adopted.

23 ‘(F) Adoption of a substitute control measure
24 shall constitute rescission of the previously applica-
25 ble control measure.

1 Transportation control measures may be added to an im-
2 plementation plan subject to subparagraphs (B), (C), and
3 (D), on the same basis as if such measures were substitute
4 transportation control measures if such measures do not
5 increase emissions for which limitations have been estab-
6 lished in an implementation plan, and such measures meet
7 the requirements of clauses (ii), (iii), (iv), and (v) of sub-
8 paragraph (A).’.

9 (e) LAPSE OF CONFORMITY.—Subsection (c) of sec-
10 tion 176 of the Clean Air Act (42 U.S.C. 7506(c)) is
11 amended by adding the following new paragraphs at the
12 end thereof:

13 (9) LAPSE OF CONFORMITY.—If a conformity
14 determination required under this subsection for a
15 transportation plan under section 5213(g) of title 49
16 of the United States Code or a transportation im-
17 provement program under section 5213(h) of title 49
18 of the United States Code is not made by the appli-
19 cable deadline and such failure is not corrected by
20 additional measures to either reduce motor vehicle
21 emissions sufficient to demonstrate compliance with
22 the requirements of this subsection within 12
23 months after such deadline or other measures suffi-
24 cient to correct such failures, the transportation
25 plan shall lapse.

1 “(10) LAPSE.—The term “lapse” means that
2 the conformity determination for a transportation
3 plan or transportation improvement program has ex-
4 pired, and thus there is no currently conforming
5 transportation plan or transportation improvement
6 program.’.

7 **SEC. 1825. ELIGIBILITY TO PARTICIPATE IN WESTERN**
8 **ALASKA COMMUNITY DEVELOPMENT QUOTA**
9 **PROGRAM.**

10 A community is deemed to be eligible to participate
11 in the western Alaska community development quota pro-
12 gram established under section 305(i) of the Magnuson-
13 Stevens Fishery Conservation and Management Act (16
14 U.S.C. 1855(i)) if the community—

15 (1) is listed in table 7 to part 679 of title 50,
16 Code of Federal Regulations, as in effect on March
17 8, 2004; or

18 (2) was determined to be eligible participate in
19 such program by the National Marine Fisheries
20 Service on April 19, 1999.

21 **SEC. 1826. METROPOLITAN REGIONAL FREIGHT AND PAS-**
22 **SENGER TRANSPORTATION STUDY.**

23 (a) IN GENERAL.—The Secretary shall enter into an
24 agreement with a partnership comprised of 2 institutions
25 of higher learning to study metropolitan regional freight

1 and passenger transportation and system-wide perform-
2 ance utilizing an interdisciplinary technique of supply
3 chain management, geographic information systems, and
4 urban/suburban planning and management.

5 (b) CONTENTS OF STUDY.—The study under this
6 section shall include, at a minimum, evaluations of—

7 (1) best practices for regional transportation
8 operations and management;

9 (2) relationships among truck trip generation
10 and economic activities;

11 (3) spatial analysis of the distribution of eco-
12 nomic activity and transportation investments;

13 (4) congestion mitigation and management of
14 air quality through the concentration of modeling
15 and technology;

16 (5) supply chain management and geographic
17 information systems; and

18 (6) infrastructure management and renewal.

19 (c) FEDERAL SHARE.—The Federal share of the cost
20 of the study under this section shall be 100 percent.

21 (d) FUNDING.—Of the amounts made available to
22 carry out section 1305 for each of fiscal years 2005
23 through 2009, \$1,800,000 shall be made available to carry
24 out this section.

1 **SEC. 1827. INTERMODAL TRANSPORTATION FACILITY EX-**
2 **PANSION.**

3 Any Federal and non-Federal share provided for the
4 Port of Anchorage for an intermodal transportation ma-
5 rine facility or for access to that facility shall be trans-
6 ferred to and administered by the Administrator of the
7 Maritime Administration.

8 **SEC. 1828. ADVANCED TRUCK STOP ELECTRIFICATION SYS-**
9 **TEM.**

10 (a) DEFINITION.—Section 101(a) of title 23, United
11 States Code, as amended by section 1202 of this Act, is
12 further amended by adding at the end the following:

13 ‘(40) ADVANCED TRUCK STOP ELECTRIFICA-
14 TION SYSTEM.—The term “advanced truck stop elec-
15 trification system” means a stationary system that
16 delivers heat, air conditioning, electricity, and com-
17 munications, and is capable of providing verifiable
18 evidence of use of those services, to a heavy-duty ve-
19 hicle and any occupants of the heavy-duty vehicle
20 without relying on components mounted onboard the
21 heavy-duty vehicle for delivery of those services.’.

22 (b) ELIGIBILITY UNDER STP.—Section 133(b)(6) of
23 such title is amended by inserting ‘, including advanced
24 truck stop electrification systems’ before the period at the
25 end.

1 **SEC. 1829. TECHNOLOGY.**

2 States are encouraged to consider using a non-de-
3 structive technology able to detect cracks including sub-
4 surface flaws as small as 0.005 inches in length or depth
5 in steel bridges.

6 **SEC. 1830. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-**
7 **EMPTION FROM AXLE WEIGHT RESTRIC-**
8 **TIONS.**

9 Section 1023(h)(1) of the Intermodal Surface Trans-
10 portation Efficiency Act of 1991 (23 U.S.C. 127 note; 106
11 Stat. 1552) is amended by striking ‘2005’ and inserting
12 ‘2009’.

13 **SEC. 1831. MOTORCYCLIST ADVISORY COUNCIL.**

14 (a) IN GENERAL.—The Secretary, acting through the
15 Administrator of the Federal Highway Administration, in
16 consultation with the Committee on Transportation and
17 Infrastructure of the House of Representatives and the
18 Committee on Environment and Public Works of the Sen-
19 ate, shall appoint a Motorcyclist Advisory Council to co-
20 ordinate with and advise the Administrator on infrastruc-
21 ture issues of concern to motorcyclists, including—

22 (1) barrier design;

23 (2) road design, construction, and maintenance
24 practices; and

25 (3) the architecture and implementation of in-
26 telligent transportation system technologies.

1 (b) COMPOSITION.—The Council shall consist of not
2 more than 10 members of the motorcycling community
3 with professional expertise in national motorcyclist safety
4 advocacy, including—

5 (1) at least—

6 (A) 1 member recommended by a national
7 motorcyclist association;

8 (B) 1 member recommended by a national
9 motorcycle riders foundation;

10 (C) 1 representative of the National Asso-
11 ciation of State Motorcycle Safety Administra-
12 tors;

13 (D) 2 members of State motorcyclists' or-
14 ganizations;

15 (E) 1 member recommended by a national
16 organization that represents the builders of
17 highway infrastructure;

18 (F) 1 member recommended by a national
19 association that represents the traffic safety
20 systems industry; and

21 (G) 1 member of a national safety organi-
22 zation; and

23 (2) at least 1, and not more than 2, motorcy-
24 clists who are traffic system design engineers or
25 State transportation department officials.

1 **SEC. 1832. SHARING OF MONETARY RECOVERIES.**

2 Notwithstanding any other provision of law, mone-
3 tary judgments accruing to the Government from judg-
4 ments in Federal criminal prosecutions and civil pro-
5 ceedings pertaining to fraud in Federally funded highway
6 and public transportation projects and programs shall be
7 treated as follows:

8 (1) Any amount less than or equal to the single
9 damages incurred as the result of such fraud shall
10 be credited to the Federal account from which the
11 funds for the project or program that is at issue in
12 the fraud came, except to the extent that such Fed-
13 eral account has been credited as the result of any
14 judgment in favor of a grant recipient.

15 (2) Any amount in excess of the amount cred-
16 ited pursuant to paragraph (1) shall be shared with
17 the State or other recipient involved if—

18 (A) the State or other recipient enters into
19 a legally binding agreement with the Secretary
20 to use the funds for a purpose eligible for Fed-
21 eral assistance under title 23 or chapter 53 of
22 title 49, United States Code, as the case may
23 be;

24 (B) the amount to be shared with the
25 State or other recipient is determined by the

1 Attorney General, in consultation with the Sec-
2 retary; and

3 (C) the Attorney General, in consultation
4 with the Secretary, determines that the fraud
5 did not occur as a result of negligent oversight
6 or actual involvement in the fraud by the State
7 or other recipient or any senior official of the
8 State or other recipient.

9 **SEC. 1833. ELIGIBILITY UNDER CMAQ.**

10 Section 149(b)(4) of title 23, United States Code is
11 amended by inserting ‘, including advanced truck stop
12 electrification systems,’ after ‘facility or program’.

13 **SEC. 1834. SPECIAL RULE FOR FISCAL YEAR 2004.**

14 In any case in which an amount is authorized to be
15 appropriated, made available, allocated, set aside, taken
16 down, or subject to an obligation limitation for fiscal year
17 2004 for a program, project, or activity in any provision
18 of this title, including an amendment made by this title,
19 that is different than the amount authorized to be appro-
20 priated, made available, allocated, set aside, taken down,
21 or subject to an obligation limitation for fiscal year 2004
22 for such program, project, or activity in any provision of
23 the Surface Transportation Extension Act of 2004, Part
24 V (Public Law 108–310), including any amendment made
25 by such Act, the amount referred to in such Act shall be

1 the amount authorized to be appropriated, made available,
2 allocated, set aside, taken down, or subject to an obliga-
3 tion limitation.

4 **TITLE II—HIGHWAY SAFETY**

5 **SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

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

9 (1) HIGHWAY SAFETY PROGRAMS.—For car-
10 rying out section 402 of title 23, United States
11 Code, \$164,027,000 for fiscal year 2004,
12 \$163,680,000 for fiscal year 2005, \$229,000,000 for
13 fiscal year 2006, \$232,000,000 for fiscal year 2007,
14 \$238,000,000 for fiscal year 2008, and
15 \$245,000,000 for fiscal year 2009.

16 (2) OCCUPANT PROTECTION INCENTIVE
17 GRANTS.—For carrying out section 405 of title 23,
18 United States Code, \$19,882,000 for fiscal year
19 2004, \$19,840,000 for fiscal year 2005,
20 \$136,000,000 for fiscal year 2006, \$139,000,000 for
21 fiscal year 2007, \$143,000,000 for fiscal year 2008,
22 and \$150,000,000 for fiscal year 2009.

23 (3) ALCOHOL-IMPAIRED DRIVING COUNTER-
24 MEASURES INCENTIVE GRANT PROGRAM.—For car-
25 rying out section 410 of title 23, United States

1 Code, \$39,764,000 for fiscal year 2004,
2 \$39,680,000 for fiscal year 2005, \$129,000,000 for
3 fiscal year 2006, \$133,000,000 for fiscal year 2007,
4 \$138,000,000 for fiscal year 2008, and
5 \$144,000,000 for fiscal year 2009.

6 (4) STATE TRAFFIC SAFETY INFORMATION IM-
7 PROVEMENTS.—For carrying out section 412 of title
8 23, United States Code, \$30,000,000 for fiscal year
9 2006, \$35,000,000 for fiscal year 2007,
10 \$40,000,000 for fiscal year 2008, and \$40,000,000
11 for fiscal year 2009.

12 (5) NATIONAL DRIVER REGISTER.—For car-
13 rying out chapter 303 of title 49, United States
14 Code, by the National Highway Traffic Safety Ad-
15 ministration, \$3,976,000 for fiscal year 2004,
16 \$3,968,000 for fiscal year 2005, and \$4,000,000 for
17 each of fiscal years 2006 through 2009.

18 (6) HIGH VISIBILITY ENFORCEMENT PRO-
19 GRAM.—For carrying out section 2005 of this title,
20 \$15,000,000 for each of fiscal years 2006 through
21 2009.

22 (b) APPLICABILITY OF TITLE 23.—Except as other-
23 wise provided in chapter 4 of title 23, United States Code,
24 and this title, amounts made available under subsection
25 (a) for each of fiscal years 2004 through 2009 shall be

1 available for obligation in the same manner as if such
2 funds were apportioned under chapter 1 of title 23, United
3 States Code.

4 (c) TRANSFERS.—In each fiscal year, the Secretary
5 may transfer any amounts remaining available under
6 paragraph (2), (3), or (4) of subsection (a) to the amounts
7 made available under any other of such paragraphs in
8 order to ensure, to the maximum extent possible, that each
9 State receives the maximum incentive funding for which
10 the State is eligible under sections 405, 410, and 412 of
11 title 23, United States Code.

12 **SEC. 2002. OCCUPANT PROTECTION INCENTIVE GRANTS.**

13 (a) GENERAL AUTHORITY.—Section 405(a) of title
14 23, United States Code, is amended—

15 (1) in paragraph (2) by striking ‘Transportation
16 Equity Act for the 21st Century’ and inserting
17 ‘Transportation Equity Act: A Legacy for
18 Users’;

19 (2) in paragraph (3) by striking ‘1997’ and in-
20 serting ‘2003’; and

21 (3) in paragraphs (4)(A), (4)(B), and (4)(C) by
22 inserting after ‘years’ the following: ‘beginning after
23 September 30, 2003,’.

24 (b) GRANT ELIGIBILITY.—Section 405(b) of title 23,
25 United States Code, is amended by striking ‘A State shall

1 become eligible’ and inserting the following: ‘A State shall
2 be eligible for a grant under this section if the State has
3 a seat belt usage rate of 85 percent or greater as of the
4 date of the grant, as determined by the Secretary. A State
5 shall also become eligible’.

6 (c) GRANT AMOUNTS.—Section 405(c) of title 23,
7 United States Code, is amended—

8 (1) by striking ‘25 percent’ and inserting ‘100
9 percent’; and

10 (2) by striking ‘1997’ and inserting ‘2003’.

11 **SEC. 2003. ALCOHOL-IMPAIRED DRIVING COUNTER-**
12 **MEASURES.**

13 (a) GENERAL AUTHORITY.—Section 410(a) of title
14 23, United States Code, is amended—

15 (1) in paragraph (2) by striking ‘Transportation
16 Equity Act for the 21st Century’ and insert-
17 ing ‘Transportation Equity Act: A Legacy for
18 Users’;

19 (2) in paragraph (3) by striking ‘1997’ and in-
20 serting ‘2003’; and

21 (3) in paragraphs (4)(A), (4)(B), and (4)(C) by
22 inserting after ‘years’ the following: ‘beginning after
23 September 30, 2003,’.

24 (b) BASIC GRANT A.—Section 410(b)(1) of title 23,
25 United States Code, is amended—

1 (1) by striking ‘A State shall become eligible’
2 and inserting the following: ‘A State shall be eligible
3 for a grant under this paragraph if the State has an
4 alcohol-related fatality rate per 100,000,000 vehicle
5 miles traveled of 0.5 or less as of the date of the
6 grant, as determined by the Secretary using the Fa-
7 tality Analysis Reporting System of the National
8 Highway Traffic Safety Administration. A State
9 shall also become eligible’;

10 (2) by striking ‘at least 5 of’ and inserting ‘at
11 least 6 of’;

12 (3) in subparagraph (A)—

13 (A) by striking ‘and’ at the end of clause
14 (i)(II);

15 (B) by striking the period at the end of
16 clause (ii) and inserting a semicolon; and

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

18 ‘(iii) the suspension referred to under
19 clause (i)(I) may allow an individual to op-
20 erate a motor vehicle, after the 15-day pe-
21 riod beginning on the date of the suspen-
22 sion, to and from employment, school, or
23 an alcohol treatment program if an igni-
24 tion interlock device is installed on each of

1 the motor vehicles owned or operated, or
2 both, by the individual; and

3 ‘(iv) the suspension and revocation re-
4 ferred to under clause (i)(II) may allow an
5 individual to operate a motor vehicle, after
6 the 45-day period beginning on the date of
7 the suspension or revocation, to and from
8 employment, school, or an alcohol treat-
9 ment program if an ignition interlock de-
10 vice is installed on each of the motor vehi-
11 cles owned or operated, or both, by the in-
12 dividual.’;

13 (4) in subparagraph (B)—

14 (A) by striking ‘may include the issuance’
15 and inserting the following:

16 ‘may include—

17 (i) the issuance’; and

18 (B) by striking the period at the end and
19 inserting ‘; and’ and the following:

20 (ii) a program provided by a non-
21 profit organization for training point of
22 sale personnel concerning, at a minimum,
23 the following:

24 (I) the clinical effects of alcohol;

1 ‘(II) methods of preventing sec-
2 ond party sales of alcohol;

3 ‘(III) recognizing signs of intoxi-
4 cation;

5 ‘(IV) methods to prevent under-
6 age drinking;

7 ‘(V) Federal, State, and local
8 laws that are relevant to such per-
9 sonnel.’;

10 (5) by striking subparagraph (F) and inserting
11 the following:

12 ‘(F) OUTREACH PROGRAM.—A judicial and
13 prosecutorial education, training, and outreach
14 program that provides information on the ap-
15 propriateness and effectiveness of sentencing
16 options.’; and

17 (6) by adding at the end the following:

18 ‘(H) SELF-SUSTAINING DRUNK DRIVING
19 PREVENTION PROGRAM.—A self-sustaining
20 drunk driving prevention program under which
21 a significant portion of the fines or surcharges
22 collected from individuals apprehended and
23 fined for operating a motor vehicle while under
24 the influence of alcohol are returned to those
25 communities that have comprehensive programs

1 for the prevention of such operations of motor
2 vehicles.

3 ‘(I) PROGRAMS FOR EFFECTIVE ALCOHOL
4 REHABILITATION.—A program for effective in-
5 patient and outpatient alcohol rehabilitation
6 based on mandatory assessment and appro-
7 priate treatment for repeat offenders described
8 in subparagraph (A)(i)(II).’.

9 (c) BASIC GRANT B.—Section 410(b) of title 23,
10 United States Code, is amended—

11 (1) by striking paragraph (2) and inserting the
12 following:

13 ‘(2) BASIC GRANT B.—A State shall become eli-
14 gible for a grant under this paragraph if the State—

15 ‘(A) has an alcohol-related fatality rate per
16 100,000,000 vehicle miles traveled of 0.8 or
17 more as of the date of the grant, as determined
18 by the Secretary using the Fatality Analysis
19 Reporting System of the National Highway
20 Traffic Safety Administration; and

21 ‘(B) establishes, subject to such require-
22 ments as the Secretary may prescribe, a task
23 force to evaluate and recommend changes to the
24 State’s drunk driving programs.’; and

25 (2) in paragraph (3)—

1 (A) by striking ‘25 percent’ and inserting
2 ‘100 percent’; and

3 (B) by striking ‘1997’ and inserting
4 ‘2003’.

5 (d) SUPPLEMENTAL GRANTS.—Section 410(c) of title
6 23, United States Code, is amended to read as follows:
7 ‘(c) ALLOCATION FOR BASIC GRANTS B.—Not more
8 than \$20,000,000 per fiscal year of amounts made avail-
9 able to carry out this section shall be available for making
10 grants under subsection (b)(2).’.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on September 30, 2005.

13 **SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
14 **IMPROVEMENTS.**

15 (a) IN GENERAL.—Chapter 4 of title 23, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 **‘§ 412. State traffic safety information system im-**
19 **provements**

20 (a) GENERAL AUTHORITY.—

21 (1) AUTHORITY TO MAKE GRANTS.—Subject to
22 the requirements of this section, the Secretary shall
23 make grants to States that adopt and implement ef-
24 fective programs to—

1 ‘(A) improve the timeliness, accuracy, com-
2 pleteness, uniformity, integration, and accessi-
3 bility of the safety data of the State that is
4 needed to identify priorities for national, State,
5 and local highway and traffic safety programs;

6 ‘(B) evaluate the effectiveness of efforts to
7 make such improvements;

8 ‘(C) link these State data systems, includ-
9 ing traffic records, with other data systems
10 within the State, such as systems that contain
11 medical, roadway, and economic data; and

12 ‘(D) improve the compatibility and inter-
13 operability of the data systems of the State
14 with national data systems and data systems of
15 other States and enhance the ability of the Sec-
16 retary to observe and analyze national trends in
17 crash occurrences, rates, outcomes, and cir-
18 cumstances.

19 ‘(2) USE OF GRANTS.—A State may use a
20 grant received under this section only to implement
21 such programs.

22 ‘(3) MODEL DATA ELEMENTS.—The Secretary,
23 in consultation with States and other appropriate
24 parties, shall determine the model data elements
25 necessary to observe and analyze State and national

1 trends in crash occurrences, rates, outcomes, and
2 circumstances. In order to become eligible for a
3 grant under this section, a State shall certify to the
4 Secretary the State's adoption and use of such
5 model data elements.

6 '(4) MAINTENANCE OF EFFORT.—No grant
7 may be made to a State under this section in any
8 fiscal year unless the State enters into such agree-
9 ments with the Secretary as the Secretary may re-
10 quire ensuring that the State will maintain its ag-
11 gregate expenditures from all other sources for high-
12 way safety data programs at or above the average
13 level of such expenditures in the 2 fiscal years pre-
14 ceding the date of enactment of this section.

15 '(5) FEDERAL SHARE.—The Federal share of
16 the cost of implementing in a fiscal year a program
17 of a State pursuant to paragraph (1) shall not ex-
18 ceed 80 percent.

19 '(b) FIRST-YEAR GRANTS.—To be eligible for a first-
20 year grant under this section, a State shall demonstrate
21 to the satisfaction of the Secretary that the State has—

22 '(1) established a highway safety data and traf-
23 fic records coordinating committee with a multidisci-
24 plinary membership that includes, among others,
25 managers, collectors, and users of traffic records

1 and public health and injury control data systems;
2 and

3 ‘(2) developed a multiyear highway safety data
4 and traffic records system strategic plan that ad-
5 dresses existing deficiencies in the State’s highway
6 safety data and traffic records system and is ap-
7 proved by the highway safety data and traffic
8 records coordinating committee and—

9 ‘(A) specifies how existing deficiencies in
10 the State’s highway safety data and traffic
11 records system were identified;

12 ‘(B) prioritizes, based on the identified
13 highway safety data and traffic records system
14 deficiencies, the highway safety data and traffic
15 records system needs and goals of the State, in-
16 cluding the activities described in subsection
17 (a)(1);

18 ‘(C) identifies performance-based measures
19 by which progress toward those goals will be de-
20 termined;

21 ‘(D) specifies how the grant funds and any
22 other funds of the State will be used to address
23 needs and goals identified in the multiyear plan;
24 and

1 ‘(E) includes a current report on the
2 progress in implementing the multiyear plan
3 that documents progress toward the specified
4 goals.

5 ‘(c) SUCCEEDING-YEAR GRANTS.—

6 ‘(1) ELIGIBILITY.—A State shall be eligible for
7 a grant under this section in a fiscal year succeeding
8 the first fiscal year in which the State receives a
9 grant under subsection (b) if the State, to the satis-
10 faction of the Secretary—

11 ‘(A) submits an updated multiyear plan
12 that meets the requirements of subsection
13 (b)(2);

14 ‘(B) certifies that its highway safety data
15 and traffic records coordinating committee con-
16 tinues to operate and supports the multiyear
17 plan;

18 ‘(C) specifies how the grant funds and any
19 other funds of the State will be used to address
20 needs and goals identified in the multiyear plan;

21 ‘(D) demonstrates measurable progress to-
22 ward achieving the goals and objectives identi-
23 fied in the multiyear plan; and

24 ‘(E) includes a current report on the
25 progress in implementing the multiyear plan.

1 ‘(d) GRANT AMOUNTS.—

2 ‘(1) IN GENERAL.—The amount of a grant
3 made to a State for a fiscal year under this section
4 shall equal an amount determined by multiplying—

5 ‘(A) the amount appropriated to carry out
6 this section for such fiscal year; by

7 ‘(B) the ratio that the funds apportioned
8 to the State under section 402 for fiscal year
9 2003 bears to the funds apportioned to all
10 States under section 402 for fiscal year 2003.

11 ‘(2) MINIMUM AMOUNT.—Notwithstanding sub-
12 paragraph (A)—

13 ‘(A) a State eligible for a first-year grant
14 under this section shall not receive less than
15 \$300,000; and

16 ‘(B) a State eligible for a succeeding-year
17 grant under this section shall not receive less
18 than \$500,000.

19 ‘(e) ADMINISTRATIVE EXPENSES.—Funds authorized
20 to be appropriated to carry out this section in a fiscal year
21 shall be subject to a deduction not to exceed 5 percent
22 for the necessary costs of administering the provisions of
23 this section.

24 ‘(f) APPLICABILITY OF CHAPTER 1.—The provisions
25 contained in section 402(d) shall apply to this section.’.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 4 of title 23, United States Code, is amended by
3 adding at the end the following:

‘412. State traffic safety information system improvements.’.

4 **SEC. 2005. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

5 The Secretary shall establish a program to support
6 national impaired driving mobilization and enforcement ef-
7 forts and national safety belt mobilization and enforce-
8 ment, including the purchase of national paid advertise-
9 ment (including production and placement) to support
10 such efforts.

11 **SEC. 2006. MOTORCYCLE CRASH CAUSATION STUDY.**

12 (a) IN GENERAL.—Using funds made available to
13 carry out section 403 of title 23, United States Code, the
14 Secretary shall conduct a study of the causes of motorcycle
15 crashes.

16 (b) REPORT.—Not later than 3 years after the date
17 of enactment of this Act, the Secretary shall transmit to
18 Congress a report on the results of the study.

19 **SEC. 2007. CHILD SAFETY AND CHILD BOOSTER SEAT IN-**
20 **CENTIVE GRANTS.**

21 (a) GENERAL AUTHORITY.—Subject to the require-
22 ments of this section, the Secretary shall make grants to
23 States that enact or have enacted and are enforcing a law
24 requiring that children riding in passenger motor vehicles
25 who are too large to be secured in a child safety seat be

1 secured in a child restraint that meets the requirements
2 prescribed by the Secretary under section 3 of Anton's
3 Law (116 Stat. 2772).

4 (b) MAINTENANCE OF EFFORT.—No grant may be
5 made to a State under this section in a fiscal year unless
6 the State enters into such agreements with the Secretary
7 as the Secretary may require to ensure that the State will
8 maintain its aggregate expenditures from all other sources
9 for child safety seat and child booster seat programs at
10 or above the average level of such expenditures in its 2
11 fiscal years preceding the date of enactment of this Act.

12 (c) FEDERAL SHARE.—The Federal share of the cost
13 of implementing and enforcing in a fiscal year a law adopt-
14 ed by a State under subsection (a) shall not exceed—

15 (1) for the first 3 fiscal years for which a State
16 receives a grant under this section, 75 percent; and

17 (2) for the fourth fiscal year for which a State
18 receives a grant under this section, 50 percent.

19 (d) GRANT ELIGIBILITY.—

20 (1) IN GENERAL.—A State is eligible for a
21 grant under this section if the State has in effect
22 and enforces a law described in subsection (a).

23 (2) MAXIMUM PERIOD OF ELIGIBILITY.—No
24 State may receive grants under this section in more

1 than 4 fiscal years beginning after September 30,
2 2005.

3 (e) ELIGIBLE USES OF FUNDS.—A State may use
4 a grant under this section only to carry out child safety
5 seat and child booster seat programs, including the fol-
6 lowing:

7 (1) A program to educate the public concerning
8 the proper use and installation of child safety seats
9 and child booster seats.

10 (2) A program to train child passenger safety
11 professionals, police officers, fire and emergency
12 medical personnel, and educators concerning all as-
13 pects of the use of child safety seats and booster
14 seats.

15 (3) A program to purchase and distribute child
16 safety seats, child booster seats, and other appro-
17 priate passenger motor vehicle child restraints to
18 families that cannot otherwise afford such seats or
19 restraints.

20 (4) A program to support enforcement of child
21 restraint laws.

22 (f) GRANT AMOUNT.—The amount of a grant to a
23 State for a fiscal year under this section may not exceed
24 25 percent of the amount apportioned to the State for fis-

1 cal year 2003 under section 402 of title 23, United States
2 Code.

3 (g) ADMINISTRATIVE EXPENSES.—Funds authorized
4 to be appropriated to carry out this section in a fiscal year
5 shall be subject to a deduction not to exceed 2.5 percent
6 for the necessary costs of administering the provisions of
7 this section.

8 (h) APPLICABILITY OF CHAPTER 1.—The provisions
9 contained in section 402(d) of title 23, United States
10 Code, apply to this section.

11 (i) REPORT.—Each State to which a grant is made
12 under this section shall transmit to the Secretary a report
13 documenting the manner in which grant amounts were ob-
14 ligated and expended and identifying the specific programs
15 carried out with or supported by grant funds. The report
16 shall be in a form prescribed by the Secretary and may
17 be combined with other State grant reporting require-
18 ments under of chapter 4 of title 23, United States Code.

19 (j) DEFINITIONS.—In this section, the following defi-
20 nitions apply:

21 (1) CHILD RESTRAINT.—The term ‘child re-
22 straint’ means any product designed to provide re-
23 straint to a child (including booster seats and other
24 products used with a lap and shoulder belt assem-
25 bly) that meets applicable Federal motor vehicle

1 safety standards prescribed by the National High-
2 way Traffic Safety Administration.

3 (2) CHILD SAFETY SEAT.—The term ‘child
4 safety seat’ has the meaning such term has in sec-
5 tion 405(f) of title 23, United States Code.

6 (3) PASSENGER MOTOR VEHICLE.—The term
7 ‘passenger motor vehicle’ has the meaning such term
8 has in such section 405(f).

9 (4) STATE.—The term ‘State’ has the meaning
10 such term has in section 101 (a) of such title.

11 (k) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to carry out this section
13 from the Highway Trust Fund (other than the Mass Tran-
14 sit Account) \$6,000,000 for each of fiscal years 2006
15 through 2008 and \$7,000,000 for fiscal year 2009.

16 **SEC. 2008. MOTORCYCLIST SAFETY.**

17 (a) AUTHORITY TO MAKE GRANTS.—Subject to the
18 requirements of this section, the Secretary shall make
19 grants to States that adopt and implement effective pro-
20 grams to reduce the number of single- and multi-vehicle
21 crashes involving motorcycleists.

22 (b) MAINTENANCE OF EFFORT.—No grant may be
23 made to a State under this section in a fiscal year unless
24 the State enters into such agreements with the Secretary
25 as the Secretary may require to ensure that the State will

1 maintain its aggregate expenditures from all the other
2 sources for motorcyclist safety training programs and mo-
3 torcyclist awareness programs at or above the average
4 level of such expenditures in its 2 fiscal years preceding
5 the date of enactment of this Act.

6 (c) MAXIMUM PERIOD OF ELIGIBILITY.—No State
7 may receive grants under this section in more than 4 fiscal
8 years beginning after September 30, 2005.

9 (d) FEDERAL SHARE.—The Federal share of the cost
10 of implementing and enforcing, as appropriate, in a fiscal
11 year a program adopted by a State in accordance with
12 subsection (a) shall not exceed—

13 (1) for the first 3 years for which a State re-
14 ceives a grant under this section, 75 percent; and

15 (2) for the fourth fiscal year for which a State
16 receives a grant under this section, 50 percent.

17 (e) GRANT ELIGIBILITY.—

18 (1) IN GENERAL.—A State becomes eligible for
19 a grant under this section by adopting or dem-
20 onstrating to the satisfaction of the Secretary—

21 (A) for the first fiscal year for which the
22 State will receive a grant under this section, at
23 least 1 of the 6 criteria listed in paragraph (2);

24 (B) for the second, third, and fourth fiscal
25 years for which the State will receive a grant

1 under this section, at least 2 of the 6 criteria
2 listed in paragraph (2); and

3 (C) for any subsequent fiscal years for
4 which the State will receive a grant under this
5 section, at least 3 of the 6 criteria listed in
6 paragraph (2).

7 (2) CRITERIA.—The criteria for eligibility for a
8 grant under this section are the following:

9 (A) MOTORCYCLE RIDER TRAINING
10 COURSES.—An effective motorcycle rider train-
11 ing course that is offered throughout the State,
12 provides a formal program of instruction in ac-
13 cident avoidance and other safety-oriented oper-
14 ational skills to motorcyclists, and may include
15 innovative training opportunities to meet unique
16 regional needs.

17 (B) MOTORCYCLISTS AWARENESS PRO-
18 GRAM.—An effective statewide program to en-
19 hance motorist awareness of the presence of
20 motorcyclists on or near roadways and safe
21 driving practices that avoid injuries to motorcy-
22 clists.

23 (C) REDUCTION OF FATALITIES AND
24 CRASHES INVOLVING MOTORCYCLES.—A reduc-
25 tion for the preceding calendar year in the

1 number of motorcycle fatalities and the rate of
2 motor vehicle crashes involving motorcycles in
3 the State (expressed as a function of 10,000
4 motorcycle registrations).

5 (D) IMPAIRED DRIVING PROGRAM.—Imple-
6 mentation of a statewide program to reduce im-
7 paired driving, including specific measures to
8 reduce impaired motorcycle operation.

9 (E) REDUCTION OF FATALITIES AND ACCI-
10 DENTS INVOLVING IMPAIRED MOTORCY-
11 CLISTS.—A reduction for the preceding cal-
12 endar year in the number of fatalities and the
13 rate of reported crashes involving alcohol- or
14 drug-impaired motorcycle operators (expressed
15 as a function of 10,000 motorcycle registra-
16 tions).

17 (F) FEES COLLECTED FROM MOTORCY-
18 CLISTS.—All fees collected by the State from
19 motorcyclists for the purposes of funding mo-
20 torcycle training and safety programs are used
21 for motorcycle training and safety programs.

22 (f) ELIGIBLE USES.—

23 (1) IN GENERAL.—A State may use funds from
24 a grant under this section only for motorcyclist safe-

1 ty training and motorcyclist awareness programs, in-
2 cluding—

3 (A) improvements to motorcyclist safety
4 training curricula;

5 (B) improvements in program delivery of
6 motorcycle training to both urban and rural
7 areas, including—

8 (i) procurement or repair of practice
9 motorcycles;

10 (ii) instructional materials;

11 (iii) mobile training units; and

12 (iv) leasing or purchase of facilities
13 for classroom instruction and closed-course
14 skill training;

15 (C) measures designed to increase the re-
16 cruitment or retention of motorcyclist safety
17 training instructors; and

18 (D) public awareness, public service an-
19 nouncements, and other outreach programs to
20 enhance motorcyclist awareness.

21 (2) SUBALLOCATIONS OF FUNDS.—An agency
22 that receives a grant under this section may suballo-
23 cate funds from the grant to a nonprofit organiza-
24 tion incorporated in that State to carry out under
25 this section.

1 (g) DEFINITIONS.—In this section, the following defi-
2 nitions apply:

3 (1) MOTORCYCLIST SAFETY TRAINING.—The
4 term ‘motorcyclist safety training’ means a formal
5 program of instruction that—

6 (A) provides accident avoidance and other
7 safety-oriented operational skills to motorcy-
8 clists; and

9 (B) is approved for use in a State by the
10 designated State authority having jurisdiction
11 over motorcyclist safety issues.

12 (2) MOTORCYCLIST AWARENESS.—The term
13 ‘motorcyclist awareness’ means individual or collec-
14 tive awareness of—

15 (A) the presence of motorcycles on or near
16 roadways; and

17 (B) safe driving practices that avoid injury
18 to motorcyclists.

19 (3) MOTORCYCLIST AWARENESS PROGRAM.—
20 The term ‘motorcyclist awareness program’ means
21 an informational or public awareness program de-
22 signed to enhance motorcyclist awareness that is de-
23 veloped by or in coordination with the designated
24 State authority having jurisdiction over motorcyclist
25 safety issues.

1 (4) STATE.—The term ‘State’ has the same
2 meaning such term has in section 101(a) of title 23,
3 United States Code.

4 (h) MAXIMUM GRANT AMOUNT.—The amount of a
5 grant made to a State for a fiscal year under this section
6 may not exceed 25 percent of the amount apportioned to
7 the State for fiscal year 2003 under section 402 of title
8 23, United States Code.

9 (i) ADMINISTRATIVE EXPENSES.—Funds authorized
10 to be appropriated to carry out this section in a fiscal year
11 shall be subject to a deduction by the Secretary not to
12 exceed 5 percent for the necessary costs of administering
13 the provisions of this section.

14 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to carry out this section
16 from the Highway Trust Fund (other than the Mass Tran-
17 sit Account) \$6,000,000 for each of fiscal years 2006
18 through 2008 and \$7,000,000 for fiscal year 2009.

19 (k) APPLICABILITY OF TITLE 23.—Funds authorized
20 under this section shall be available for obligation in the
21 same manner as if the funds were apportioned under chap-
22 ter 1 of title 23, United States Code; except that such
23 funds shall not be transferable.

1 **SEC. 2009. DRIVER FATIGUE.**

2 Section 402(a) of title 23, United States Code, is
3 amended—

4 (1) by striking ‘and’ before ‘(6)’; and

5 (2) by inserting before the period the following:

6 ‘; and (7) to reduce deaths and injuries resulting
7 from persons driving motor vehicles while fatigued’.

8 **SEC. 2010. AUTHORIZATION OF APPROPRIATIONS FOR**
9 **HIGHWAY SAFETY RESEARCH AND DEVELOP-**
10 **MENT.**

11 (a) IN GENERAL.—There is authorized to be appro-
12 priated out of the Highway Trust Fund (other than the
13 Mass Transit Account) for carrying out section 403 of title
14 23, United States Code, \$71,575,000 for fiscal year 2004,
15 \$71,424,000 for fiscal year 2005, and \$75,000,000 for
16 each of fiscal years 2006 through 2009.

17 (b) APPLICABILITY OF TITLE 23.—Except as other-
18 wise provided in chapter 4 of title 23, United States Code,
19 and this title, amounts made available under subsection
20 (a) for each of fiscal years 2004 through 2009 shall be
21 available for obligation in the same manner as if such
22 funds were apportioned under chapter 1 of title 23, United
23 States Code.

24 **SEC. 2011. SAFETY DATA.**

25 (a) IN GENERAL.—Using funds made available to
26 carry out section 403 of title 23, United States Code, for

1 fiscal years 2005 through 2009, the Secretary shall collect
2 data and compile statistics on accidents involving motor
3 vehicles being backed up that result in fatalities and inju-
4 ries and that occur on public and nonpublic roads and res-
5 idential and commercial driveways and parking facilities.

6 (b) REPORT.—Not later than January 1, 2009, the
7 Secretary shall transmit to the Committee on Transpor-
8 tation and Infrastructure of the House of Representatives
9 and the Committee on Commerce, Science, and Transpor-
10 tation of the Senate a report on accidents described in
11 subsection (a), including the data collected and statistics
12 compiled under subsection (a) and any recommendations
13 regarding measures to be taken to reduce the number of
14 such accidents and the resulting fatalities and injuries.

15 **TITLE III—FEDERAL TRANSIT**
16 **ADMINISTRATION PROGRAMS**

17 **SEC. 3001. SHORT TITLE; AMENDMENTS TO TITLE 49,**
18 **UNITED STATES CODE.**

19 (a) SHORT TITLE.—This title may be cited as the
20 ‘Federal Public Transportation Act of 2005’.

21 (b) AMENDMENTS TO TITLE 49, UNITED STATES
22 CODE.—Except as otherwise specifically provided, when-
23 ever in this title an amendment or repeal is expressed in
24 terms of an amendment to, or repeal of, a section or other
25 provision of law, the reference shall be considered to be

1 made to a section or other provision of title 49, United
2 States Code.

3 **SEC. 3002. POLICIES, FINDINGS, AND PURPOSES.**

4 (a) IN GENERAL.—Section 5301(a) is amended to
5 read as follows:

6 ‘(a) DEVELOPMENT AND REVITALIZATION OF PUB-
7 LIC TRANSPORTATION SYSTEMS.—It is in the interest of
8 the United States to foster the development and revitaliza-
9 tion of public transportation systems that—

10 (1) maximize the safe, secure, and efficient mo-
11 bility of individuals;

12 (2) minimize environmental impacts; and

13 (3) minimize transportation-related fuel con-
14 sumption and reliance on foreign oil.’.

15 (b) PRESERVING THE ENVIRONMENT.—Section
16 5301(e) is amended—

17 (1) by striking ‘an urban’ and inserting ‘a’; and

18 (2) by striking ‘under sections 5309 and 5310
19 of this title’.

20 (c) GENERAL PURPOSES.—Section 5301(f) is amend-
21 ed—

22 (1) in paragraph (1)—

23 (A) by striking ‘mass’ the first place it ap-
24 pears and inserting ‘public’; and

1 (B) by striking ‘public and private mass
2 transportation companies’ and inserting ‘both
3 public transportation companies and private
4 companies engaged in public transportation’;

5 (2) in paragraph (2)—

6 (A) by striking ‘urban mass’ and inserting
7 ‘public’; and

8 (B) by striking ‘public and private mass
9 transportation companies’ and inserting ‘both
10 public transportation companies and private
11 companies engaged in public transportation’;

12 (3) in paragraph (3)—

13 (A) by striking ‘urban mass’ and inserting
14 ‘public’; and

15 (B) by striking ‘public or private mass
16 transportation companies’ and inserting ‘public
17 transportation companies or private companies
18 engaged in public transportation’; and

19 (4) in paragraph (5) by striking ‘urban mass’
20 and inserting ‘public’.

21 **SEC. 3003. DEFINITIONS.**

22 (a) LEAD-IN.—Section 5302(a) is amended in the
23 matter preceding paragraph (1) by striking ‘In this chap-
24 ter’ and inserting ‘Except as otherwise specifically pro-
25 vided, in this chapter’.

1 (b) CAPITAL PROJECT.—Section 5302(a)(1) is
2 amended—

3 (1) in subparagraph (G) by inserting ‘construc-
4 tion, renovation, and improvement of intercity bus
5 stations and terminals,’ before ‘and the renovation
6 and improvement of historic transportation facili-
7 ties,’;

8 (2) in subparagraph (G)(ii) by inserting ‘(other
9 than an intercity bus station or terminal)’ after
10 ‘commercial revenue-producing facility’;

11 (3) by striking ‘or’ at the end of subparagraph
12 (H);

13 (4) by striking the period at the end of sub-
14 paragraph (I) and inserting a semicolon; and

15 (5) by adding at the end the following:

16 ‘(J) crime prevention and security—

17 ‘(i) including—

18 ‘(I) projects to refine and develop
19 security and emergency response
20 plans;

21 ‘(II) projects aimed at detecting
22 chemical and biological agents in pub-
23 lic transportation;

24 ‘(III) the conduct of emergency
25 response drills with public transpor-

1 tation agencies and local first re-
2 sponse agencies; and

3 ‘(IV) security training for public
4 transportation employees; but

5 ‘(ii) excluding all expenses related to
6 operations, other than such expenses in-
7 curred in conducting activities described in
8 subclauses (III) and (IV);

9 ‘(K) establishment of a debt service reserve
10 made up of deposits with a bondholders’ trustee
11 in a noninterest bearing account for the pur-
12 pose of ensuring timely payment of principal
13 and interest on bonds issued by a grant recipi-
14 ent for purposes of financing an eligible project
15 under this chapter; or

16 ‘(L) mobility management—

17 ‘(i) consisting of short-range planning
18 and management activities and projects for
19 improving coordination among public
20 transportation and other transportation
21 service providers carried out by a recipient
22 or subrecipient through an agreement en-
23 tered into with a person, including a gov-
24 ernmental entity, under this chapter (other
25 than section 5309); but

1 (ii) excluding operating public trans-
2 portation services.’.

3 (c) INDIVIDUAL WITH A DISABILITY.—Section
4 5302(a)(5) is amended—

5 (1) by striking ‘HANDICAPPED INDIVIDUAL’ in
6 the heading and inserting ‘INDIVIDUAL WITH A DIS-
7 ABILITY’; and

8 (2) by striking ‘handicapped individual’ and in-
9 serting ‘individual with a disability’.

10 (d) MASS TRANSPORTATION.—Section 5302(a)(7) is
11 amended to read as follows:

12 ‘(7) MASS TRANSPORTATION.—The term “mass
13 transportation” means public transportation.’.

14 (e) PUBLIC TRANSPORTATION.—Section 5302(a)(10)
15 is amended to read as follows:

16 ‘(10) PUBLIC TRANSPORTATION.—The term
17 “public transportation” means transportation by a
18 conveyance that provides regular and continuing
19 general or special transportation to the public, but
20 does not include schoolbus, charter, or sightseeing
21 transportation.’.

22 (f) URBANIZED AREA.—Section 5302(a)(17) is
23 amended to read as follows:

24 ‘(17) URBANIZED AREA.—The term “urbanized
25 area” means an area encompassing a population of

1 at least 50,000 people that has been defined and
2 designated in the latest decennial census as an ur-
3 banized area by the Secretary of Commerce.’.

4 (g) **AUTHORITY TO MODIFY DEFINITION.**—Section
5 5302(b) is amended—

6 (1) by striking ‘HANDICAPPED INDIVIDUAL’ in
7 the heading and inserting ‘INDIVIDUAL WITH A DIS-
8 ABILITY’; and

9 (2) by striking ‘handicapped individual’ and in-
10 sserting ‘individual with a disability’.

11 **SEC. 3004. METROPOLITAN PLANNING.**

12 Section 5303 is amended to read as follows:

13 **‘§ 5303. Metropolitan planning**

14 ‘(a) **IN GENERAL.**—Grants made under sections
15 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be
16 carried out in accordance with the metropolitan planning
17 provisions of chapter 52.

18 ‘(b) **CERTIFICATION.**—

19 ‘(1) **IN GENERAL.**—The Secretary shall ensure
20 and certify that each metropolitan planning organi-
21 zation in each transportation management area is
22 carrying out its responsibilities under applicable laws
23 of the United States. The Secretary may make the
24 certification only if the organization is complying
25 with chapter 52 and other applicable requirements

1 of laws of the United States and the organization
2 and chief executive officer have approved a transpor-
3 tation improvement program for the area.

4 ‘(2) LIMITATION ON WITHHOLDING CERTIFI-
5 CATION.—The Secretary may not withhold certifi-
6 cation based on the policies and criteria a metropoli-
7 tan planning organization or mass transportation
8 grant recipient establishes under section 5306(a) for
9 deciding the feasibility of private enterprise partici-
10 pation.’.

11 **SEC. 3005. STATEWIDE PLANNING.**

12 (a) IN GENERAL.—Section 5304 is amended to read
13 as follows:

14 **‘§ 5304. Statewide planning**

15 ‘Grants made under sections 5307, 5308, 5309,
16 5310, 5311, 5316, and 5317 shall be carried out in ac-
17 cordance with the statewide planning provisions of chapter
18 52.’.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 chapter 53 is amended by striking the item relating to
21 section 5304 and inserting the following:

‘5304. Statewide planning.’.

22 **SEC. 3006. PLANNING PROGRAMS.**

23 (a) IN GENERAL.—Section 5305 is amended to read
24 as follows:

1 **‘§ 5305. Planning programs**

2 ‘(a) STATE DEFINED.—In this section the term
3 “State” means a State of the United States, the District
4 of Columbia, and Puerto Rico.

5 ‘(b) GENERAL AUTHORITY.—

6 ‘(1) ASSISTANCE.—Under criteria to be estab-
7 lished by the Secretary, the Secretary may provide
8 assistance for—

9 ‘(A) the development of transportation
10 plans and programs;

11 ‘(B) planning, engineering, designing, and
12 evaluating a public transportation project; and

13 ‘(C) for other technical studies.

14 ‘(2) GRANTS, AGREEMENTS, AND CON-
15 TRACTS.—The Secretary may provide assistance
16 under paragraph (1)—

17 ‘(A) by making grants to States, authori-
18 ties of States, metropolitan planning organiza-
19 tions, and local governmental authorities; or

20 ‘(B) by making agreements with other de-
21 partments, agencies, and instrumentalities of
22 the Government.

23 ‘(3) ELIGIBLE ACTIVITIES.—Activities eligible
24 for assistance under paragraph (1) include the fol-
25 lowing:

1 ‘(A) Studies related to management, plan-
2 ning, operations, capital requirements, and eco-
3 nomic feasibility.

4 ‘(B) Evaluating previously financed
5 projects.

6 ‘(C) Peer reviews and exchanges of tech-
7 nical data, information, assistance, and related
8 activities in support of planning and environ-
9 mental analyses among metropolitan planning
10 organizations and other transportation plan-
11 ners.

12 ‘(D) Other similar and related activities
13 preliminary to and in preparation for con-
14 structing, acquiring, or improving the operation
15 of facilities and equipment.

16 ‘(c) PURPOSE.—To the extent practicable, the Sec-
17 retary shall ensure that amounts appropriated or made
18 available under section 5338 to carry out this section and
19 sections 5303 and 5304 are used to support balanced and
20 comprehensive transportation planning that considers the
21 relationships among land use and all transportation
22 modes, without regard to the programmatic source of the
23 planning amounts.

24 ‘(d) METROPOLITAN PLANNING PROGRAM.—

25 ‘(1) APPORTIONMENT TO STATES.—

1 ‘(A) IN GENERAL.—The Secretary shall
2 apportion 80 percent of the amounts made
3 available under subsection (g)(1) among the
4 States to carry out sections 5303 and 5306 in
5 the ratio that—

6 ‘(i) the population of urbanized areas
7 in each State, as shown by the latest avail-
8 able decennial census of population; bears
9 to

10 ‘(ii) the total population of urbanized
11 areas in all States, as shown by that cen-
12 sus.

13 ‘(B) MINIMUM APPORTIONMENT.—Not-
14 withstanding subparagraph (A), a State may
15 not receive less than 0.5 percent of the amount
16 apportioned under this paragraph.

17 ‘(2) ALLOCATION TO MPO’S.—Amounts appor-
18 tioned to a State under paragraph (1) shall be made
19 available within 30 days after allocation to metro-
20 politan planning organizations in the State des-
21 ignated under this section under a formula that—

22 ‘(A) considers population of urbanized
23 areas;

1 ‘(B) provides an appropriate distribution
2 for urbanized areas to carry out the cooperative
3 processes described in this section;

4 ‘(C) the State develops in cooperation with
5 the metropolitan planning organizations; and

6 ‘(D) the Secretary approves.

7 ‘(3) SUPPLEMENTAL AMOUNTS.—

8 ‘(A) IN GENERAL.—The Secretary shall
9 apportion 20 percent of the amounts made
10 available under subsection (g)(1) among the
11 States to supplement allocations made under
12 paragraph (1) for metropolitan planning organi-
13 zations.

14 ‘(B) FORMULA.—The Secretary shall ap-
15 portion amounts referred to in subparagraph
16 (A) under a formula that reflects the additional
17 cost of carrying out planning, programming,
18 and project selection responsibilities under sec-
19 tions 5303 and 5306 in certain urbanized
20 areas.

21 ‘(e) STATE PLANNING AND RESEARCH PROGRAM.—

22 ‘(1) APPORTIONMENT TO STATES.—

23 ‘(A) IN GENERAL.—The Secretary shall
24 apportion the amounts made available under
25 subsection (g)(2) among the States for grants

1 and contracts to carry out sections 5303
2 through 5306, 5312, 5315, and 5322 in the
3 ratio that—

4 ‘(i) the population of urbanized areas
5 in each State, as shown by the latest avail-
6 able decennial census; bears to

7 ‘(ii) the population of urbanized areas
8 in all States, as shown by that census.

9 ‘(B) MINIMUM APPORTIONMENT.—Not-
10 withstanding subparagraph (A), a State may
11 not receive less than 0.5 percent of the amount
12 apportioned under this paragraph.

13 ‘(2) SUPPLEMENTAL AMOUNTS.—A State, as
14 the State considers appropriate, may authorize part
15 of the amount made available under this subsection
16 to be used to supplement amounts made available
17 under subsection (d).

18 ‘(f) GOVERNMENT’S SHARE OF COSTS.—The Govern-
19 ment’s share of the cost of an activity funded using
20 amounts made available under this section may not exceed
21 80 percent of the cost of the activity unless the Secretary
22 determines that it is in the interests of the Government
23 not to require a State or local match.

24 ‘(g) ALLOCATION OF FUNDS.—Of the funds made
25 available by or appropriated to carry out this section

'5306. Private enterprise participation in planning; relationship to other limitations.'

1 **SEC. 3008. URBANIZED AREA FORMULA GRANTS.**

2 (a) **TECHNICAL AMENDMENTS.**—Section 5307 is
3 amended—

4 (1) by striking subsections (h) and (k); and

5 (2) by redesignating subsections (i), (j), (l),
6 (m), and (n) as subsections (h), (i), (j), (k), and (l),
7 respectively.

8 (b) **DEFINITIONS.**—Section 5307(a)(2)(A) is amend-
9 ed—

10 (1) by striking 'a person' and inserting 'an enti-
11 ty'; and

12 (2) by striking 'section 5305(a) of this title'
13 and inserting 'chapter 52'.

14 (c) **GENERAL AUTHORITY.**—Section 5307(b) is
15 amended—

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

18 '(1) **GRANTS.**—The Secretary may make grants
19 under this section for—

20 '(A) capital projects and associated capital
21 maintenance items;

22 '(B) planning;

23 '(C) transit enhancements; and

1 ‘(D) operating costs of equipment and fa-
2 cilities for use in public transportation in an ur-
3 banized area with a population of less than
4 200,000.’;

5 (2) in the heading to paragraph (2) by striking
6 ‘FISCAL YEARS 2003 AND 2004 AND FOR THE PERIOD
7 OF OCTOBER 1, 2004, THROUGH MAY 31, 2005’ and in-
8 serting ‘FISCAL YEARS 2003 THROUGH 2005’;

9 (3) in paragraph (2)(A) by striking ‘fiscal year
10 2003’ and all that follows through ‘2005’ and insert-
11 ing ‘fiscal years 2003, 2004, and 2005,’;

12 (4) in paragraph (3) by striking ‘section
13 5305(a) of this title’ and inserting ‘chapter 52’; and

14 (5) in paragraph (3)(A) by striking ‘section
15 5303 of this title’ and inserting ‘chapter 52’.

16 (d) GRANT RECIPIENT REQUIREMENTS.—Section
17 5307(d)(1) is amended—

18 (1) in subparagraph (A) by inserting ‘, includ-
19 ing safety and security aspects of the program’ after
20 ‘program’;

21 (2) in subparagraph (H) by striking ‘sections
22 5301(a) and (d), 5303–5306, and 5310(a)–(d) of
23 this title’ and inserting ‘subsections (a) and (d) of
24 section 5301 and sections 5303 through 5306’;

1 (3) in subparagraph (I) by striking ‘and’ at the
2 end; and

3 (4) by adding at the end the following:

4 ‘(K) in the case of a recipient for an ur-
5 banized area with a population of at least
6 200,000—

7 ‘(i) will expend one percent of the
8 amount the recipient receives each fiscal
9 year under this section for projects for
10 transit enhancements, as defined in section
11 5302(a); and

12 ‘(ii) will submit an annual report list-
13 ing projects carried out in the preceding
14 fiscal year with those funds; and’.

15 (e) GOVERNMENT’S SHARE OF COSTS.—Section
16 5307(e) is amended to read as follows:

17 ‘(e) GOVERNMENT’S SHARE OF COSTS.—

18 ‘(1) CAPITAL PROJECTS.—A grant for a capital
19 project (including associated capital maintenance
20 items) under this section shall be for 80 percent of
21 the net project cost of the project. The recipient may
22 provide additional local matching amounts.

23 ‘(2) OPERATING EXPENSES.—A grant for oper-
24 ating expenses under this section may not exceed 50
25 percent of the net project cost of the project.

1 ‘(3) REMAINDER.—The remainder of the net
2 project cost shall be provided—

3 ‘(A) in cash from sources other than
4 amounts of the Government or revenues from
5 providing public transportation (excluding reve-
6 nues derived from the sale of advertising and
7 concessions);

8 ‘(B) from an undistributed cash surplus, a
9 replacement or depreciation cash fund or re-
10 serve, or new capital; and

11 ‘(C) from amounts received under a service
12 agreement with a State or local social service
13 agency or private social service organization.’.

14 (f) REVIEWS, AUDITS, AND EVALUATIONS.—Section
15 5307(h)(1)(A) (as redesignated by subsection (a) of this
16 section) is amended by striking ‘shall’ and inserting ‘may’.

17 (g) RELATIONSHIP TO OTHER LAWS.—Section
18 5307(l) (as redesignated by subsection (a) of this section)
19 is amended—

20 (1) by striking paragraph (1);

21 (2) by redesignating paragraph (2) as para-
22 graph (1);

23 (3) by inserting ‘This chapter.—’ before ‘Sec-
24 tions 5302’;

25 (4) by adding at the end the following:

1 ‘(2) CHAPTER 15 OF TITLE 5.—The provision of
2 assistance under this chapter shall not be construed
3 as bringing within the application of chapter 15 of
4 title 5 any nonsupervisory employee of a public
5 transportation system (or any other agency or entity
6 performing related functions) to which such chapter
7 is otherwise inapplicable.’; and

8 (5) by aligning the left margin of paragraph (1)
9 (as so redesignated) with paragraph (2) (as added
10 by paragraph (4) of this subsection).

11 (h) TREATMENT.—At the end of section 5307, add
12 the following:

13 ‘(m) TREATMENT.—For purposes of this section, the
14 United States Virgin Islands shall be treated as an urban-
15 ized area, as defined in section 5302.’.

16 **SEC. 3009. CLEAN FUELS FORMULA GRANT PROGRAM.**

17 Section 5308 is amended to read as follows:

18 **‘§ 5308. Clean fuels formula grant program**

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

21 ‘(1) CLEAN FUEL BUS.—The term “clean fuel
22 bus” means a passenger vehicle used to provide pub-
23 lic transportation that—

24 ‘(A) is powered by—

25 ‘(i) compressed natural gas;

- 1 ‘(ii) liquefied natural gas;
- 2 ‘(iii) biodiesel fuels;
- 3 ‘(iv) batteries;
- 4 ‘(v) alcohol-based fuels;
- 5 ‘(vi) hybrid electric;
- 6 ‘(vii) fuel cell;
- 7 ‘(viii) clean diesel, to the extent al-
- 8 lowed under this section; or
- 9 ‘(ix) other low or zero emissions tech-
- 10 nology; and
- 11 ‘(B) the Administrator of the Environ-
- 12 mental Protection Agency has certified suffi-
- 13 ciently reduces harmful emissions.
- 14 ‘(2) ELIGIBLE PROJECT.—The term “eligible
- 15 project”—
- 16 ‘(A) means a project in a nonattainment or
- 17 maintenance area described in paragraph
- 18 (4)(A) for—
- 19 ‘(i) purchasing or leasing clean fuel
- 20 buses, including buses that employ a light-
- 21 weight composite primary structure;
- 22 ‘(ii) constructing or leasing clean fuel
- 23 buses or electrical recharging facilities and
- 24 related equipment for such buses; or

1 ‘(iii) improving existing public trans-
2 portation facilities to accommodate clean
3 fuel buses; and

4 ‘(B) at the discretion of the Secretary, may
5 include a project located in a nonattainment or
6 maintenance area described in paragraph
7 (3)(A) relating to clean fuel, biodiesel, hybrid
8 electric, or zero emissions technology buses that
9 exhibit equivalent or superior emissions reduc-
10 tions to existing clean fuel or hybrid electric
11 technologies.

12 ‘(3) MAINTENANCE AREA.—The term “mainte-
13 nance area” has the meaning such term has under
14 section 101 of title 23.

15 ‘(4) RECIPIENT.—

16 ‘(A) IN GENERAL.—The term “recipient”
17 means a designated recipient (as defined in sec-
18 tion 5307(a)(2)) for an area that, and a recipi-
19 ent for an urbanized area with a population of
20 less than 200,000 that—

21 ‘(i) is designated as a nonattainment
22 area for ozone or carbon monoxide under
23 section 107(d) of the Clean Air Act (42
24 U.S.C. 7407(d)); or

1 ‘(ii) is a maintenance area for ozone
2 or carbon monoxide.

3 ‘(B) SMALLER URBANIZED AREAS.—In the
4 case of an urbanized area with a population of
5 less than 200,000, the State in which the area
6 is located shall act as the recipient for the area
7 under this section.

8 ‘(b) AUTHORITY.—The Secretary shall make grants
9 in accordance with this section to recipients to finance eli-
10 gible projects.

11 ‘(c) APPORTIONMENT OF FUNDS.—

12 ‘(1) FORMULA.—The Secretary shall apportion
13 among recipients amounts made available to carry
14 out this section for a fiscal year. Of such amounts—

15 ‘(A) two-thirds shall be apportioned to re-
16 cipients serving urbanized areas with a popu-
17 lation of at least 1,000,000, of which—

18 ‘(i) 50 percent shall be apportioned so
19 that each such recipient receives a grant
20 under this section in an amount equal to
21 the ratio that—

22 ‘(I) the number of vehicles in the
23 bus fleet of the recipient, weighted by
24 severity of nonattainment for the area
25 served by the recipient; bears to

1 ‘(II) the total number of vehicles
2 in the bus fleets of all such recipients,
3 weighted by severity of nonattainment
4 for all areas served by such recipients;
5 and

6 ‘(ii) 50 percent shall be apportioned
7 so that each such recipient receives a grant
8 under this section in an amount equal to
9 the ratio that—

10 ‘(I) the number of bus passenger
11 miles (as defined in section 5336(e))
12 of the recipient, weighted by severity
13 of nonattainment of the area served
14 by the recipient; bears to

15 ‘(II) the total number of bus pas-
16 senger miles (as defined in section
17 5336(e)) of all such recipients,
18 weighted by severity of nonattainment
19 of all areas served by such recipients;
20 and

21 ‘(B) one-third shall be apportioned to re-
22 cipients serving urbanized areas with a popu-
23 lation of less than 1,000,000, of which—

24 ‘(i) 50 percent shall be apportioned so
25 that each such recipient receives a grant

1 under this section in an amount equal to
2 the ratio that—

3 ‘(I) the number of vehicles in the
4 bus fleet of the recipient, weighted by
5 severity of nonattainment for the area
6 served by the recipient; bears to

7 ‘(II) the total number of vehicles
8 in the bus fleets of all such recipients,
9 weighted by severity of nonattainment
10 for all areas served by such recipients;
11 and

12 ‘(ii) 50 percent shall be apportioned
13 so that each such recipient receives a grant
14 under this section in an amount equal to
15 the ratio that—

16 ‘(I) the number of bus passenger
17 miles (as defined in section 5336(e))
18 of the recipient, weighted by severity
19 of nonattainment of the area served
20 by the recipient; bears to

21 ‘(II) the total number of bus pas-
22 senger miles (as defined in section
23 5336(e)) of all such recipients,
24 weighted by severity of nonattainment
25 of all areas served by such recipients.

1 ‘(2) WEIGHTING OF SEVERITY OF NONATTAIN-
2 MENT.—

3 ‘(A) IN GENERAL.—For purposes of para-
4 graph (1), subject to subparagraph (B), the
5 number of buses in the bus fleet, or the number
6 of passenger miles, shall be multiplied by a fac-
7 tor of—

8 ‘(i) 1.0 if, at the time of the appor-
9 tionment, the area is a maintenance area
10 for ozone or carbon monoxide;

11 ‘(ii) 1.1 if, at the time of the appor-
12 tionment, the area is classified as a mar-
13 ginal ozone nonattainment area under sub-
14 part 2 of part D of title I of the Clean Air
15 Act (42 U.S.C. 7511 et seq.);

16 ‘(iii) 1.2 if, at the time of the appor-
17 tionment, the area is classified as a mod-
18 erate ozone nonattainment area under sub-
19 part 2 of such part;

20 ‘(iv) 1.3 if, at the time of the appor-
21 tionment, the area is classified as a serious
22 ozone nonattainment area under subpart 2
23 of such part;

24 ‘(v) 1.4 if, at the time of the appor-
25 tionment, the area is classified as a severe

1 ozone nonattainment area under subpart 2
2 of such part; or

3 ‘(vi) 1.5 if, at the time of the appor-
4 tionment, the area is classified as an ex-
5 treme ozone nonattainment area under
6 subpart 2 of such part.

7 ‘(B) ADDITIONAL ADJUSTMENT FOR CAR-
8 BON MONOXIDE AREAS.—If, in addition to
9 being classified as a nonattainment or mainte-
10 nance area for ozone under subpart 2 of such
11 part, the area was also classified under subpart
12 3 of such part as a nonattainment area for car-
13 bon monoxide, the weighted nonattainment or
14 maintenance area fleet and passenger miles for
15 the recipient, as calculated under subparagraph
16 (A), shall be further multiplied by a factor of
17 1.2.

18 ‘(d) CLEAN DIESEL BUSES.—Not more than 35 per-
19 cent of the amount made available by or appropriated
20 under section 5338 in each fiscal year to carry out this
21 section may be made available to fund clean diesel buses.

22 ‘(e) GRANT REQUIREMENTS.—

23 ‘(1) IN GENERAL.—A grant under this section
24 shall be subject to the requirements of section 5307.

1 ‘(2) GOVERNMENT’S SHARE OF COSTS FOR CER-
2 TAIN PROJECTS.—Section 5323(i) applies to projects
3 carried out under this section.

4 ‘(f) AVAILABILITY OF FUNDS.—Any amount made
5 available or appropriated under this section—

6 ‘(1) shall remain available to a project for 1
7 year after the fiscal year for which the amount is
8 made available or appropriated; and

9 ‘(2) that remains unobligated at the end of the
10 period described in paragraph (1) shall be added to
11 the amount made available in the following fiscal
12 year.’.

13 **SEC. 3010. CAPITAL INVESTMENT GRANTS.**

14 (a) SECTION HEADING.—Section 5309 is amended by
15 striking the section heading and inserting the following:

16 **‘§ 5309. Capital investment grants’.**

17 (b) LOANS FOR REAL PROPERTY INTERESTS.—Sec-
18 tion 5309 is amended—

19 (1) in subsections (a)(1) and (a)(2) by striking
20 ‘and loans’;

21 (2) by striking subsections (b) and (c); and

22 (3) by redesignating subsection (d) as sub-
23 section (b).

1 (c) PROJECT AS PART OF APPROVED PROGRAM OF
2 PROJECTS.—Section 5309(b) (as redesignated by sub-
3 section (b) of this section) is amended—

4 (1) by striking ‘Except as provided in sub-
5 sections (b)(2) and (e) of the section, the’ and in-
6 serting ‘The’; and

7 (2) by striking ‘or loan’.

8 (d) CRITERIA AND FUNDING.—Section 5309 is
9 amended by striking subsections (e) through (p) and in-
10 serting the following:

11 ‘(c) MAJOR CAPITAL INVESTMENT GRANTS OF
12 \$75,000,000 OR MORE.—

13 ‘(1) FULL FUNDING GRANT AGREEMENT.—A
14 major new fixed guideway capital project financed
15 under this subsection shall be carried out through a
16 full funding grant agreement. The Secretary shall
17 enter into a full funding grant agreement based on
18 the evaluations and ratings required under this sub-
19 section. The Secretary shall not enter into a full
20 funding grant agreement for a project unless that
21 project is authorized for final design and construc-
22 tion.

23 ‘(2) APPROVAL OF GRANTS.—The Secretary
24 may approve a grant under this section for a major
25 new fixed guideway capital project only if the Sec-

1 retary, based upon evaluations and considerations
2 set forth in paragraph (3), determines that the pro-
3 posal is—

4 ‘(A) based on the results of an alternatives
5 analysis and preliminary engineering;

6 ‘(B) justified based on a comprehensive re-
7 view of its mobility improvements, environ-
8 mental benefits, cost effectiveness, operating ef-
9 ficiencies, and transit supportive policies, and
10 existing land use; and

11 ‘(C) supported by an acceptable degree of
12 local financial commitment (including evidence
13 of stable and dependable financing sources) to
14 construct, maintain, and operate the system or
15 extension.

16 ‘(3) CONSIDERATIONS.—

17 ‘(A) RESULTS OF ALTERNATIVES ANALYSIS
18 AND PRELIMINARY ENGINEERING.—In evalu-
19 ating a proposed project for purposes of making
20 the finding required by paragraph (2)(A), the
21 Secretary shall analyze and consider the results
22 of the alternatives analysis and preliminary en-
23 gineering for the project.

24 ‘(B) PROJECT JUSTIFICATION.—In evalu-
25 ating a proposed project for purposes of making

1 the finding required by paragraph (2)(B), the
2 Secretary shall—

3 ‘(i) consider the direct and indirect
4 costs of relevant alternatives;

5 ‘(ii) consider factors such as conges-
6 tion relief, improved mobility, air pollution,
7 noise pollution, energy consumption, and
8 all associated ancillary and mitigation
9 costs necessary to carry out each alter-
10 native analyzed and recognize reductions in
11 local infrastructure costs achieved through
12 compact land use development;

13 ‘(iii) identify and consider public
14 transportation supportive existing land use
15 policies and future patterns and the cost of
16 suburban sprawl;

17 ‘(iv) consider the degree to which the
18 project increases the mobility of the public
19 transportation dependent population or
20 promotes economic development;

21 ‘(v) consider population density and
22 current transit ridership in the corridor;

23 ‘(vi) consider the technical capability
24 of the grant recipient to construct the
25 project;

1 ‘(vii) adjust the project justification to
2 reflect differences in local land, construc-
3 tion, and operating costs; and

4 ‘(viii) consider other factors that the
5 Secretary determines appropriate to carry
6 out this chapter.

7 ‘(C) LOCAL FINANCIAL COMMITMENT.—In
8 evaluating a proposed project under paragraph
9 (2)(C), the Secretary shall require that—

10 ‘(i) the proposed project plan provides
11 for the availability of contingency amounts
12 that the Secretary determines to be reason-
13 able to cover unanticipated cost increases;

14 ‘(ii) each proposed local source of cap-
15 ital and operating financing is stable, reli-
16 able, and available within the proposed
17 project timetable; and

18 ‘(iii) local resources are available to
19 operate the overall proposed public trans-
20 portation system (including essential feeder
21 bus and other services necessary to achieve
22 the projected ridership levels) without re-
23 quiring a reduction in existing public
24 transportation services to operate the pro-
25 posed project.

1 ‘(D) ASSESSMENT OF LOCAL FINANC-
2 ING.—In assessing the stability, reliability, and
3 availability of proposed sources of local financ-
4 ing under paragraph (2)(C), the Secretary shall
5 consider—

6 ‘(i) existing grant commitments;

7 ‘(ii) the degree to which financing
8 sources are dedicated to the purposes pro-
9 posed;

10 ‘(iii) any debt obligation that exists or
11 is proposed by the recipient for the pro-
12 posed project or other public transpor-
13 tation purpose; and

14 ‘(iv) the extent to which the project
15 has a local financial commitment that ex-
16 ceeds the required non-Federal share of
17 the cost of the project.

18 ‘(4) EVALUATION AND RATING OF PROJECTS.—

19 A proposed project under this subsection may ad-
20 vance from alternatives analysis to preliminary engi-
21 neering, and may advance from preliminary engi-
22 neering to final design and construction, only if the
23 Secretary finds that the project meets the require-
24 ments of this section and there is a reasonable likeli-
25 hood that the project will continue to meet such re-

1 requirements. In making the findings, the Secretary
2 shall evaluate and rate the project as “highly rec-
3 ommended”, “recommended”, or “not rec-
4 ommended” based on the results of alternatives
5 analysis, the project justification criteria, and the
6 degree of local financial commitment, as required
7 under this subsection. In rating the projects, the
8 Secretary shall provide, in addition to the overall
9 project rating, individual ratings for each of the cri-
10 teria established by regulation.

11 ‘(5) MAJOR DEFINED.—In this section, the
12 term “major”, as used with respect to a new fixed
13 guideway capital project, means the Federal assist-
14 ance provided or to be provided under this section
15 for the project is \$75,000,000 or more.

16 ‘(d) CAPITAL INVESTMENT GRANTS LESS THAN
17 \$75,000,000.—

18 ‘(1) IN GENERAL.—Subject to the provisions of
19 this subsection, if the Federal assistance provided or
20 to be provided under this section with respect to a
21 new fixed guideway capital project is less than
22 \$75,000,000, and not less than \$25,000,000, the
23 project shall be subject to the requirements in this
24 subsection.

1 ‘(2) SELECTION CRITERIA.—The Secretary may
2 provide Federal assistance under this subsection
3 with respect to a proposed project only if the Sec-
4 retary finds that the project is—

5 ‘(A) based on the results of planning and
6 alternatives analysis;

7 ‘(B) justified based on a review of its pub-
8 lic transportation supportive land use policies,
9 cost effectiveness, and effect on local economic
10 development; and

11 ‘(C) supported by an acceptable degree of
12 local financial commitment.

13 ‘(3) PLANNING AND ALTERNATIVES.—In evalu-
14 ating a project under paragraph (2)(A), the Sec-
15 retary shall analyze and consider the results of plan-
16 ning and alternatives analysis for the project.

17 ‘(4) PROJECT JUSTIFICATION.—For purposes of
18 making the finding under paragraph (2)(B), the
19 Secretary shall—

20 ‘(A) determine the degree to which the
21 project is consistent with local land use policies
22 and is likely to achieve local developmental
23 goals;

1 ‘(B) determine the cost effectiveness of the
2 project at the time of the initiation of revenue
3 service;

4 ‘(C) determine the degree to which the
5 project will have a positive effect on local eco-
6 nomic development;

7 ‘(D) consider the reliability of the forecasts
8 of costs and ridership associated with the
9 project; and

10 ‘(E) consider other factors that the Sec-
11 retary determines appropriate to carry out this
12 subsection.

13 ‘(5) LOCAL FINANCIAL COMMITMENT.—For
14 purposes of paragraph (2)(C), the Secretary shall re-
15 quire that each proposed local source of capital and
16 operating financing is stable, reliable, and available
17 within the proposed project timetable.

18 ‘(6) ADVANCEMENT OF PROJECT TO DEVELOP-
19 MENT AND CONSTRUCTION.—

20 ‘(A) GENERAL RULE.—A proposed project
21 under this subsection may advance from plan-
22 ning and alternatives analysis to project devel-
23 opment and construction only if—

24 ‘(i) the Secretary finds that the
25 project meets the requirements of this sub-

1 section and there is a reasonable likelihood
2 that the project will continue to meet such
3 requirements; and

4 ‘(ii) the metropolitan planning organi-
5 zation has adopted the locally preferred al-
6 ternative for the project into the long-
7 range transportation plan.

8 ‘(B) EVALUATION.—In making the find-
9 ings under subparagraph (A), the Secretary
10 shall evaluate and rate the project as “rec-
11 ommended” or “not recommended” based on
12 the results of the analysis of the project jus-
13 tification criteria and the degree of local finan-
14 cial commitment, as required by this subsection.

15 ‘(7) CONTENTS OF PROJECT CONSTRUCTION
16 GRANT AGREEMENT.—A project construction grant
17 agreement under this subsection shall specify the
18 scope of the project to be constructed, the estimated
19 net project cost of the project, the schedule under
20 which the project shall be constructed, the maximum
21 amount of funding to be obtained under this sub-
22 section, the proposed schedule for obligation of fu-
23 ture Federal grants, and the sources of funding
24 from other than the Government. The agreement
25 may include a commitment on the part of the Sec-

1 retary to provide funding for the project in future
2 fiscal years.

3 “(8) LIMITATION ON ENTRY INTO CONSTRU-
4 TION GRANT AGREEMENT.—The Secretary may
5 enter into a project construction grant agreement
6 for a project under this subsection only if the project
7 is authorized for construction and has been rated as
8 “recommended” under this subsection.

9 “(9) REGULATIONS.—Not later than 120 days
10 after the date of enactment of the Federal Public
11 Transportation Act of 2005, the Secretary shall
12 issue regulations establishing an evaluation and rat-
13 ing process for proposed projects under this sub-
14 section that is based on the results of project jus-
15 tification and local financial commitment, as re-
16 quired under this subsection.

17 “(10) FIXED GUIDEWAY CAPITAL PROJECT.—In
18 this subsection, the term “fixed guideway capital
19 project” includes a corridor-based public transpor-
20 tation bus capital project if the majority of the
21 project’s corridor right-of-way is dedicated alignment
22 for exclusive use by public transportation vehicles for
23 all or part of the day.

24 “(e) PREVIOUSLY ISSUED LETTER OF INTENT OR
25 FULL FUNDING GRANT AGREEMENT.—Subsections (c)

1 and (d) do not apply to projects for which the Secretary
2 has issued a letter of intent or entered into a full funding
3 grant agreement before the date of enactment of the Fed-
4 eral Public Transportation Act of 2005.

5 ‘(f) LETTERS OF INTENT, FULL FUNDING GRANT
6 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
7 MENTS.—

8 ‘(1) LETTERS OF INTENT.—

9 ‘(A) AMOUNTS INTENDED TO BE OBLI-
10 GATED.—The Secretary may issue a letter of
11 intent to an applicant announcing an intention
12 to obligate, for a capital project under this sec-
13 tion, an amount from future available budget
14 authority specified in law that is not more than
15 the amount stipulated as the financial partici-
16 pation of the Secretary in the project. When a
17 letter is issued for fixed guideway projects, the
18 amount shall be sufficient to complete at least
19 an operable segment.

20 ‘(B) TREATMENT.—The issuance of a let-
21 ter under subparagraph (A) is deemed not to be
22 an obligation under sections 1108(c), 1108(d),
23 1501, and 1502(a) of title 31 or an administra-
24 tive commitment.

25 ‘(2) FULL FUNDING GRANT AGREEMENTS.—

1 ‘(A) TERMS.—The Secretary may make a
2 full funding grant agreement with an applicant.

3 The agreement shall—

4 ‘(i) establish the terms of participa-
5 tion by the Government in a project under
6 this section;

7 ‘(ii) establish the maximum amount of
8 Government financial assistance for the
9 project;

10 ‘(iii) cover the period of time for com-
11 pleting the project, including a period ex-
12 tending beyond the period of an authoriza-
13 tion; and

14 ‘(iv) make timely and efficient man-
15 agement of the project easier according to
16 the law of the United States.

17 ‘(B) SPECIAL FINANCIAL RULES.—

18 ‘(i) IN GENERAL.—An agreement
19 under this paragraph obligates an amount
20 of available budget authority specified in
21 law and may include a commitment, con-
22 tingent on amounts to be specified in law
23 in advance for commitments under this
24 paragraph, to obligate an additional

1 amount from future available budget au-
2 thority specified in law.

3 ‘(ii) STATEMENT OF CONTINGENT
4 COMMITMENT.—The agreement shall state
5 that the contingent commitment is not an
6 obligation of the Government.

7 ‘(iii) INTEREST AND OTHER FINANC-
8 ING COSTS.—Interest and other financing
9 costs of efficiently carrying out a part of
10 the project within a reasonable time are a
11 cost of carrying out the project under a
12 full funding grant agreement, except that
13 eligible costs may not be more than the
14 cost of the most favorable financing terms
15 reasonably available for the project at the
16 time of borrowing. The applicant shall cer-
17 tify, in a way satisfactory to the Secretary,
18 that the applicant has shown reasonable
19 diligence in seeking the most favorable fi-
20 nancing terms.

21 ‘(iv) COMPLETION OF OPERABLE SEG-
22 MENT.—The amount stipulated in an
23 agreement under this paragraph for a fixed
24 guideway project shall be sufficient to com-
25 plete at least an operable segment.

1 ‘(3) EARLY SYSTEM WORK AGREEMENTS.—

2 ‘(A) CONDITIONS.—The Secretary may
3 make an early systems work agreement with an
4 applicant if a record of decision under the Na-
5 tional Environmental Policy Act of 1969 (42
6 U.S.C. 4321 et seq.) has been issued on the
7 project and the Secretary finds there is reason
8 to believe—

9 ‘(i) a full funding grant agreement for
10 the project will be made; and

11 ‘(ii) the terms of the work agreement
12 will promote ultimate completion of the
13 project more rapidly and at less cost.

14 ‘(B) CONTENTS.—

15 ‘(i) IN GENERAL.—A work agreement
16 under this paragraph obligates an amount
17 of available budget authority specified in
18 law and shall provide for reimbursement of
19 preliminary costs of carrying out the
20 project, including land acquisition, timely
21 procurement of system elements for which
22 specifications are decided, and other activi-
23 ties the Secretary decides are appropriate
24 to make efficient, long-term project man-
25 agement easier.

1 ‘(ii) PERIOD COVERED.—A work
2 agreement under this paragraph shall
3 cover the period of time the Secretary con-
4 siders appropriate. The period may extend
5 beyond the period of current authorization.

6 ‘(iii) INTEREST AND OTHER FINANC-
7 ING COSTS.—Interest and other financing
8 costs of efficiently carrying out the work
9 agreement within a reasonable time are a
10 cost of carrying out the agreement, except
11 that eligible costs may not be more than
12 the cost of the most favorable financing
13 terms reasonably available for the project
14 at the time of borrowing. The applicant
15 shall certify, in a way satisfactory to the
16 Secretary, that the applicant has shown
17 reasonable diligence in seeking the most
18 favorable financing terms.

19 ‘(iv) FAILURE TO CARRY OUT
20 PROJECT.—If an applicant does not carry
21 out the project for reasons within the con-
22 trol of the applicant, the applicant shall
23 repay all Government payments made
24 under the work agreement plus reasonable

1 interest and penalty charges the Secretary
2 establishes in the agreement.

3 ‘(4) LIMITATION ON AMOUNTS.—

4 ‘(A) MAJOR CAPITAL INVESTMENT GRANTS
5 CONTINGENT COMMITMENT AUTHORITY.—The
6 total estimated amount of future obligations of
7 the Government and contingent commitments to
8 incur obligations covered by all outstanding let-
9 ters of intent, full funding grant agreements,
10 and early systems work agreements under this
11 subsection for major new fixed guideway capital
12 projects may be not more than the greater of
13 the amount authorized under sections 5338(b)
14 and 5338(h)(1) for such projects or an amount
15 equivalent to the last 3 fiscal years of funding
16 allocated under subsections (m)(1)(B) and
17 (m)(2)(B)(ii) for such projects, less an amount
18 the Secretary reasonably estimates is necessary
19 for grants under this section for those of such
20 projects that are not covered by a letter or
21 agreement. The total amount covered by new
22 letters and contingent commitments included in
23 full funding grant agreements and early sys-
24 tems work agreements for such projects may be
25 not more than a limitation specified in law.

1 ‘(B) OTHER CONTINGENT COMMITMENT
2 AUTHORITY.—The total estimated amount of
3 future obligations of the Government and con-
4 tingent commitments to incur obligations cov-
5 ered by all project construction grant agree-
6 ments and early system work agreements under
7 this subsection for small capital projects de-
8 scribed in subsection (d) may be not more than
9 the greater of the amount allocated under sub-
10 section (m)(2)(A) for such projects or an
11 amount equivalent to the last fiscal year of
12 funding allocated under subsection (m)(2)(A)
13 for such projects, less an amount the Secretary
14 reasonably estimates is necessary for grants
15 under this section for those of such projects
16 that are not covered by an agreement. The total
17 amount covered by new contingent commit-
18 ments included in project construction grant
19 agreements and early systems work agreements
20 for such projects may be not more than a limi-
21 tation specified in law.

22 ‘(C) INCLUSION OF CERTAIN COMMIT-
23 MENTS.—Future obligations of the Government
24 and contingent commitments made against the
25 contingent commitment authority under section

1 3032(g)(2) of the Intermodal Surface Trans-
2 portation Efficiency Act of 1991 (106 Stat.
3 2125) for the San Francisco BART to the Air-
4 port project for fiscal years 2002, 2003, 2004,
5 2005, and 2006 shall be charged against sec-
6 tion 3032(g)(2) of that Act.

7 ‘(D) APPROPRIATION REQUIRED.—An obli-
8 gation may be made under this subsection only
9 when amounts are appropriated for the obliga-
10 tion.

11 ‘(5) NOTIFICATION OF CONGRESS.—At least 60
12 days before issuing a letter of intent or entering into
13 a full funding grant agreement or project construc-
14 tion grant agreement under this section, the Sec-
15 retary shall notify, in writing, the Committee on
16 Transportation and Infrastructure of the House of
17 Representatives and the Committee on Banking,
18 Housing, and Urban Affairs of the Senate of the
19 proposed letter or agreement. The Secretary shall in-
20 clude with the notification a copy of the proposed
21 letter or agreement as well as the evaluations and
22 ratings for the project.

23 ‘(g) GOVERNMENT’S SHARE OF NET PROJECT
24 COST.—

1 ‘(1) FEDERAL SHARE.—Based on engineering
2 studies, studies of economic feasibility, and informa-
3 tion on the expected use of equipment or facilities,
4 the Secretary shall estimate the net project cost. A
5 grant for the project shall be for 80 percent of the
6 net capital project cost, unless the grant recipient
7 requests a lower grant percentage.

8 ‘(2) REMAINDER OF NET PROJECT COST.—The
9 remainder of net project costs shall be provided from
10 an undistributed cash surplus, a replacement or de-
11 preciation cash fund or reserve, or new capital.

12 ‘(3) LIMITATION ON STATUTORY CONSTRUC-
13 TION.—Nothing in this section, including paragraph
14 (1) and subsections (c)(3)(D)(iv) and (c)(4), shall be
15 construed as authorizing the Secretary to require a
16 non-Federal financial commitment for a project that
17 is more than 20 percent of the net capital project
18 cost.

19 ‘(4) SPECIAL RULE FOR ROLLING STOCK
20 COSTS.—In addition to amounts allowed pursuant to
21 paragraph (1), a planned extension to a fixed guide-
22 way system may include the cost of rolling stock pre-
23 viously purchased if the applicant satisfies the Sec-
24 retary that only amounts other than amounts of the
25 Government were used and that the purchase was

1 made for use on the extension. A refund or reduc-
2 tion of the remainder may be made only if a refund
3 of a proportional amount of the grant of the Govern-
4 ment is made at the same time.

5 ‘(5) LIMITATION ON APPLICABILITY.—This sub-
6 section does not apply to projects for which the Sec-
7 retary has entered into a full funding grant agree-
8 ment before the date of enactment of the Federal
9 Public Transportation Act of 2005.

10 ‘(h) FISCAL CAPACITY CONSIDERATIONS.—If the
11 Secretary gives priority consideration to financing projects
12 that include more than the non-Government share re-
13 quired under subsection (g), the Secretary shall give equal
14 consideration to differences in the fiscal capacity of State
15 and local governments.

16 ‘(i) REPORTS ON NEW STARTS.—

17 ‘(1) ANNUAL DOT REPORT.—Not later than the
18 first Monday in February of each year, the Sec-
19 retary shall submit to the Committee on Transpor-
20 tation and Infrastructure of the House of Represent-
21 atives and the Committee on Banking, Housing, and
22 Urban Affairs of the Senate a report that includes—

23 ‘(A) a proposal of allocations of amounts
24 to be available to finance grants for new fixed

1 guideway capital projects among applicants for
2 these amounts;

3 ‘(B) evaluations and ratings, as required
4 under subsection (e), for each such project that
5 is authorized by the Federal Public Transpor-
6 tation Act of 2005; and

7 ‘(C) recommendations of such projects for
8 funding based on the evaluations and ratings
9 and on existing commitments and anticipated
10 funding levels for the next 3 fiscal years and for
11 the next 10 fiscal years based on information
12 currently available to the Secretary.

13 ‘(2) ANNUAL GAO REVIEW.—The Comptroller
14 General shall—

15 ‘(A) conduct an annual review of—

16 ‘(i) the processes and procedures for
17 evaluating, rating, and recommending new
18 fixed guideway capital projects; and

19 ‘(ii) the Secretary’s implementation of
20 such processes and procedures; and

21 ‘(B) report to Congress on the results of
22 such review by May 31 of each year.

23 ‘(j) UNDERTAKING PROJECTS IN ADVANCE.—

24 ‘(1) IN GENERAL.—The Secretary may pay the
25 Government’s share of the net capital project cost to

1 a State or local governmental authority that carries
2 out any part of a project described in this section
3 without the aid of amounts of the Government and
4 according to all applicable procedures and require-
5 ments if—

6 ‘(A) the State or local governmental au-
7 thority applies for the payment;

8 ‘(B) the Secretary approves the payment;
9 and

10 ‘(C) before carrying out the part of the
11 project, the Secretary approves the plans and
12 specifications for the part in the same way as
13 other projects under this section.

14 ‘(2) FINANCING COSTS.—

15 ‘(A) IN GENERAL.—The cost of carrying
16 out part of a project includes the amount of in-
17 terest earned and payable on bonds issued by
18 the State or local governmental authority to the
19 extent proceeds of the bonds are expended in
20 carrying out the part.

21 ‘(B) LIMITATION ON AMOUNT OF INTER-
22 EST.—The amount of interest under this para-
23 graph may not be more than the most favorable
24 interest terms reasonably available for the
25 project at the time of borrowing.

1 ‘(C) CERTIFICATION.—The applicant shall
2 certify, in a manner satisfactory to the Sec-
3 retary, that the applicant has shown reasonable
4 diligence in seeking the most favorable financial
5 terms.

6 ‘(3) CAPITAL PROJECT COST INDICES.—The
7 Secretary shall consider changes in capital project
8 cost indices when determining the estimated cost
9 under paragraph (2).

10 ‘(k) BUS AND BUS FACILITIES PROJECTS.—In mak-
11 ing grants under subsections (m)(1)(C) and
12 (m)(2)(B)(iii), the Secretary shall consider the age of
13 buses, bus fleets, related equipment, and bus-related facili-
14 ties.

15 ‘(l) AVAILABILITY OF AMOUNTS.—An amount made
16 available or appropriated under section 5338(b), 5338(g),
17 or 5338(h) for replacement, rehabilitation, and purchase
18 of buses and related equipment and construction of bus-
19 related facilities or for new fixed guideway capital projects
20 shall remain available for 3 fiscal years, including the fis-
21 cal year in which the amount is made available or appro-
22 priated. Any of such amounts that are unobligated at the
23 end of the 3-fiscal-year period shall be deobligated and
24 may be used by the Secretary for any purpose under this
25 section.

1 ‘(m) ALLOCATING AMOUNTS.—

2 ‘(1) FISCAL YEAR 2004.—The total amount of
3 funds made available by or appropriated under sec-
4 tion 5338(b) for fiscal year 2004 shall be allocated
5 as follows:

6 ‘(A) 40 percent for fixed guideway mod-
7 ernization;

8 ‘(B) 40 percent for major new fixed guide-
9 way capital projects; and

10 ‘(C) 20 percent to replace, rehabilitate,
11 and purchase buses and related equipment and
12 to construct bus-related facilities.

13 ‘(2) FISCAL YEARS 2005–2009.—The total
14 amount of funds made available by section 5338(g),
15 and appropriated under section 5338(h), for each of
16 fiscal years 2005 through 2009 shall be allocated in
17 the fiscal year as follows:

18 ‘(A) SMALL CAPITAL PROJECTS.—From
19 funds appropriated under section 5338(h) for
20 new fixed guideway capital projects described in
21 subsection (d)—

22 ‘(i) \$135,000,000 in fiscal year 2005;

23 ‘(ii) \$175,000,000 in fiscal year 2006;

24 ‘(iii) \$200,000,000 in fiscal year
25 2007;

1 ‘(iv) \$200,000,000 in fiscal year
2 2008; and

3 ‘(v) \$225,000,000 in fiscal year 2009.

4 ‘(B) REMAINDER.—After the allocation
5 under subparagraph (A), the remainder of such
6 total amount shall be allocated as follows:

7 ‘(i) 40 percent for fixed guideway
8 modernization, to be derived from funds
9 made available under section 5338(g).

10 ‘(ii) 40 percent for major new fixed
11 capital guideway projects, to be derived
12 from funds appropriated under section
13 5338(h).

14 ‘(iii) 20 percent to replace, rehabili-
15 tate, and purchase buses and related
16 equipment and to construct bus-related fa-
17 cilities, to be derived from funds made
18 available under section 5338(g).

19 ‘(3) FUNDING FOR FERRY BOAT SYSTEMS.—Of
20 the amounts made available under paragraphs
21 (1)(B) and (2)(B)(ii), \$10,400,000 shall be available
22 in each of fiscal years 2004 through 2009 for new
23 fixed guideway capital projects in Alaska or Hawaii
24 that are for ferry boats or ferry terminal facilities or
25 that are for approaches to ferry terminal facilities.

1 Of the amounts made available under paragraphs
2 (1)(C) and (2)(B)(iii), \$10,000,000 shall be avail-
3 able in each of fiscal years 2005 through 2009 for
4 ferry boats or ferry terminal facilities.

5 (4) FUEL CELL BUS PROGRAM.—Of the
6 amounts made available under subsections (m)(1)(C)
7 and (m)(2)(B)(iii) for a fiscal year, the following
8 amounts shall be set aside for the national fuel cell
9 bus technology development program under section
10 3039 of the Federal Public Transportation Act of
11 2005:

12 (A) \$4,849,950 for fiscal year 2004.

13 (B) \$10,000,000 for fiscal year 2005.

14 (C) \$11,000,000 for fiscal year 2006.

15 (D) \$12,000,000 for fiscal year 2007.

16 (E) \$13,000,000 for fiscal year 2008.

17 (F) \$14,000,000 for fiscal year 2009.

18 (n) NEW FIXED GUIDEWAY CAPITAL PROJECT DE-
19 FINED.—In this section, the term “new fixed guideway
20 capital project” means a minimum operable segment of
21 a capital project for a new fixed guideway system or exten-
22 sion to an existing fixed guideway system.’.

23 (e) CONFORMING AMENDMENTS.—

1 (1) CHAPTER ANALYSIS.—The analysis for
2 chapter 53 is amended by striking the item relating
3 to section 5309 and inserting the following:

‘5309. Capital investment grants.’.

4 (2) SECTION 5328.—Section 5328(a) is amend-
5 ed—

6 (A) in paragraph (2) by striking ‘5309(e)’
7 and inserting ‘5309(c)’; and

8 (B) in paragraph (4) by striking ‘under
9 section 5309(o)(1)’ and inserting ‘under section
10 5309(i)(1)’.

11 **SEC. 3011. FORMULA GRANTS FOR SPECIAL NEEDS OF EL-**
12 **DERLY INDIVIDUALS AND INDIVIDUALS WITH**
13 **DISABILITIES.**

14 (a) IN GENERAL.—Section 5310 is amended—

15 (1) by striking the section heading and insert-
16 ing the following:

17 **‘§ 5310. Formula grants for special needs of elderly**
18 **individuals and individuals with disabili-**
19 **ties’;**

20 (2) by striking subsections (a) through (g) and
21 inserting the following:

22 ‘(a) GENERAL AUTHORITY.—

23 ‘(1) GRANTS.—The Secretary may make grants
24 to States and local governmental authorities under
25 this section for public transportation capital

1 projects, and operating costs associated with public
2 transportation capital projects, planned, designed,
3 and carried out to meet the special needs of elderly
4 individuals and individuals with disabilities.

5 ‘(2) SUBRECIPIENTS.—A State that receives a
6 grant under this section may allocate the amounts of
7 the grant to—

8 ‘(A) a private nonprofit organization if the
9 public transportation service provided under
10 paragraph (1) is unavailable, insufficient, or in-
11 appropriate; or

12 ‘(B) a governmental authority that—

13 ‘(i) is approved by the State to coordi-
14 nate services for elderly individuals and in-
15 dividuals with disabilities; or

16 ‘(ii) certifies that there are not any
17 nonprofit organizations readily available in
18 the area to provide the services described
19 under paragraph (1).

20 ‘(3) ACQUIRING PUBLIC TRANSPORTATION
21 SERVICES.—A public transportation capital project
22 under this section may include acquisition of public
23 transportation services as an eligible capital expense.

24 ‘(4) ADMINISTRATIVE EXPENSES.—A State or
25 local governmental authority may use not more than

1 10 percent of the amounts apportioned to the State
2 under this section to administer, plan, and provide
3 technical assistance for a project funded under this
4 section.

5 ‘(b) APPORTIONMENT AND TRANSFERS.—

6 ‘(1) APPORTIONMENT.—

7 ‘(A) FORMULA.—The Secretary shall ap-
8 portion amounts made available to carry out
9 this section under a formula the Secretary ad-
10 ministers that considers the number of elderly
11 individuals and individuals with disabilities in
12 each State.

13 ‘(B) LOW DENSITY ADJUSTMENT.—In ad-
14 ministering the apportionment formula under
15 subparagraph (A)—

16 ‘(i) in the case of a State with a popu-
17 lation density of 10 or fewer persons per
18 square mile, the Secretary shall multiply
19 by a factor of 2 the number of elderly indi-
20 viduals and individuals with disabilities in
21 the State (as determined using the most
22 recent decennial United States Census);
23 and

24 ‘(ii) in the case of a State with a pop-
25 ulation density of more than 10 but equal

1 to or fewer than 30 persons per square
2 mile, the Secretary shall multiply by a fac-
3 tor of 1.25 the number of elderly individ-
4 uals and individuals with disabilities in the
5 State (as determined using the most recent
6 decennial United States Census).

7 ‘(2) TRANSFERS.—Any State’s apportionment
8 remaining available for obligation at the beginning
9 of the 90-day period before the end of the period of
10 availability of the apportionment is available to the
11 State for transfer to supplement amounts appor-
12 tioned to the State under section 5311(c) or
13 5336(a)(1), or both. Any funds transferred pursuant
14 to this paragraph shall be made available only for el-
15 igible projects as described in this section.

16 ‘(c) GOVERNMENT’S SHARE OF COSTS.—

17 ‘(1) CAPITAL PROJECTS.—A grant for a capital
18 project under this section shall be for 80 percent of
19 the net capital costs of the project, as determined by
20 the Secretary; except that in the case of a State de-
21 scribed in section 120(b)(1) of title 23, such percent-
22 age shall be increased in accordance with such sec-
23 tion.

24 ‘(2) OPERATING ASSISTANCE.—A grant made
25 under this section for operating assistance may not

1 exceed 50 percent of the net operating costs of the
2 project, as determined by the Secretary.

3 ‘(3) REMAINDER.—The remainder of the net
4 project costs—

5 ‘(A) may be provided from an undistrib-
6 uted cash surplus, a replacement or deprecia-
7 tion cash fund or reserve, a service agreement
8 with a State or local social service agency or a
9 private social service organization, or new cap-
10 ital; and

11 ‘(B) may be derived from amounts appro-
12 priated to or made available to a department or
13 agency of the Government (other than the De-
14 partment of Transportation) that are eligible to
15 be expended for transportation.

16 ‘(4) USE OF CERTAIN FUNDS.—For purposes of
17 paragraph (3)(B), the prohibitions on the use of
18 funds for matching requirements under section
19 403(a)(5)(C)(vii) of the Social Security Act (42
20 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
21 or State funds to be used for transportation pur-
22 poses.

23 ‘(d) GRANT REQUIREMENTS.—

24 ‘(1) IN GENERAL.—A grant under this section
25 shall be subject to all requirements of a grant under

1 section 5307. A grant to a subrecipient under this
2 section shall be subject to such requirements to the
3 extent the Secretary considers appropriate.

4 ‘(2) COORDINATION WITH NONPROFIT PRO-
5 VIDERS.—A recipient that transfers funds to an ap-
6 portionment under section 5336(a)(1) pursuant to
7 subsection (b)(2) shall certify that the project for
8 which the funds are requested under this section has
9 been coordinated with nonprofit providers of serv-
10 ices.

11 ‘(3) PROJECT SELECTION AND PLANNING.—A
12 recipient of funds under this section shall certify
13 that—

14 ‘(A) the projects selected were derived
15 from a locally developed, coordinated public
16 transit-human services transportation plan; and

17 ‘(B) the plan was developed through a
18 process that included representatives of public,
19 private, and nonprofit transportation and
20 human services providers and participation by
21 the public.

22 ‘(4) FAIR AND EQUITABLE DISTRIBUTION.—A
23 recipient of a grant under this section shall certify
24 that allocations of the grant to subrecipients are dis-
25 tributed on a fair and equitable basis.

1 ‘(e) STATE PROGRAM.—

2 ‘(1) IN GENERAL.—Amounts made available to
3 carry out this section may be used for transportation
4 projects to assist in providing transportation services
5 for elderly individuals and individuals with disabili-
6 ties that are included in a State program of
7 projects.

8 ‘(2) SUBMISSION AND APPROVAL.—A program
9 shall be submitted annually to the Secretary for ap-
10 proval and shall contain an assurance that the pro-
11 gram provides for maximum feasible coordination of
12 transportation services assisted under this section
13 with transportation services assisted by other Gov-
14 ernment sources.

15 ‘(f) LEASING VEHICLES.—Vehicles acquired under
16 this section may be leased to local governmental authori-
17 ties to improve transportation services designed to meet
18 the special needs of elderly individuals and individuals
19 with disabilities.’; and

20 (3) by redesignating subsections (h) through (j)
21 as subsections (g) through (i), respectively.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 53 is amended by striking the item relating to
24 section 5310 and inserting the following:

‘5310. Formula grants for special needs of elderly individuals and individuals
with disabilities.’.

1 **SEC. 3012. FORMULA GRANTS FOR OTHER THAN URBAN-**
2 **IZED AREAS.**

3 (a) DEFINITIONS.—Section 5311(a) is amended to
4 read as follows:

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

7 (1) RECIPIENT.—The term “recipient” means
8 a State that receives a Federal transit program
9 grant directly from the Government.

10 (2) SUBRECIPIENT.—The term “subrecipient”
11 means a State or local governmental authority, non-
12 profit organization, or operator of public transpor-
13 tation services that receives a Federal transit pro-
14 gram grant indirectly through a recipient.’.

15 (b) GENERAL AUTHORITY.—Section 5311(b) is
16 amended to read as follows:

17 ‘(b) GENERAL AUTHORITY.—

18 (1) GRANTS.—Except as provided in paragraph
19 (2), the Secretary may make grants to other than
20 urbanized areas under this section for the following:

21 (A) Public transportation capital projects.

22 (B) Operating costs of equipment and fa-
23 cilities for use in public transportation.

24 (C) Acquisition of public transportation
25 services, including service agreements with pri-
26 vate providers of public transportation services.

1 ‘(2) STATE PROGRAM.—

2 ‘(A) IN GENERAL.—Amounts made avail-
3 able to carry out this section shall be used for
4 projects included in a State program for public
5 transportation projects, including service agree-
6 ments with private providers of public transpor-
7 tation.

8 ‘(B) SUBMISSION.—The program shall be
9 submitted annually to the Secretary for ap-
10 proval.

11 ‘(C) APPROVAL.—The Secretary may ap-
12 prove the program only if the Secretary finds
13 that the program provides a fair distribution of
14 amounts in the State, including Indian reserva-
15 tions, and the maximum feasible coordination of
16 public transportation service assisted under this
17 section with transportation service assisted by
18 other Federal sources.

19 ‘(3) RURAL TRANSPORTATION ASSISTANCE PRO-
20 GRAM.—

21 ‘(A) IN GENERAL.—The Secretary shall
22 carry out a rural transportation assistance pro-
23 gram in other than urbanized areas.

24 ‘(B) GRANTS AND CONTRACTS.—In car-
25 rying out this paragraph, the Secretary may use

1 not more than 2 percent of the amount made
2 available to carry out this section to make
3 grants and contracts for transportation re-
4 search, technical assistance, training, and re-
5 lated support services in other than urbanized
6 areas.

7 ‘(C) PROJECTS OF A NATIONAL SCOPE.—
8 Not more than 15 percent of the amounts avail-
9 able under subparagraph (B) may be used by
10 the Secretary to carry out projects of a national
11 scope, with the remaining balance provided to
12 the States.’.

13 (c) APPORTIONMENTS.—Section 5311(c) is amended
14 to read as follows:

15 ‘(c) APPORTIONMENTS.—

16 ‘(1) IN GENERAL.—The Secretary shall appor-
17 tion amounts made available to carry out this sec-
18 tion among the States in the ratio that—

19 ‘(A) the population of other than urbanized
20 areas in each State, as shown by the most re-
21 cent Government decennial census of popu-
22 lation; bears to

23 ‘(B) the population of all other than ur-
24 banized areas in the United States, as shown by
25 that census.

1 ‘(2) LOW DENSITY ADJUSTMENT.—In admin-
2 istering the apportionment formula under paragraph
3 (1)—

4 ‘(A) in the case of a State with a popu-
5 lation density of 10 or fewer persons per square
6 mile in other than urbanized areas of the State,
7 the Secretary shall multiply by a factor of 1.5
8 the population of such other than urbanized
9 areas (as determined using the most recent de-
10 cennial United States Census); and

11 ‘(B) in the case of a State with a popu-
12 lation density of more than 10 but equal to or
13 fewer than 12 persons per square mile in other
14 than urbanized areas of the State, the Sec-
15 retary shall multiply by a factor of 1.25 the
16 population of such other than urbanized areas
17 (as determined using the most recent decennial
18 United States Census).

19 ‘(3) AVAILABILITY.—The amount apportioned
20 to a State under this subsection may be obligated by
21 the State for 2 fiscal years after the fiscal year in
22 which the amount is apportioned. An amount that is
23 not obligated at the end of that period shall be re-
24 apportioned among the States for the next fiscal
25 year.’.

1 (d) USE FOR ADMINISTRATION, PLANNING, AND
2 TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

3 (1) in the subsection heading by inserting ‘,
4 planning,’ after ‘administration’;

5 (2) by striking ‘(1) The Secretary’ and insert-
6 ing ‘The Secretary’;

7 (3) by striking paragraph (2); and

8 (4) by striking ‘recipient’ and inserting ‘sub-
9 recipient’.

10 (e) INTERCITY BUS TRANSPORTATION.—Section
11 5311(f) is amended—

12 (1) in paragraph (1) by striking ‘after Sep-
13 tember 30, 1993,’; and

14 (2) in paragraph (2) by striking ‘A State’ and
15 inserting ‘After consultation with affected intercity
16 bus service providers, a State’.

17 (f) GOVERNMENT’S SHARE OF COSTS.—Section
18 5311(g) is amended to read as follows:

19 ‘(g) GOVERNMENT’S SHARE OF COSTS.—

20 (1) CAPITAL PROJECTS.—A grant for a capital
21 project under this section shall be for 80 percent of
22 the net capital costs of the project, as determined by
23 the Secretary; except that in the case of a State de-
24 scribed in section 120(b)(1) of title 23, such percent-

1 age shall be increased in accordance with such sec-
2 tion.

3 ‘(2) OPERATING ASSISTANCE.—A grant made
4 under this section for operating assistance may not
5 exceed 50 percent of the net operating costs of the
6 project, as determined by the Secretary.

7 ‘(3) REMAINDER.—The remainder of net
8 project costs—

9 ‘(A) may be provided from an undistrib-
10 uted cash surplus, a replacement or deprecia-
11 tion cash fund or reserve, a service agreement
12 with a State or local social service agency or a
13 private social service organization, or new cap-
14 ital; and

15 ‘(B) may be derived from amounts appro-
16 priated to or made available to a department or
17 agency of the Government (other than the De-
18 partment of Transportation) that are eligible to
19 be expended for transportation.

20 ‘(4) USE OF CERTAIN FUNDS.—For purposes of
21 paragraph (3)(B), the prohibitions on the use of
22 funds for matching requirements under section
23 403(a)(5)(C)(vii) of the Social Security Act (42
24 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal

1 or State funds to be used for transportation pur-
2 poses.

3 ‘(5) LIMITATION ON OPERATING ASSISTANCE.—
4 A State carrying out a program of operating assist-
5 ance under this section may not limit the level or ex-
6 tent of use of the Government grant for the payment
7 of operating expenses.’.

8 (g) RELATIONSHIP TO OTHER LAWS.—Section 5311
9 is amended—

10 (1) by striking subsection (h); and

11 (2) by redesignating subsections (i) and (j) as
12 subsections (h) and (i), respectively.

13 (h) CORRECTION TO CHAPTER ANALYSIS.—The anal-
14 ysis for chapter 53 is amended by striking the item relat-
15 ing to section 5311 and inserting the following:

‘5311. Formula grants for other than urbanized areas.’.

16 **SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION,**
17 **AND DEPLOYMENT PROJECTS.**

18 (a) IN GENERAL.—Section 5312 is amended—

19 (1) in subsection (a)—

20 (A) by striking the first parenthetical
21 phrase;

22 (B) by striking ‘or contracts’ and inserting
23 ‘, contracts, cooperative agreements, or other
24 transactions’;

1 (C) by striking ‘help reduce urban trans-
2 portation needs, improve mass transportation
3 service,’ and inserting ‘improve transportation
4 service’;

5 (D) by striking ‘urban’ each place it ap-
6 pears; and

7 (E) by striking ‘and demonstration
8 projects’ and inserting ‘, demonstration or de-
9 ployment projects, or evaluation of technology
10 of national significance’;

11 (2) by striking subsections (b) and (c);

12 (3) by redesignating subsections (d) and (e) as
13 subsections (b) and (c), respectively;

14 (4) in subsection (b)(2) (as so redesignated) by
15 striking ‘other agreements’ and inserting ‘other
16 transactions’; and

17 (5) in subsection (c)(2) (as so redesignated) by
18 striking ‘public and’ and inserting ‘public or’.

19 (b) CONFORMING AMENDMENTS.—

20 (1) SECTION HEADING.—Section 5312 is
21 amended by striking the section heading and insert-
22 ing the following:

1 **‘§ 5312. Research, development, demonstration, and**
2 **deployment projects’.**

3 (2) CHAPTER ANALYSIS.—The analysis for
4 chapter 53 is amended by striking the item relating
5 to section 5312 and inserting the following:

‘5312. Research, development, demonstration, and deployment projects.’.

6 **SEC. 3014. COOPERATIVE RESEARCH PROGRAM.**

7 (a) IN GENERAL.—Section 5313 is amended—

8 (1) in subsection (a) by striking ‘(1) The
9 amounts made available under paragraphs (1) and
10 (2)(C)(ii) of section 5338(d) of this title’ and insert-
11 ing ‘The amounts made available under paragraphs
12 (1)(C)(iv) and (2)(C) of section 5338(d)’;

13 (2) by striking subsection (b);

14 (3) in subsection (a)(2) by striking ‘(2) The’
15 and inserting ‘(b) Federal Assistance.—The’; and

16 (4) in subsection (c) by striking ‘subsection (a)
17 of’.

18 (b) CONFORMING AMENDMENTS.—

19 (1) IN GENERAL.—Section 5313 is amended by
20 striking the section heading and inserting the fol-
21 lowing:

1 **‘§ 5313. Cooperative research program’.**

2 (2) CHAPTER ANALYSIS.—The analysis for
3 chapter 53 is amended by striking the item relating
4 to section 5313 and inserting the following:

‘5313. Cooperative research program.’.

5 **SEC. 3015. NATIONAL RESEARCH AND TECHNOLOGY PRO-**
6 **GRAMS.**

7 (a) IN GENERAL.—Section 5314 is amended—

8 (1) by striking the section heading and insert-
9 ing the following:

10 **‘§ 5314. National research and technology programs’;**

11 (2) in subsection (a)(1)—

12 (A) by striking ‘subsections (d) and (h)(7)
13 of section 5338 of this title’ and inserting ‘sec-
14 tion 5338(d)’;

15 (B) by striking ‘and contracts’ and insert-
16 ing ‘, contracts, cooperative agreements, or
17 other transactions’;

18 (C) by striking ‘5303–5306,’; and

19 (D) by striking ‘5317,’;

20 (3) in subsection (a)(2) by striking ‘Of the
21 amounts’ and all that follows through ‘\$3,000,000
22 to’ and inserting ‘The Secretary shall’;

23 (4) by striking subsection (a)(4)(B);

24 (5) by redesignating subsection (a)(4)(C) as
25 subsection (a)(4)(B); and

1 (6) in subsection (b) by striking ‘or contract’
 2 and all that follows through ‘section,’ and inserting
 3 ‘, contract, cooperative agreement, or other trans-
 4 action under subsection (a) or section 5312,’.

5 (b) CONFORMING AMENDMENT.—The analysis for
 6 chapter 53 is amended by striking the item relating to
 7 section 5314 and inserting the following:

‘5314. National research and technology programs.’.

8 **SEC. 3016. NATIONAL TRANSIT INSTITUTE.**

9 Section 5315 is amended—

10 (1) in subsection (a) by striking ‘public mass
 11 transportation’ and inserting ‘public transportation’;
 12 and

13 (2) in subsection (d) by striking ‘mass’ each
 14 place it appears.

15 **SEC. 3017. JOB ACCESS AND REVERSE COMMUTE FORMULA**
 16 **GRANTS.**

17 (a) IN GENERAL.—Chapter 53 is amended by insert-
 18 ing after section 5315 the following:

19 **‘§ 5316. Job access and reverse commute formula**
 20 **grants**

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

23 ‘(1) ACCESS TO JOBS PROJECT.—The term “ac-
 24 cess to jobs project” means a project relating to the
 25 development and maintenance of transportation

1 services designed to transport welfare recipients and
2 eligible low-income individuals to and from jobs and
3 activities related to their employment, including—

4 ‘(A) transportation projects to finance
5 planning, capital, and operating costs of pro-
6 viding access to jobs under this chapter;

7 ‘(B) promoting public transportation by
8 low-income workers, including the use of public
9 transportation by workers with nontraditional
10 work schedules;

11 ‘(C) promoting the use of transit vouchers
12 for welfare recipients and eligible low-income in-
13 dividuals; and

14 ‘(D) promoting the use of employer-pro-
15 vided transportation, including the transit pass
16 benefit program under section 132 of the Inter-
17 nal Revenue Code of 1986.

18 ‘(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The
19 term “eligible low-income individual” means an indi-
20 vidual whose family income is at or below 150 per-
21 cent of the poverty line (as that term is defined in
22 section 673(2) of the Community Services Block
23 Grant Act (42 U.S.C. 9902(2)), including any revi-
24 sion required by that section) for a family of the size
25 involved.

1 ‘(3) RECIPIENT.—The term “recipient” means
2 a designated recipient (as defined in section
3 5307(a)(2)) and a State that receives a grant under
4 this section directly.

5 ‘(4) REVERSE COMMUTE PROJECT.—The term
6 “reverse commute project” means a public transpor-
7 tation project designed to transport residents of ur-
8 banized areas and other than urbanized areas to
9 suburban employment opportunities, including any
10 projects to—

11 ‘(A) subsidize the costs associated with
12 adding reverse commute bus, train, carpool, van
13 routes, or service from urbanized areas and
14 other than urbanized areas to suburban work-
15 places;

16 ‘(B) subsidize the purchase or lease by a
17 nonprofit organization or public agency of a van
18 or bus dedicated to shuttling employees from
19 their residences to a suburban workplace; or

20 ‘(C) otherwise facilitate the provision of
21 public transportation services to suburban em-
22 ployment opportunities.

23 ‘(5) SUBRECIPIENT.—The term “subrecipient”
24 means a State or local governmental authority, non-
25 profit organization, or operator of public transpor-

1 tation services that receives a grant under this sec-
2 tion indirectly through a recipient.

3 ‘(6) WELFARE RECIPIENT.—The term “welfare
4 recipient” means an individual who has received as-
5 sistance under a State or tribal program funded
6 under part A of title IV of the Social Security Act
7 at any time during the 3-year period before the date
8 on which the applicant applies for a grant under this
9 section.

10 ‘(b) GENERAL AUTHORITY.—

11 ‘(1) GRANTS.—The Secretary may make grants
12 under this section to a recipient for access to jobs
13 and reverse commute projects carried out by the re-
14 cipient or a subrecipient.

15 ‘(2) ADMINISTRATIVE EXPENSES.—A recipient
16 may use not more than 10 percent of the amounts
17 apportioned to the recipient under this section to ad-
18 minister, plan, and provide technical assistance for
19 a project funded under this section.

20 ‘(c) APPORTIONMENTS.—

21 ‘(1) FORMULA.—The Secretary shall apportion
22 amounts made available to carry out this section as
23 follows:

24 ‘(A) 60 percent of the funds shall be ap-
25 portioned among designated recipients (as de-

1 fined in section 5307(a)(2)) for urbanized areas
2 with a population of 200,000 or more in the
3 ratio that—

4 ‘(i) the number of eligible low-income
5 individuals and welfare recipients in each
6 such urbanized area; bears to

7 ‘(ii) the number of eligible low-income
8 individuals and welfare recipients in all
9 such urbanized areas.

10 ‘(B) 20 percent of the funds shall be ap-
11 portioned among the States in the ratio that—

12 ‘(i) the number of eligible low-income
13 individuals and welfare recipients in urban-
14 ized areas with a population of less than
15 200,000 in each State; bears to

16 ‘(ii) the number of eligible low-income
17 individuals and welfare recipients in urban-
18 ized areas with a population of less than
19 200,000 in all States.

20 ‘(C) 20 percent of the funds shall be ap-
21 portioned among the States in the ratio that—

22 ‘(i) the number of eligible low-income
23 individuals and welfare recipients in other
24 than urbanized areas in -each State; bears
25 to

1 ‘(ii) the number of eligible low-income
2 individuals and welfare recipients in other
3 than urbanized areas in all States.

4 ‘(2) USE OF APPORTIONED FUNDS.—Except as
5 provided in paragraph (3)—

6 ‘(A) funds apportioned under paragraph
7 (1)(A) shall be used for projects serving urban-
8 ized areas with a population of 200,000 or
9 more;

10 ‘(B) funds apportioned under paragraph
11 (1)(B) shall be used for projects serving urban-
12 ized areas with a population of less than
13 200,000; and

14 ‘(C) funds apportioned under paragraph
15 (1)(C) shall be used for projects serving other
16 than urbanized areas.

17 ‘(3) EXCEPTIONS.—A State may use funds ap-
18 portioned under paragraphs (1)(B) and (1)(C)—

19 ‘(A) for projects serving areas other than
20 the area specified in paragraph (2)(B) or
21 (2)(C), as the case may be, if the Governor of
22 the State certifies that all of the objectives of
23 this section are being met in the specified area;
24 or

1 ‘(B) for projects anywhere in the State if
2 the State has established a statewide program
3 for meeting the objectives of this section.

4 ‘(d) COMPETITIVE PROCESS FOR GRANTS TO SUB-
5 RECIPIENTS.—

6 ‘(1) AREAWIDE SOLICITATIONS.—A recipient of
7 funds apportioned under subsection (c)(1)(A) shall
8 conduct, in cooperation with the appropriate metro-
9 politan planning organization, an areawide sollicita-
10 tion for applications for grants to the recipient and
11 subrecipients under this section.

12 ‘(2) STATEWIDE SOLICITATION.—A recipient of
13 funds apportioned under subsection (c)(1)(B) or
14 (c)(1)(C) shall conduct a statewide solicitation for
15 applications for grants to the recipient and sub-
16 recipients under this section.

17 ‘(3) APPLICATION.—Recipients and subrecipi-
18 ents seeking to receive a grant from funds appor-
19 tioned under subsection (c) shall submit to the re-
20 cipient an application in the form and in accordance
21 with such requirements as the recipient shall estab-
22 lish.

23 ‘(4) GRANT AWARDS.—The recipient shall
24 award grants under paragraphs (1) and (2) on a
25 competitive basis.

1 ‘(e) TRANSFERS.—

2 ‘(1) IN GENERAL.—A State may transfer any
3 funds apportioned to it under subsection (c)(1)(B)
4 or (c)(1)(C), or both, to an apportionment under
5 section 5311(c) or 5336, or both.

6 ‘(2) LIMITED TO ELIGIBLE PROJECTS.—Any
7 apportionment transferred under this subsection
8 shall be made available only for eligible job access
9 and reverse commute projects as described in this
10 section.

11 ‘(3) CONSULTATION.—A State may make a
12 transfer of an amount under this subsection only
13 after consulting with responsible local officials and
14 publicly owned operators of public transportation in
15 each area for which the amount originally was
16 awarded under subsection (d)(4).

17 ‘(f) GRANT REQUIREMENTS.—

18 ‘(1) IN GENERAL.—A grant under this section
19 shall be subject to the requirements of section 5307.

20 ‘(2) FAIR AND EQUITABLE DISTRIBUTION.—A
21 recipient of a grant under this section shall certify
22 to the Secretary that allocations of the grant to sub-
23 recipients are distributed on a fair and equitable
24 basis.

25 ‘(g) COORDINATION.—

1 ‘(1) IN GENERAL.—The Secretary shall coordi-
2 nate activities under this section with related activi-
3 ties under programs of other Federal departments
4 and agencies.

5 ‘(2) WITH NONPROFIT PROVIDERS.—A State
6 that transfers funds to an apportionment under sec-
7 tion 5336 pursuant to subsection (e) shall certify to
8 the Secretary that any project for which the funds
9 are requested under this section has been coordi-
10 nated with nonprofit providers of services.

11 ‘(3) PROJECT SELECTION AND PLANNING.—A
12 recipient of funds under this section shall certify to
13 the Secretary that—

14 ‘(A) the projects selected were derived
15 from a locally developed, coordinated public
16 transit-human services transportation plan; and

17 ‘(B) the plan was developed through a
18 process that included representatives of public,
19 private, and nonprofit transportation and
20 human services providers and participation by
21 the public.

22 ‘(h) GOVERNMENT’S SHARE OF COSTS.—

23 ‘(1) CAPITAL PROJECTS.—A grant for a capital
24 project under this section may not exceed 80 percent

1 of the net capital costs of the project, as determined
2 by the Secretary.

3 ‘(2) OPERATING ASSISTANCE.—A grant made
4 under this section for operating assistance may not
5 exceed 50 percent of the net operating costs of the
6 project, as determined by the Secretary.

7 ‘(3) REMAINDER.—The remainder of the net
8 project costs—

9 ‘(A) may be provided from an undistrib-
10 uted cash surplus, a replacement or deprecia-
11 tion cash fund or reserve, a service agreement
12 with a State or local social service agency or a
13 private social service organization, or new cap-
14 ital; and

15 ‘(B) may be derived from amounts appro-
16 priated to or made available to a department or
17 agency of the Government (other than the De-
18 partment of Transportation) that are eligible to
19 be expended for transportation.

20 ‘(4) USE OF CERTAIN FUNDS.—For purposes of
21 paragraph (3)(B), the prohibitions on the use of
22 funds for matching requirements under section
23 403(a)(5)(C)(vii) of the Social Security Act (42
24 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal

1 or State funds to be used for transportation pur-
2 poses.

3 ‘(5) LIMITATION ON OPERATING ASSISTANCE.—

4 A recipient carrying out a program of operating as-
5 sistance under this section may not limit the level or
6 extent of use of the Government grant for the pay-
7 ment of operating expenses.

8 ‘(i) PROGRAM EVALUATION.—

9 ‘(1) COMPTROLLER GENERAL.—Beginning 1
10 year after the date of enactment of the Federal Pub-
11 lic Transportation Act of 2005, and every 2 years
12 thereafter, the Comptroller General shall—

13 ‘(A) conduct a study to evaluate the grant
14 program authorized by this section; and

15 ‘(B) transmit to the Committee on Trans-
16 portation and Infrastructure of the House of
17 Representatives and the Committee on Bank-
18 ing, Housing, and Urban Affairs of the Senate
19 a report describing the results of the study
20 under subparagraph (A).

21 ‘(2) DEPARTMENT OF TRANSPORTATION.—Not
22 later than 3 years after the date of enactment of
23 Federal Public Transportation Act of 2005, the Sec-
24 retary shall—

1 ‘(A) conduct a study to evaluate the effec-
2 tiveness of the grant program authorized by
3 this section and the effectiveness of recipients
4 making grants to subrecipients under this sec-
5 tion; and

6 ‘(B) transmit to the committees referred to
7 in paragraph (1)(B) a report describing the re-
8 sults of the study under subparagraph (A).’.

9 (b) CONFORMING AMENDMENT.—The analysis for
10 chapter 53 is amended by inserting after the item relating
11 to section 5315 the following:

 ‘5316. Job access and reverse commute formula grants.’.

12 (c) REPEAL.—Section 3037 of the Transportation
13 Equity Act for the 21st Century (49 U.S.C. 5309 note;
14 112 Stat. 387) is repealed.

15 **SEC. 3018. NEW FREEDOM PROGRAM.**

16 (a) IN GENERAL.—Chapter 53 is further amended by
17 inserting after section 5316 the following:

18 **‘§ 5317. New Freedom program**

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

21 ‘(1) RECIPIENT.—The term “recipient” means
22 a designated recipient (as defined in section
23 5307(a)(2)) and a State that receives a grant under
24 this section directly.

1 ‘(2) SUBRECIPIENT.—The term “subrecipient”
2 means a State or local governmental authority, non-
3 profit organization, or operator of public transpor-
4 tation services that receives a grant under this sec-
5 tion indirectly through a recipient.

6 ‘(b) GENERAL AUTHORITY.—

7 ‘(1) GRANTS.—The Secretary may make grants
8 under this section to a recipient for new public
9 transportation services and public transportation al-
10 ternatives beyond those required by the Americans
11 with Disabilities Act of 1990 (42 U.S.C. 12101 et
12 seq.) that assist individuals with disabilities with
13 transportation, including transportation to and from
14 jobs and employment support services.

15 ‘(2) ADMINISTRATIVE EXPENSES.—A recipient
16 may use not more than 10 percent of the amounts
17 apportioned to the recipient under this section to ad-
18 minister, plan, and provide technical assistance for
19 a project funded under this section.

20 ‘(c) APPORTIONMENTS.—

21 ‘(1) FORMULA.—The Secretary shall apportion
22 amounts made available to carry out this section as
23 follows:

24 ‘(A) 60 percent of the funds shall be ap-
25 portioned among designated recipients (as de-

1 fined in section 5307(a)(2)) for urbanized areas
2 with a population of 200,000 or more in the
3 ratio that—

4 ‘(i) the number of individuals with
5 disabilities in each such urbanized area;
6 bears to

7 ‘(ii) the number of individuals with
8 disabilities in all such urbanized areas.

9 ‘(B) 20 percent of the funds shall be ap-
10 portioned among the States in the ratio that—

11 ‘(i) the number of individuals with
12 disabilities in urbanized areas with a popu-
13 lation of less than 200,000 in each State;
14 bears to

15 ‘(ii) the number of individuals with
16 disabilities in urbanized areas with a popu-
17 lation of less than 200,000 in all States.

18 ‘(C) 20 percent of the funds shall be ap-
19 portioned among the States in the ratio that—

20 ‘(i) the number of individuals with
21 disabilities in other than urbanized areas
22 in each State; bears to

23 ‘(ii) the number of individuals with
24 disabilities in other than urbanized areas
25 in all States.

1 ‘(2) USE OF APPORTIONED FUNDS.—Except as
2 provided in paragraph (3)—

3 ‘(A) funds apportioned under paragraph
4 (1)(A) shall be used for projects serving urban-
5 ized areas with a population of 200,000 or
6 more;

7 ‘(B) funds apportioned under paragraph
8 (1)(B) shall be used for projects serving urban-
9 ized areas with a population of less than
10 200,000; and

11 ‘(C) funds apportioned under paragraph
12 (1)(C) shall be used for projects serving other
13 than urbanized areas.

14 ‘(3) LOW DENSITY ADJUSTMENT.—

15 ‘(A) SMALLER URBANIZED AREAS.—In ad-
16 ministering the apportionment formula under
17 paragraph (1)(B)—

18 ‘(i) in the case of a State with a popu-
19 lation density of 10 or fewer persons per
20 square mile in other than urbanized areas
21 of the State, the Secretary shall multiply
22 by a factor of 2 the number of individuals
23 with disabilities in urbanized areas of the
24 State with a population of less than

1 200,000 (as determined using the most re-
2 cent decennial United States Census); and

3 ‘(ii) in the case of a State with a pop-
4 ulation density of more than 10 but equal
5 to or fewer than 30 persons per square
6 mile, the Secretary shall multiply by a fac-
7 tor of 1.25 the number of individuals with
8 disabilities in urbanized areas of the State
9 with a population of less than 200,000 (as
10 determined using the most recent decennial
11 United States Census).

12 ‘(B) OTHER THAN URBANIZED AREAS.—In
13 administering the apportionment formula under
14 paragraph (1)(C)—

15 ‘(i) in the case of a State with a popu-
16 lation density of 10 or fewer persons per
17 square mile in other than urbanized areas
18 of the State, the Secretary shall multiply
19 by a factor of 1.5 the number of individ-
20 uals with disabilities in other than urban-
21 ized areas of the State (as determined
22 using the most recent decennial United
23 States Census); and

24 ‘(ii) in the case of a State with a pop-
25 ulation density of more than 10 but equal

1 to or fewer than 12 persons per square
2 mile in other than urbanized areas of the
3 State, the Secretary shall multiply by a
4 factor of 1.25 the number of individuals
5 with disabilities in other than urbanized
6 areas of the State (as determined using the
7 most recent decennial United States Cen-
8 sus).

9 ‘(4) TRANSFERS.—

10 ‘(A) IN GENERAL.—A State may transfer
11 any funds apportioned to it under paragraph
12 (1)(B) or (1)(C), or both, to an apportionment
13 under section 5311(c) or 5336, or both.

14 ‘(B) LIMITED TO ELIGIBLE PROJECTS.—
15 Any funds transferred pursuant to this para-
16 graph shall be made available only for eligible
17 projects selected under this section.

18 ‘(C) CONSULTATION.—A State may make
19 a transfer of an amount under this subsection
20 only after consulting with responsible local offi-
21 cials and publicly owned operators of public
22 transportation in each area for which the
23 amount originally was awarded under sub-
24 section (d)(4).

1 ‘(d) COMPETITIVE PROCESS FOR GRANTS TO SUB-
2 RECIPIENTS.—

3 ‘(1) AREAWIDE SOLICITATIONS.—A recipient of
4 funds apportioned under subsection (c)(1)(A) shall
5 conduct, in cooperation with the appropriate metro-
6 politan planning organization, an areawide sollicita-
7 tion for applications for grants to the recipient and
8 subrecipients under this section.

9 ‘(2) STATEWIDE SOLICITATION.—A recipient of
10 funds apportioned under subsection (c)(1)(B) or
11 (c)(1)(C) shall conduct a statewide solicitation for
12 applications for grants to the recipient and sub-
13 recipients under this section.

14 ‘(3) APPLICATION.—Recipients and subrecipi-
15 ents seeking to receive a grant from funds appor-
16 tioned under subsection (c) shall submit to the re-
17 cipient an application in the form and in accordance
18 with such requirements as the recipient shall estab-
19 lish.

20 ‘(4) GRANT AWARDS.—The recipient shall
21 award grants under paragraphs (1) and (2) on a
22 competitive basis.

23 ‘(e) GRANT REQUIREMENTS.—

1 ‘(1) IN GENERAL.—Except as provided in para-
2 graph (2), a grant under this section shall be subject
3 to all the requirements of section 5307.

4 ‘(2) EMPLOYEE PROTECTIVE ARRANGE-
5 MENTS.—Section 5333(b) shall apply to grants
6 under this section, except that the Secretary of
7 Labor shall utilize, for urbanized areas with a popu-
8 lation of less than 200,000 and for other than ur-
9 banized areas, a special warranty described in sec-
10 tion 215.7 of title 29, Code of Federal Regulations
11 (as in effect on the date of enactment of the Federal
12 Public Transportation Act of 2005), that provides a
13 fair and equitable arrangement to protect the inter-
14 est of employees.

15 ‘(3) FAIR AND EQUITABLE DISTRIBUTION.—A
16 recipient of a grant under this section shall certify
17 that allocations of the grant to subrecipients are dis-
18 tributed on a fair and equitable basis.

19 ‘(f) COORDINATION.—

20 ‘(1) IN GENERAL.—The Secretary shall coordi-
21 nate activities under this section with related activi-
22 ties under programs of other Federal departments
23 and agencies.

24 ‘(2) WITH NONPROFIT PROVIDERS.—A recipi-
25 ent that transfers funds to an apportionment under

1 section 5336 pursuant to subsection (c)(2) shall cer-
2 tify that the project for which the funds are re-
3 quested under this section has been coordinated with
4 nonprofit providers of services.

5 ‘(3) PROJECT SELECTION AND PLANNING.—A
6 recipient of funds under this section shall certify
7 that—

8 ‘(A) the projects selected were derived
9 from a locally developed, coordinated public
10 transit-human services transportation plan; and

11 ‘(B) the plan was developed through a
12 process that included representatives of public,
13 private, and nonprofit transportation and
14 human services providers and participation by
15 the public.

16 ‘(g) GOVERNMENT’S SHARE OF COSTS.—

17 ‘(1) CAPITAL PROJECTS.—A grant for a capital
18 project under this section may not exceed 80 percent
19 of the net capital costs of the project, as determined
20 by the Secretary.

21 ‘(2) OPERATING ASSISTANCE.—A grant made
22 under this section for operating assistance may not
23 exceed 50 percent of the net operating costs of the
24 project, as determined by the Secretary.

1 ‘(3) REMAINDER.—The remainder of the net
2 project costs—

3 ‘(A) may be provided from an undistrib-
4 uted cash surplus, a replacement or deprecia-
5 tion cash fund or reserve, a service agreement
6 with a State or local social service agency or a
7 private social service organization, or new cap-
8 ital; and

9 ‘(B) may be derived from amounts appro-
10 priated to or made available to a department or
11 agency of the Government (other than the De-
12 partment of Transportation) that are eligible to
13 be expended for transportation.

14 ‘(4) USE OF CERTAIN FUNDS.—For purposes of
15 paragraph (3)(B), the prohibitions on the use of
16 funds for matching requirements under section
17 403(a)(5)(C)(vii) of the Social Security Act (42
18 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal
19 or State funds to be used for transportation pur-
20 poses.

21 ‘(5) LIMITATION ON OPERATING ASSISTANCE.—
22 A recipient carrying out a program of operating as-
23 sistance under this section may not limit the level or
24 extent of use of the Government grant for the pay-
25 ment of operating expenses.’.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 53 is amended by inserting after the item relating
3 to section 5316 the following:

‘5317. New freedom program.’.

4 **SEC. 3019. BUS TESTING FACILITY.**

5 (a) IN GENERAL.—Section 5318 is amended—

6 (1) by striking subsection (a) and inserting the
7 following:

8 ‘(a) FACILITY.—The Secretary of Transportation
9 shall maintain one facility for testing a new bus model
10 for maintainability, reliability, safety, performance (in-
11 cluding braking performance), structural integrity, fuel
12 economy, emissions, and noise.’;

13 (2) in subsection (d) by striking ‘under section
14 5309(m)(1)(C) of this title’ and inserting ‘to carry
15 out this section’; and

16 (3) by striking subsection (e) and inserting the
17 following:

18 ‘(e) ACQUIRING NEW BUS MODELS.—Amounts ap-
19 propriated or made available under this chapter may be
20 obligated or expended to acquire a new bus model only
21 if a bus of that model has been tested at the facility main-
22 tained by the Secretary under subsection (a).’.

23 (b) CONFORMING AMENDMENT.—Section 5323(c) is
24 repealed.

1 **SEC. 3020. BICYCLE FACILITIES.**

2 The first sentence of section 5319 is amended—

3 (1) by striking ‘5309(h),’ and inserting
4 ‘5309(g),’; and

5 (2) by striking ‘and 5311’ and inserting ‘5311,
6 and 5320’.

7 **SEC. 3021. TRANSIT IN THE PARKS PILOT PROGRAM.**

8 (a) IN GENERAL.—Section 5320 is amended to read
9 as follows:

10 **‘§ 5320. Transit in the parks pilot program**

11 ‘(a) PUBLIC TRANSPORTATION DEFINED.—In this
12 section, the term “public transportation” means general
13 or special transportation to the public by a conveyance
14 that is publicly or privately owned. Such term does not
15 include schoolbus or charter transportation but does in-
16 clude sightseeing transportation.

17 ‘(b) ESTABLISHMENT.—Not later than 90 days after
18 the date of enactment of the Federal Public Transpor-
19 tation Act of 2005, the Secretary of Transportation and
20 the Secretary of the Interior shall enter into a memo-
21 randum of understanding to establish a transit in the
22 parks pilot program in accordance with the requirements
23 of this section.

24 ‘(c) PURPOSE.—The purpose of the pilot program
25 shall be to encourage and promote the development of
26 transportation systems described in section 5301(a) within

1 units of the National Park System to improve visitor mo-
2 bility and enjoyment (including visitors with disabilities),
3 reduce pollution and congestion, and enhance resource
4 protection through the use of public transportation.

5 ‘(d) ADMINISTRATION OF PROGRAM.—The program
6 shall be administered by the Secretary of Transportation,
7 in consultation with the Secretary of the Interior.

8 ‘(e) MEMORANDUM OF UNDERSTANDING.—

9 ‘(1) PLANNING.—The memorandum of under-
10 standing under subsection (b) shall include transpor-
11 tation planning procedures that are consistent with
12 the metropolitan and statewide planning processes
13 required under chapter 52.

14 ‘(2) PROGRAMS.—The memorandum of under-
15 standing shall include descriptions of programs and
16 activities eligible for assistance under the pilot pro-
17 gram.

18 ‘(3) EXCEPTIONS.—The memorandum of un-
19 derstanding shall limit or modify the applicability of
20 the provisions referred to in subsection (f) to the ex-
21 tent necessary to carry out the objectives of this sec-
22 tion and to be compatible with the laws and regula-
23 tions governing units of the National Park System.

24 ‘(f) ELIGIBLE USE OF FUNDS.—Except as provided
25 under subsection (e)(3), the Secretary may provide funds

1 made available to carry out this section to the Secretary
2 of the Interior under interagency agreements for the fol-
3 lowing purposes:

4 ‘(1) PLANNING, ENGINEERING, DESIGN, AND
5 EVALUATION.—Planning, engineering, design, and
6 evaluation of public transportation projects in units
7 of the National Park System, and for technical stud-
8 ies, in accordance with section 5305(b)(2).

9 ‘(2) PUBLIC TRANSPORTATION CAPITAL
10 PROJECTS.—Public transportation capital projects
11 (as defined in section 5302(a)(1)) for such units in
12 accordance with all the terms and conditions to
13 which a grant is made under subsections (a), (b),
14 (c), and (d) of section 5307 and such other terms
15 and conditions as are determined by the Secretary.
16 The Secretary of the Interior shall act as the des-
17 ignated recipient for the purposes of subsection
18 (a)(2) of section 5307.

19 ‘(3) OPERATING COSTS.—Operating costs of
20 equipment and facilities used in public transpor-
21 tation for such units.

22 ‘(g) GOVERNMENT’S SHARE OF COSTS.—

23 ‘(1) CAPITAL PROJECTS.—The Government
24 share of the cost of any capital project or activity

1 under this section shall be 100 percent of the costs
2 of the project, as determined by the Secretary.

3 ‘(2) OPERATING ASSISTANCE.—A grant made
4 under this section for operating assistance may not
5 exceed 50 percent of the net operating costs of the
6 project, as determined by the Secretary.

7 ‘(h) SAVINGS CLAUSE.—Nothing in this section shall
8 be construed as superseding, amending, modifying, or re-
9 pealing any provision of law applicable to units of the Na-
10 tional Park System.’

11 (b) CONFORMING AMENDMENT.—The analysis for
12 such chapter is further amended by striking the item relat-
13 ing to section 5320 and inserting the following:

‘5320. Transit in the parks pilot program.’

14 **SEC. 3022. HUMAN RESOURCE PROGRAMS.**

15 Section 5322 is amended—

16 (1) by inserting ‘(a) In General.—’ before ‘The
17 Secretary’; and

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

19 ‘(b) GRANTS TO HIGHER LEARNING INSTITU-
20 TIONS.—

21 ‘(1) AUTHORITY TO MAKE GRANTS.—The Sec-
22 retary may make grants to nonprofit institutions of
23 higher learning—

1 ‘(A) to conduct research and investigations
2 into the theoretical or practical problems of
3 public transportation; and

4 ‘(B) to train individuals to conduct further
5 research or obtain employment in an organiza-
6 tion that plans, builds, operates, or manages a
7 public transportation system.

8 ‘(2) RESEARCH AND INVESTIGATIONS.—Re-
9 search and investigations under this subsection in-
10 clude—

11 ‘(A) the design and use of public transpor-
12 tation systems and public roads and highways;

13 ‘(B) the interrelationship between various
14 modes of urban, suburban, rural, and intercity
15 transportation;

16 ‘(C) the role of transportation planning in
17 overall urban planning;

18 ‘(D) public preferences in transportation;

19 ‘(E) the economic allocation of transpor-
20 tation resources; and

21 ‘(F) the legal, financial, engineering, and
22 esthetic aspects of public transportation.

23 ‘(3) PREFERENCE.—When making a grant
24 under this subsection, the Secretary shall give pref-
25 erence to an institution that brings together knowl-

1 edge and expertise in the various social science and
2 technical disciplines related to public transportation
3 problems.

4 ‘(c) FELLOWSHIPS.—

5 ‘(1) AUTHORITY TO MAKE GRANTS.—The Sec-
6 retary may make grants to States, local govern-
7 mental authorities, and operators of public transpor-
8 tation systems to provide fellowships to train per-
9 sonnel employed in managerial, technical, and pro-
10 fessional positions in the public transportation field.

11 ‘(2) TERMS.—

12 ‘(A) PERIOD OF TRAINING.—A fellowship
13 under this subsection may be for not more than
14 one year of training in an institution that offers
15 a program applicable to the public transpor-
16 tation industry.

17 ‘(B) SELECTION OF INDIVIDUALS.—The
18 recipient of the grant shall select an individual
19 on the basis of demonstrated ability and for the
20 contribution the individual reasonably can be
21 expected to make to an efficient public trans-
22 portation operation.

23 ‘(C) AMOUNT.—A grant for a fellowship
24 may not be more than the lesser of \$65,000 or
25 75 percent of—

1 ‘(i) tuition and other charges to the
2 fellowship recipient;

3 ‘(ii) additional costs incurred by the
4 training institution and billed to the grant
5 recipient; and

6 ‘(iii) the regular salary of the fellow-
7 ship recipient for the period of the fellow-
8 ship to the extent the salary is actually
9 paid or reimbursed by the grant recipient.’.

10 **SEC. 3023. GENERAL PROVISIONS ON ASSISTANCE.**

11 (a) INTERESTS IN PROPERTY.—Section 5323(a)(1) is
12 amended—

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

14 (A) by striking ‘private mass transpor-
15 tation company’ each place it appears and in-
16 serting ‘private company engaged in public
17 transportation’;

18 (B) by striking ‘mass transportation equip-
19 ment or a mass transportation facility’ and in-
20 serting ‘a public transportation facility or
21 equipment’; and

22 (C) by striking ‘mass transportation com-
23 pany’ and inserting ‘public transportation com-
24 pany’; and

1 (2) in subparagraph (B) by striking ‘private
2 mass transportation companies’ and inserting ‘pri-
3 vate companies engaged in public transportation’.

4 (b) NOTICE AND PUBLIC HEARING.—Section
5 5323(b) is amended—

6 (1) in paragraph (1)—

7 (A) by striking ‘(1) An application’ and in-
8 serting the following:

9 ‘(1) APPLICATIONS.—An application’;

10 (B) in the matter preceding subparagraph

11 (A) by striking ‘or loan’; and

12 (C) by moving subparagraphs (A) through
13 (D) 2 ems to the right;

14 (2) in paragraph (2) by striking ‘(2) Notice of’
15 and inserting the following:

16 ‘(2) NOTICE.—Notice of’; and

17 (3) by adding at the end the following:

18 ‘(3) ENVIRONMENTAL RECORD.—An applicant
19 shall include in the environmental record for a
20 project under this chapter evidence that the appli-
21 cant has complied with the requirements of subpara-
22 graphs (A) through (D) of paragraph (1).’.

23 (c) CONDITION ON CHARTER BUS TRANSPORTATION
24 SERVICE.—Section 5323(d) is amended—

1 (1) by striking ‘(1) Financial assistance’ and
2 inserting the following:

3 ‘(1) AGREEMENTS.—Financial assistance’; and
4 (2) by striking paragraph (2) and inserting the
5 following:

6 ‘(2) VIOLATIONS.—

7 ‘(A) INVESTIGATIONS.—On receiving a
8 complaint about a violation of the agreement
9 required under paragraph (1), the Secretary
10 shall investigate and decide whether a violation
11 has occurred.

12 ‘(B) ENFORCEMENT OF AGREEMENTS.—If
13 the Secretary decides that a violation has oc-
14 curred, the Secretary shall correct the violation
15 under terms of the agreement.

16 ‘(C) ADDITIONAL REMEDIES.—In addition
17 to any remedy specified in the agreement, the
18 Secretary shall bar a recipient or an operator
19 from receiving Federal transit assistance in an
20 amount the Secretary considers appropriate if
21 the Secretary finds a pattern of violations of
22 the agreement.’.

23 (d) BOND PROCEEDS ELIGIBLE FOR LOCAL
24 SHARE.—Section 5323(e) is amended to read as follows:

1 ‘(e) BOND PROCEEDS ELIGIBLE FOR LOCAL
2 SHARE.—

3 ‘(1) USE AS LOCAL MATCHING FUNDS.—Not-
4 withstanding any other provision of law, a recipient
5 of assistance under section 5307 or 5309 may use
6 the proceeds from the issuance of revenue bonds as
7 part of the local matching funds for a capital
8 project.

9 ‘(2) MAINTENANCE OF EFFORT.—The Sec-
10 retary shall approve of the use of the proceeds from
11 the issuance of revenue bonds for the remainder of
12 the net project cost only if the Secretary finds that
13 the aggregate amount of financial support for public
14 transportation in the urbanized area provided by the
15 State and affected local governmental authorities
16 during the next 3 fiscal years, as programmed in the
17 State transportation improvement program under
18 chapter 52 is not less than the aggregate amount
19 provided by the State and affected local govern-
20 mental authorities in the urbanized area during the
21 preceding 3 fiscal years.

22 ‘(3) DEBT SERVICE RESERVE.—The Secretary
23 may reimburse an eligible recipient for deposits of
24 bond proceeds in a debt service reserve that recipient
25 established pursuant to section 5302(a)(1)(K) from

1 amounts made available to the recipient under sec-
2 tion 5307 or 5309, or both; except that such reim-
3 bursement in a fiscal year may not exceed 10 per-
4 cent of the amounts made available to the recipient
5 under section 5307 in such fiscal year.’.

6 (e) SCHOOLBUS TRANSPORTATION.—Section 5323(f)
7 is amended—

8 (1) by striking ‘(1) Financial assistance’ and
9 inserting the following:

10 ‘(1) AGREEMENTS.—Financial assistance’;

11 (2) in paragraph (1) by moving subparagraphs
12 (A), (B), and (C) 2 ems to the right; and

13 (3) by striking paragraph (2) and inserting the
14 following:

15 ‘(2) VIOLATIONS.—If the Secretary finds that
16 an applicant, governmental authority, or publicly
17 owned operator has violated the agreement required
18 under paragraph (1), the Secretary shall bar a re-
19 cipient or an operator from receiving Federal transit
20 assistance in an amount the Secretary considers ap-
21 propriate.’.

22 (f) BUYING BUSES UNDER OTHER LAWS.—Section
23 5323(g) is amended by striking ‘103(e)(4)’ each place it
24 appears and inserting ‘133’.

25 (g) BUY AMERICA.—

1 (1) PUBLIC INTEREST WAIVER.—Section
2 5323(j) is amended—

3 (A) by redesignating paragraphs (3)
4 through (7) as paragraphs (4) through (8), re-
5 spectively; and

6 (B) by inserting after paragraph (2) the
7 following:

8 ‘(3) WRITTEN JUSTIFICATION FOR PUBLIC IN-
9 TEREST WAIVER.—When issuing a waiver based on
10 a public interest determination under paragraph
11 (2)(A), the Secretary shall issue a detailed written
12 justification as to why the waiver is in the public in-
13 terest. The Secretary shall publish such justification
14 in the Federal Register and provide the public with
15 a reasonable period of time for notice and com-
16 ment.’.

17 (2) INELIGIBILITY FOR CONTRACTS.—Section
18 5323(j)(6) (as so redesignated) is amended by strik-
19 ing ‘Intermodal Surface Transportation Efficiency
20 Act of 1991 (Public Law 102–240, 105 Stat. 1914)’
21 and inserting ‘Federal Public Transportation Act of
22 2004’.

23 (3) ADMINISTRATIVE REVIEW.—Section 5323(j)
24 is amended by adding at the end the following:

1 ‘(9) ADMINISTRATIVE REVIEW.—A party ad-
2 versely affected by an agency action under this sub-
3 section shall have the right to seek review under sec-
4 tion 702 of title 5, United States Code.’.

5 (4) REPEAL OF GENERAL WAIVER.—Sub-
6 sections (b) and (c) of Appendix A of section 661.7
7 of title 49, Code of Federal Regulations, shall cease
8 to be in effect beginning on the date of enactment
9 of this Act.

10 (h) GRANT REQUIREMENTS.—Section 5323(o) is
11 amended by striking ‘the Transportation Infrastructure
12 Finance and Innovation Act of 1998’ and inserting ‘chap-
13 ter 6 (other than section 609) of title 23’.

14 **SEC. 3024. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

15 (a) IN GENERAL.—Section 5324 is amended to read
16 as follows:

17 **‘§ 5324. Special provisions for capital projects**

18 ‘(a) RELOCATION PROGRAM REQUIREMENTS.—Fi-
19 nancial assistance may be provided under section 5309
20 only if the Secretary decides that—

21 ‘(1) an adequate relocation program is being
22 carried out for families displaced by a project; and

23 ‘(2) an equal number of decent, safe, and sani-
24 tary dwellings are being, or will be, provided to those
25 families in the same area or in another area gen-

1 erally not less desirable for public utilities and public
2 and commercial facilities, at rents or prices within
3 the financial means of those families, and with rea-
4 sonable access to their places of employment.

5 ‘(b) CONSIDERATION OF ECONOMIC, SOCIAL, AND
6 ENVIRONMENTAL INTERESTS.—

7 ‘(1) COOPERATION AND CONSULTATION.—In
8 carrying out the policy of section 5301(e), the Sec-
9 retary shall cooperate and consult with the Secre-
10 taries of the Interior, Health and Human Services,
11 and Housing and Urban Development and the Ad-
12 ministrator of the Environmental Protection Agency
13 on each project that may have a substantial impact
14 on the environment.

15 ‘(2) PUBLIC PARTICIPATION IN ENVIRON-
16 MENTAL REVIEWS.—In performing environmental
17 reviews, the Secretary shall review each transcript of
18 a hearing submitted under section 5323(b) to estab-
19 lish that an adequate opportunity to present views
20 was given to all parties having a significant eco-
21 nomic, social, or environmental interest in the
22 project, and that the project application includes a
23 record of—

24 ‘(A) the environmental impact of the pro-
25 posal;

1 ‘(B) adverse environmental effects that
2 cannot be avoided;

3 ‘(C) alternatives to the proposal; and

4 ‘(D) irreversible and irretrievable impacts
5 on the environment.

6 ‘(3) APPROVAL OF APPLICATIONS FOR ASSIST-
7 ANCE.—

8 ‘(A) FINDINGS BY THE SECRETARY.—The
9 Secretary may approve an application for finan-
10 cial assistance for a capital project in accord-
11 ance with this chapter only if the Secretary
12 makes written findings, after reviewing the ap-
13 plication and the transcript of any hearing held
14 before a State or local governmental authority
15 under section 5323(b), that—

16 ‘(i) an adequate opportunity to
17 present views was given to all parties hav-
18 ing a significant economic, social, or envi-
19 ronmental interest;

20 ‘(ii) the preservation and enhancement
21 of the environment and the interest of the
22 community in which the project is located
23 were considered; and

24 ‘(iii) no adverse environmental effect
25 is likely to result from the project, or no

1 feasible and prudent alternative to the ef-
2 fect exists and all reasonable steps have
3 been taken to minimize the effect.

4 ‘(B) HEARING.—If a hearing has not been
5 conducted or the Secretary decides that the
6 record of the hearing is inadequate for making
7 the findings required by this subsection, the
8 Secretary shall conduct a hearing on an envi-
9 ronmental issue raised by the application after
10 giving adequate notice to interested persons.

11 ‘(C) AVAILABILITY OF FINDINGS.—The
12 Secretary’s findings under subparagraph (A)
13 shall be made a matter of public record.’.

14 (b) CONFORMING AMENDMENT.—The analysis for
15 chapter 53 is amended by striking the item relating to
16 section 5324 and inserting the following:

 ‘5324. Special provisions for capital projects.’.

17 **SEC. 3025. CONTRACT REQUIREMENTS.**

18 (a) IN GENERAL.—Section 5325 is amended—

19 (1) by striking subsections (a) and (b) and in-
20 serting the following:

21 ‘(a) COMPETITION.—Recipients of Federal assistance
22 under this chapter shall conduct all procurement trans-
23 actions involving such assistance in a manner providing
24 full and open competition, as determined by the Secretary.

1 ‘(b) ARCHITECTURAL, ENGINEERING, AND DESIGN
2 CONTRACTS.—

3 ‘(1) PROCEDURES FOR AWARDING CONTRACT.—

4 A contract or requirement for program management,
5 architectural engineering, construction management,
6 a feasibility study, and preliminary engineering, de-
7 sign, architectural, engineering, surveying, mapping,
8 or related services for a project for which Federal
9 assistance is provided under this chapter shall be
10 awarded in the same way as a contract for architec-
11 tural and engineering services is negotiated under
12 chapter 11 of title 40 or an equivalent qualifications-
13 based requirement of a State.

14 ‘(2) EFFECT OF STATE LAWS.—This subsection
15 does not apply to the extent a State has adopted, be-
16 fore the date of enactment of the Federal Public
17 Transportation Act of 2005, by law a formal proce-
18 dure for procuring those services.

19 ‘(3) ADMINISTRATION OF CONTRACTS.—When
20 awarding such contracts, recipients of assistance
21 under this chapter shall maximize efficiencies of ad-
22 ministration by accepting nondisputed audits con-
23 ducted by other governmental agencies as follows:

24 ‘(A) PERFORMANCE OF AUDITS.—Any con-
25 tract or subcontract awarded under this chapter

1 shall be performed and audited in compliance
2 with cost principles contained in the Federal
3 Acquisition Regulation (part 31 of title 48,
4 Code of Federal Regulations).

5 ‘(B) INDIRECT COST RATES.—Instead of
6 performing its own audits, a recipient of funds
7 under a contract or subcontract awarded under
8 this chapter shall accept indirect cost rates es-
9 tablished in accordance with the Federal Acqui-
10 sition Regulation for one-year applicable ac-
11 counting periods by a cognizant Federal or
12 State government agency, if such rates are not
13 currently under dispute.

14 ‘(C) APPLICATION OF RATES.—Once a
15 firm’s indirect cost rates are accepted under
16 this paragraph, the recipient of the funds shall
17 apply such rates for the purposes of contract
18 estimation, negotiation, administration, report-
19 ing, and contract payment and shall not be lim-
20 ited by administrative or de facto ceilings.

21 ‘(D) PRENOTIFICATION; CONFIDENTIALITY
22 OF DATA.—A recipient of funds requesting or
23 using the cost and rate data described in para-
24 graph (3) shall notify any affected firm before
25 such request or use. Such data shall be con-

1 fiducial and shall not be accessible or provided,
2 in whole or in part, to another firm or to any
3 government agency that is not part of the
4 group of agencies sharing cost data under this
5 paragraph, except by written permission of the
6 audited firm. If prohibited by law, such cost
7 and rate data shall not be disclosed under any
8 circumstances.’; and

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

10 ‘(d) DESIGN-BUILD SYSTEM PROJECTS.—

11 ‘(1) DEFINITION.—In this section, the term
12 “design-build system project” means a project under
13 which a recipient enters into a contract with a seller,
14 firm, or consortium of firms to design and build a
15 public transportation system or an operable segment
16 thereof that meets specific performance criteria.
17 Such project may also include an option to finance,
18 or operate for a period of time, the system or seg-
19 ment or any combination of designing, building, op-
20 erating, or maintaining such system or segment.

21 ‘(2) FINANCIAL ASSISTANCE.—Government fi-
22 nancial assistance under this chapter may be made
23 available for the capital costs of a design-build sys-
24 tem project after the recipient complies with Govern-
25 ment requirements.

1 ‘(e) MULTIYEAR ROLLING STOCK.—

2 ‘(1) CONTRACTS.—A recipient procuring rolling
3 stock with Government financial assistance under
4 this chapter may make a multiyear contract to buy
5 the rolling stock and replacement parts under which
6 the recipient has an option to buy additional rolling
7 stock or replacement parts for not more than 5
8 years after the date of the original contract.

9 ‘(2) COOPERATION AMONG RECIPIENTS.—The
10 Secretary shall allow at least 2 recipients to act on
11 a cooperative basis to procure rolling stock in com-
12 pliance with this subsection and other Government
13 procurement requirements.

14 ‘(f) ACQUIRING ROLLING STOCK.—A recipient of fi-
15 nancial assistance under this chapter may enter into a
16 contract to expend that assistance to acquire rolling
17 stock—

18 ‘(1) based on—

19 ‘(A) initial capital costs; or

20 ‘(B) performance, standardization, life
21 cycle costs, and other factors; or

22 ‘(2) with a party selected through a competitive
23 procurement process.

24 ‘(g) EXAMINATION OF THE RECORDS.—Upon re-
25 quest, the Secretary, the Comptroller General, or a rep-

1 representative of the Secretary or the Comptroller General
2 shall have access to and the right to examine and inspect
3 all records, documents, papers, including contracts, re-
4 lated to a project for which a grant is made under this
5 chapter.

6 ‘(h) GRANT PROHIBITIONS.—A grant may not be
7 used to support a procurement that uses an exclusionary
8 or discriminatory specification.’.

9 (b) CONFORMING AMENDMENTS.—Section 5326, and
10 the item relating to section 5326 in the analysis for chap-
11 ter 53, are repealed.

12 **SEC. 3026. PROJECT MANAGEMENT OVERSIGHT AND RE-**
13 **VIEW.**

14 (a) PROJECT MANAGEMENT PLAN REQUIRE-
15 MENTS.—Section 5327(a) is amended—

16 (1) by striking ‘and’ at the end of paragraph
17 (11);

18 (2) by striking the period at the end of para-
19 graph (12) and inserting ‘; and’; and

20 (3) by adding at the end the following:

21 ‘(13) safety and security management.’.

22 (b) LIMITATIONS.—Section 5327(c) is amended to
23 read as follows:

24 ‘(c) LIMITATIONS.—

1 ‘(1) LIMITATIONS ON USE OF AVAILABLE
2 AMOUNTS.—The Secretary may use not more than
3 .5 percent of amounts made available for a fiscal
4 year to carry out section 5311, not more than .75
5 percent of amounts made available for a fiscal year
6 to carry out section 5307, and not more than 1 per-
7 cent of amounts made available for a fiscal year to
8 carry out section 5309 to make contracts for the fol-
9 lowing activities:

10 ‘(A) To oversee the construction of a major
11 project.

12 ‘(B) To review and audit the safety and se-
13 curity, procurement, management, and financial
14 compliance of a recipient or subrecipient of
15 funds under sections 5307, 5309, and 5311.

16 ‘(C) To provide technical assistance to cor-
17 rect deficiencies identified in compliance reviews
18 and audits carried out under this section.

19 ‘(2) LIMITATIONS ON APPLICABILITY.—Sub-
20 sections (a), (b), and (e) do not apply to contracts
21 under this section for activities described in para-
22 graphs (1)(B) and (1)(C).

23 ‘(3) GOVERNMENT’S SHARE OF COSTS.—The
24 Government shall pay the entire cost of carrying out
25 a contract under this subsection.’.

1 **SEC. 3027. INVESTIGATIONS OF SAFETY AND HAZARDS.**

2 (a) IN GENERAL.—Section 5329 is amended to read
3 as follows:

4 **‘§ 5329. Investigation of safety and hazards**

5 (a) IN GENERAL.—The Secretary may investigate
6 safety and security risks associated with a condition in
7 equipment, a facility, or an operation financed under this
8 chapter that the Secretary believes causes a serious hazard
9 of death or injury to establish the nature and extent of
10 the condition and how to eliminate, mitigate, or correct
11 it.

12 (b) PLANS FOR ELIMINATING, MITIGATING, OR COR-
13 RECTING HAZARDS.—If the Secretary establishes that a
14 condition causes a hazard, the Secretary shall require the
15 local governmental authority receiving amounts under this
16 chapter to submit a plan for eliminating, mitigating, or
17 correcting it.

18 (c) WITHHOLDING FINANCIAL ASSISTANCE.—Fi-
19 nancial assistance under this chapter, in an amount to be
20 determined by the Secretary, may be withheld until a plan
21 is approved and carried out.’.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 53 is amended by striking the item relating to
24 section 5329 and inserting the following:

‘5329. Investigation of safety and hazards.’.

1 **SEC. 3028. STATE SAFETY OVERSIGHT.**

2 (a) IN GENERAL.—Section 5330 is amended—

3 (1) by striking the section heading and all that
4 follows through subsection (a) and inserting the fol-
5 lowing:

6 **‘§ 5330. State safety oversight**

7 ‘(a) APPLICATION.—This section applies only to—

8 ‘(1) States that have rail fixed guideway public
9 transportation systems not subject to regulation by
10 the Federal Railroad Administration; and

11 ‘(2) States that are designing rail fixed guide-
12 way public transportation systems that will not be
13 subject to regulation by the Federal Railroad Ad-
14 ministration.’;

15 (2) in subsection (d) by inserting ‘shall ensure
16 uniform safety standards and enforcement and’ after
17 ‘affected States’; and

18 (3) by striking subsection (f).

19 (b) CONFORMING AMENDMENT.—The analysis for
20 chapter 53 is amended by striking the item relating to
21 section 5330 and inserting the following:

‘5330. State safety oversight.’.

22 **SEC. 3029. CONTROLLED SUBSTANCES AND ALCOHOL MIS-**
23 **USE TESTING.**

24 (a) DEFINITIONS.—Section 5331(a)(3) is amended
25 by striking the period at the end and inserting the fol-

1 lowing: ‘or section 2303a, 7101(i), or 7302(e) of title 46.
2 The Secretary may also decide that a form of public trans-
3 portation is covered adequately, for employee alcohol and
4 controlled substances testing purposes, under the alcohol
5 and controlled substance statutes or regulations of an
6 agency within the Department of Transportation or the
7 Coast Guard.’.

8 (b) TECHNICAL CORRECTIONS.—Subsections (b)(1)
9 and (g) of section 5331 are each amended by striking ‘or
10 section 103(e)(4) of title 23’.

11 (c) REGULATIONS.—Section 5331(f) is amended by
12 striking paragraph (3).

13 **SEC. 3030. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

14 Section 5333(b)(1) is amended by striking ‘5318(d),
15 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)’
16 each place it appears and inserting ‘5316, 5317, 5318,
17 5320, 5323(a)(1), 5323(b), 5323(d), 5328, 5337,
18 5338(b), 5338(g), and 5338(h)’.

19 **SEC. 3031. ADMINISTRATIVE PROCEDURES.**

20 Section 5334 is amended—

21 (1) in subsection (a)—

22 (A) by striking ‘and’ at the end of para-
23 graph (9);

24 (B) by striking the period at the end of
25 paragraph (10) and inserting ‘; and’; and

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

2 ‘(11) issue regulations as necessary to carry out
3 the purposes of this chapter.’;

4 (2) by striking subsection (i);

5 (3) by redesignating subsections (b) through (h)
6 as subsections (c) through (i), respectively;

7 (4) by inserting after subsection (a) the fol-
8 lowing:

9 ‘(b) PROHIBITIONS AGAINST REGULATING OPER-
10 ATIONS AND CHARGES.—

11 ‘(1) IN GENERAL.—Except for purposes of na-
12 tional defense or in the event of a national or re-
13 gional emergency, the Secretary may not regulate
14 the operation, routes, or schedules of a public trans-
15 portation system for which a grant is made under
16 this chapter, nor may the Secretary regulate the
17 rates, fares, tolls, rentals, or other charges pre-
18 scribed by any provider of public transportation.

19 ‘(2) LIMITATION ON STATUTORY CONSTRUC-
20 TION.—Nothing in this subsection shall be construed
21 to prevent the Secretary from requiring a recipient
22 of funds under this chapter to comply with the
23 terms and conditions of its Federal assistance agree-
24 ment.’;

1 (5) in subsection (c)(4) (as redesignated by
2 paragraph (3) of this section)—

3 (A) by striking ‘subsections (h) and (i)’
4 and inserting ‘subsection (i)’; and

5 (B) by striking ‘5323(c), 5323(e),
6 5324(c),’; and

7 (6) by adding at the end of subsection (c) (as
8 redesignated by paragraph (3) of this section) the
9 following:

10 ‘(5) NONREGULATORY SUBSTANTIVE POLICY
11 STATEMENTS.—The Secretary shall provide notice
12 and an opportunity for public comment at least 60
13 days before issuing any nonregulatory substantive
14 policy statements (regardless of the form of
15 issuance), including guidance, policy statements, and
16 regulatory interpretations.’.

17 **SEC. 3032. NATIONAL TRANSIT DATABASE.**

18 (a) IN GENERAL.—Section 5335 is amended—

19 (1) by striking the section heading and insert-
20 ing the following:

21 **‘§ 5335. National transit database’;**

22 (2) by striking subsection (b); and

23 (3) in subsection (a)—

24 (A) by striking ‘(1) To help’ and inserting

25 ‘To help’; and

1 (B) by striking ‘(2) The Secretary’ and in-
2 serting ‘(b) Reporting and Uniform Systems.—
3 The Secretary’.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 53 is amended by striking the item relating to
6 section 5335 and inserting the following:

‘5335. National transit database.’.

7 **SEC. 3033. APPORTIONMENTS BASED ON FIXED GUIDEWAY**
8 **FACTORS.**

9 (a) DISTRIBUTION.—Section 5337 is amended—
10 (1) by striking the section designation and all
11 that follows before paragraph (1) of subsection (a)
12 and inserting the following:

13 **‘§ 5337. Apportionment based on fixed guideway fac-**
14 **tors**

15 ‘(a) DISTRIBUTION.—The Secretary shall apportion
16 amounts made available for fixed guideway modernization
17 under sections 5338(b) and 5338(g) as follows:’;

18 (2) in subsection (a) by striking ‘(e)(1)’ each
19 place it appears and inserting ‘(e)’; and

20 (3) in subsection (a) by striking ‘(e)(2)’ each
21 place it appears and inserting ‘(e)’.

22 (b) ROUTE SEGMENTS TO BE INCLUDED IN APPOR-
23 TIONMENT FORMULAS.—Section 5337(e) is amended by
24 striking paragraph (1) and all that follows through ‘(2)
25 Other Standards.—’.

1 (c) CONFORMING AMENDMENT.—The item relating
2 to section 5337 in the table of sections for chapter 53 is
3 amended to read as follows:

‘5337. Apportionment based on fixed guideway factors.’.

4 **SEC. 3034. AUTHORIZATIONS.**

5 Section 5338 is amended to read as follows:

6 **‘§ 5338. Authorizations**

7 (a) FORMULA GRANTS.—

8 (1) FISCAL YEAR 2004.—

9 (A) FROM TRUST FUND.—There shall be
10 available from the Mass Transit Account of the
11 Highway Trust Fund to carry out sections
12 5307, 5308, 5310, 5311, 5316, 5317, and 5318
13 of this chapter, 1118(b) of the Transportation
14 Equity Act: A Legacy for Users (relating to the
15 nonmotorized transportation pilot program),
16 and section 3038 of the Transportation Equity
17 Act for the 21st Century (49 U.S.C. 5310 note;
18 112 Stat. 392–393) \$3,132,304,000 for fiscal
19 year 2004.

20 (B) FROM GENERAL FUND.—In addition
21 to amounts made available under subparagraph
22 (A), there are authorized to be appropriated to
23 carry out sections 5307, 5308, 5310, 5311,
24 5316, and 5318 of this chapter, 1118(b) of the
25 Transportation Equity Act: A Legacy for Users

1 (relating to the nonmotorized transportation
2 pilot program), and section 3038 of the Trans-
3 portation Equity Act for the 21st Century (49
4 U.S.C. 5310 note; 112 Stat. 392–393)
5 \$783,076,000 for fiscal year 2004.

6 (C) ALLOCATION OF FUNDS.—Of the ag-
7 gregate of amounts made available by and ap-
8 propriated under this paragraph for a fiscal
9 year—

10 (i) \$4,849,950 shall be available to
11 the Alaska Railroad for improvements to
12 its passenger operations under section
13 5307;

14 (ii) \$125,000,000 shall be available
15 to provide job access and reverse commute
16 formula grants under section 5316;

17 (iii) \$50,000,000 shall be available to
18 provide clean fuels formula grants under
19 section 5308;

20 (iv) \$8,000,000 shall be available to
21 provide over-the-road bus accessibility
22 grants under section 3038 of the Trans-
23 portation Equity Act for the 21st Century
24 (49 U.S.C. 5310 note);

1 ‘(v) \$3,100,000 shall be available to
2 carry out bus testing under section 5318;

3 ‘(vi) \$93,110,751 shall be available to
4 provide transportation services to elderly
5 individuals and individuals with disabilities
6 under section 5310;

7 ‘(vii) \$297,954,404 shall be available
8 to provide financial assistance for other
9 than urbanized areas under section 5311;
10 and

11 ‘(viii) \$3,333,364,895 shall be avail-
12 able to provide financial assistance for ur-
13 banized areas under section 5307, subject
14 to section 3041(h) of the Federal Public
15 Transportation Act of 2005.

16 ‘(2) FISCAL YEARS 2005 THROUGH 2009.—

17 ‘(A) FROM TRUST FUND.—There shall be
18 available from the Mass Transit Account of the
19 Highway Trust Fund to carry out sections
20 5307, 5308, 5310, 5311, 5316, 5317, 5318,
21 and 5320 of this chapter, section 3038 of the
22 Transportation Equity Act for the 21st Century
23 (49 U.S.C. 5310 note; 112 Stat. 392–393), and
24 section 1118(b) of the Transportation Equity

1 Act: A Legacy for Users (relating to the non-
2 motorized transportation pilot program)—

3 ‘(i) \$4,133,500,000 for fiscal year
4 2005;

5 ‘(ii) \$4,592,000,000 for fiscal year
6 2006;

7 ‘(iii) \$4,898,000,000 for fiscal year
8 2007;

9 ‘(iv) \$5,223,000,000 for fiscal year
10 2008; and

11 ‘(v) \$5,570,000,000 for fiscal year
12 2009.

13 ‘(B) ALLOCATION OF FUNDS FOR BUS
14 TESTING AND OVER-THE-ROAD BUS ACCESSI-
15 BILITY.—Of the aggregate of amounts made
16 available by this paragraph for a fiscal year—

17 ‘(i) \$3,100,000 shall be available to
18 carry out section 5318; and

19 ‘(ii) \$8,000,000 shall be available to
20 carry out section 3038 of the Transpor-
21 tation Equity Act for the 21st Century (49
22 U.S.C. 5310 note).

23 ‘(C) ALLOCATION OF FUNDS FOR CLEAN
24 FUELS FORMULA GRANT PROGRAM.—Of the ag-
25 gregate of amounts made available by this para-

1 graph, \$75,000,000 for fiscal year 2005 and
2 \$100,000,000 for each of fiscal years 2006,
3 2007, 2008, and 2009 shall be available to
4 carry out section 5308.

5 ‘(D) ALLOCATION OF FUNDS FOR JOB AC-
6 CESS AND REVERSE COMMUTE FORMULA GRANT
7 PROGRAM.—Of the aggregate of amounts made
8 available by this paragraph, \$150,000,000 for
9 fiscal year 2005, \$175,000,000 for fiscal year
10 2006, \$200,000,000 for fiscal year 2007,
11 \$200,000,000 for fiscal year 2008, and
12 \$200,000,000 for fiscal year 2009 shall be
13 available to carry out section 5316.

14 ‘(E) ALLOCATION OF FUNDS FOR NEW
15 FREEDOM PROGRAM.—Of the aggregate of
16 amounts made available by this paragraph,
17 \$95,000,000 for fiscal year 2005, \$100,000,000
18 for fiscal year 2006, \$105,000,000 for fiscal
19 year 2007, \$115,000,000 for fiscal year 2008,
20 and \$125,000,000 for fiscal year 2009 shall be
21 available to carry out section 5317.

22 ‘(F) ALLOCATION OF FUNDS FOR TRANSIT
23 IN THE PARKS PILOT PROGRAM.—Of the aggre-
24 gate of amounts made available by this para-
25 graph, \$8,000,000 for fiscal year 2005,

1 \$16,000,000 for fiscal year 2006, \$16,000,000
2 for fiscal year 2007, \$16,000,000 for fiscal year
3 2008, and \$16,000,000 for fiscal year 2009
4 shall be available to carry out section 5320.

5 ‘(G) ALLOCATION OF FUNDS FOR NON-
6 MOTORIZED TRANSPORTATION PILOT PRO-
7 GRAM.—Of the aggregate of amounts made
8 available by this paragraph, \$4,000,000 for fis-
9 cal year 2005, \$4,000,000 for fiscal year 2006,
10 \$4,000,000 for fiscal year 2007, \$8,000,000 for
11 fiscal year 2008, and \$8,000,000 for fiscal year
12 2009 shall be available to carry out section
13 1118(b) of the Transportation Equity Act: A
14 Legacy for Users (relating to the nonmotorized
15 transportation pilot program).

16 ‘(H) ALLOCATION OF FUNDS FOR THE
17 ALASKA RAILROAD.—Of the aggregate of
18 amounts made available by this paragraph,
19 \$10,000,000 for fiscal year 2005, \$11,000,000
20 for fiscal year 2006, \$12,000,000 for fiscal year
21 2007, \$13,000,000 for fiscal year 2008, and
22 \$14,000,000 for fiscal year 2009 shall be avail-
23 able to the Alaska Railroad for improvements to
24 its passenger operations under section 5307.

1 ‘(I) REMAINDER.—Of the remainder of the
2 aggregate amounts made available by this para-
3 graph for a fiscal year after the allocations
4 under subparagraphs (B) through (H) for such
5 fiscal year—

6 ‘(i) 2.5 percent shall be available to
7 provide transportation services to elderly
8 individuals and individuals with disabilities
9 under section 5310;

10 ‘(ii) 8.0 percent shall be available to
11 provide financial assistance for other than
12 urbanized areas under section 5311; and

13 ‘(iii) 89.5 percent shall be available to
14 provide financial assistance for urbanized
15 areas under section 5307, subject to sec-
16 tion 3041(h) of the Federal Public Trans-
17 portation Act of 2005.

18 ‘(b) CAPITAL PROGRAM GRANTS IN FISCAL YEAR
19 2004.—

20 ‘(1) FROM TRUST FUND.—There shall be avail-
21 able from the Mass Transit Account of the Highway
22 Trust Fund to carry out section 5309,
23 \$2,499,504,000 for fiscal year 2004.

24 ‘(2) FROM GENERAL FUND.—In addition to
25 amounts made available by paragraph (1), there is

1 authorized to be appropriated to carry out section
2 5309, \$624,876,200 for fiscal year 2004.

3 ‘(c) PLANNING.—

4 ‘(1) FISCAL YEAR 2004.—

5 ‘(A) FROM TRUST FUND.—There shall be
6 available from the Mass Transit Account of the
7 Highway Trust Fund to carry out sections
8 5303, 5304, and 5305, \$72,660,000 for fiscal
9 year 2004.

10 ‘(B) FROM GENERAL FUND.—In addition
11 to amounts made available by subparagraph
12 (A), there is authorized to be appropriated to
13 carry out sections 5303, 5304, and 5305,
14 \$18,165,000 for fiscal year 2004.

15 ‘(2) FISCAL YEARS 2005 THROUGH 2009.—

16 ‘(A) FROM THE TRUST FUND.—There
17 shall be available from the Mass Transit Ac-
18 count of the Highway Trust Fund to carry out
19 sections 5303, 5304, and 5305—

20 ‘(i) \$96,875,000 for fiscal year 2005;

21 ‘(ii) \$103,325,000 for fiscal year
22 2006;

23 ‘(iii) \$110,200,000 for fiscal year
24 2007;

1 ‘(iv) \$117,537,500 for fiscal year
2 2008; and

3 ‘(v) \$125,362,500 for fiscal year
4 2009.

5 ‘(B) ALLOCATION OF FUNDS.—Of the
6 funds made available by this paragraph for a
7 fiscal year—

8 ‘(i) 82.72 percent shall be available
9 for metropolitan planning under sections
10 5303, 5304, and 5305 (other than
11 5305(e)); and

12 ‘(ii) 17.28 percent shall be available
13 for State planning under section 5305(e).

14 ‘(d) RESEARCH.—

15 ‘(1) FISCAL YEAR 2004.—

16 ‘(A) FROM TRUST FUND.—There shall be
17 available from the Mass Transit Account of the
18 Highway Trust Fund to carry out sections
19 5311(b), 5312, 5313, 5314, 5315, 5322, and
20 5335, \$41,888,000 for fiscal year 2004.

21 ‘(B) FROM GENERAL FUND.—In addition
22 to amounts made available by subparagraph
23 (A), there is authorized to be appropriated to
24 carry out sections 5311(b), 5312, 5313, 5314,

1 5315, 5322, and 5335, \$10,472,000 for fiscal
2 year 2004.

3 ‘(C) ALLOCATION OF FUNDS.—Of the
4 funds made available by or appropriated pursu-
5 ant to this paragraph for fiscal year 2004—

6 ‘(i) not less than \$4,500,000 shall be
7 available to carry out programs under the
8 National Transit Institute under section
9 5315;

10 ‘(ii) not less than \$3,500,000 shall be
11 available to carry out section 5335;

12 ‘(iii) not less than \$3,500,000 shall be
13 available to carry out section 5314(a)(2);
14 and

15 ‘(iv) not less than \$8,860,000 shall be
16 available to carry out section 5313(a).

17 ‘(2) FISCAL YEARS 2005 THROUGH 2009.—

18 ‘(A) FROM THE GENERAL FUND.—There is
19 authorized to be appropriated to carry out sec-
20 tions 5312, 5313, 5314, 5315, 5322, and
21 5335—

22 ‘(i) \$54,500,000 for fiscal year 2005;

23 ‘(ii) \$57,000,000 for fiscal year 2006;

24 ‘(iii) \$59,500,000 for fiscal year 2007;

1 ‘(iv) \$62,000,000 for fiscal year 2008;

2 and

3 ‘(v) \$64,500,000 for fiscal year 2009.

4 ‘(B) ALLOCATION OF FUNDS.—Of the
5 funds appropriated pursuant to this paragraph
6 for a fiscal year—

7 ‘(i) not less than \$4,500,000 shall be
8 available to carry out programs under the
9 National Transit Institute under section
10 5315;

11 ‘(ii) not less than \$3,500,000 shall be
12 available to carry out section 5335; and

13 ‘(iii) not less than \$3,500,000 shall be
14 available to carry out section 5314(a)(2).

15 ‘(C) TRANSIT COOPERATIVE RESEARCH
16 PROGRAM.—Of the funds appropriated pursu-
17 ant to this paragraph, \$9,000,000 for fiscal
18 year 2005, \$9,500,000 for fiscal year 2006,
19 \$10,000,000 for fiscal year 2007, \$10,500,000
20 for fiscal year 2008, and \$11,000,000 for fiscal
21 year 2009 shall be available to carry out section
22 5313(a).

23 ‘(D) REMAINDER.—The remainder of the
24 funds appropriated pursuant to this paragraph
25 for a fiscal year after the allocations under sub-

1 paragraphs (A) and (B) for such fiscal year
2 shall be available to carry out national research
3 and technology programs under sections 5312,
4 5314, and 5322.

5 ‘(e) UNIVERSITY TRANSPORTATION RESEARCH.—

6 ‘(1) FISCAL YEAR 2004.—

7 ‘(A) FROM TRUST FUND.—There shall be
8 available from the Mass Transit Account of the
9 Highway Trust Fund to carry out sections
10 5505 and 5506, \$6,400,000 for fiscal year
11 2004.

12 ‘(B) FROM GENERAL FUND.—In addition
13 to amounts made available by subparagraph
14 (A), there is authorized to be appropriated to
15 carry out sections 5505 and 5506, \$1,600,000
16 for fiscal year 2004.

17 ‘(2) FISCAL YEARS 2005 THROUGH 2009.—Sub-
18 ject to paragraph (3), there is authorized to be ap-
19 propriated to carry out sections 5505 and 5506,
20 \$8,000,000 for each of fiscal years 2005 through
21 2009.

22 ‘(3) FUNDING OF UNIVERSITY TRANSPOR-
23 TATION CENTERS.—

24 ‘(A) IN GENERAL.—Of the amounts made
25 available by and appropriated under paragraphs

1 (1) and (2) \$2,000,000 for each of fiscal years
2 2004, 2005, and 2006 shall be available for the
3 institution identified in section 5505(j)(3)(E),
4 as so in effect.

5 (B) USE OF FUNDS.—Funds made avail-
6 able for the institution identified in subpara-
7 graph (A)(iii) shall be used to make grants
8 under 5506(f)(5) for that institution

9 (C) SPECIAL RULE.—Nothing in this sub-
10 section shall be construed to limit the transpor-
11 tation research conducted by the centers funded
12 by this section.

13 (f) ADMINISTRATION.—

14 (1) FISCAL YEAR 2004.—

15 (A) FROM TRUST FUND.—There shall be
16 available from the Mass Transit Account of the
17 Highway Trust Fund to carry out section 5334,
18 \$60,044,000 for fiscal year 2004.

19 (B) FROM GENERAL FUND.—In addition
20 to amounts made available under subparagraph
21 (A), there are authorized to be appropriated to
22 carry out section 5334, \$15,011,000 for fiscal
23 year 2004.

1 ‘(2) FISCAL YEARS 2005 THROUGH 2009.—There
2 are authorized to be appropriated to carry out sec-
3 tion 5334—

4 ‘(A) \$78,000,000 for fiscal year 2005;

5 ‘(B) \$80,000,000 for fiscal year 2006;

6 ‘(C) \$82,000,000 for fiscal year 2007;

7 ‘(D) \$84,000,000 for fiscal year 2008; and

8 ‘(E) \$86,000,000 for fiscal year 2009.

9 ‘(g) TRUST FUND CAPITAL PROGRAM GRANTS.—

10 There shall be available from the Mass Transit Account
11 of the Highway Trust Fund to carry out sections
12 5309(m)(2)(B)(i) and 5309(m)(2)(B)(iii)—

13 ‘(1) \$1,884,255,000 for fiscal year 2005;

14 ‘(2) \$2,080,005,000 for fiscal year 2006;

15 ‘(3) \$2,210,580,000 for fiscal year 2007;

16 ‘(4) \$2,366,677,500 for fiscal year 2008; and

17 ‘(5) \$2,518,882,500 for fiscal year 2009.

18 ‘(h) GENERAL FUND CAPITAL PROGRAM GRANTS.—

19 There are authorized to be appropriated to carry out sec-
20 tions 5309(m)(2)(A) and 5309(m)(2)(B)(ii)—

21 ‘(1) \$1,391,170,000 for fiscal year 2005;

22 ‘(2) \$1,561,670,000 for fiscal year 2006;

23 ‘(3) \$1,673,720,000 for fiscal year 2007;

24 ‘(4) \$1,777,785,000 for fiscal year 2008; and

25 ‘(5) \$1,904,255,000 for fiscal year 2009.

1 ‘(i) GRANTS AS CONTRACTUAL OBLIGATIONS.—

2 ‘(1) GRANTS FINANCED FROM HIGHWAY TRUST
3 FUND.—A grant or contract approved by the Sec-
4 retary, that is financed with amounts made available
5 under subsection (a)(1)(A), (a)(2), (b)(1), (c)(2),
6 (d)(1)(A), (e)(1)(A), (f)(1)(A), or (g) is a contrac-
7 tual obligation of the Government to pay the Gov-
8 ernment’s share of the cost of the project.

9 ‘(2) GRANTS FINANCED FROM GENERAL
10 FUND.—A grant or contract, approved by the Sec-
11 retary, that is financed with amounts made available
12 under subsection (a)(1)(B), (b)(2), (c)(1)(B),
13 (d)(1)(B), (d)(2), (e)(1)(B), (e)(2), (f)(1)(B), (f)(2),
14 or (h) is a contractual obligation of the Government
15 to pay the Government’s share of the cost of the
16 project only to the extent that amounts are provided
17 in advance in an appropriations Act.

18 ‘(j) AVAILABILITY OF AMOUNTS.—Amounts made
19 available by or appropriated under subsections (a) through
20 (h) shall remain available until expended.’.

21 **SEC. 3035. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

22 (a) IN GENERAL.—Section 3038 of the Transpor-
23 tation Equity Act for the 21st Century (49 U.S.C. 5310
24 note; 112 Stat. 392) is amended—

1 (1) by striking the section heading and insert-
2 ing the following:

3 **‘SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PRO-**
4 **GRAM.’;**

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

7 ‘(e) FEDERAL SHARE OF COSTS.—The Federal share
8 of costs under this section shall be provided from funds
9 made available to carry out this section. The Federal share
10 of the costs for a project shall not exceed 80 percent of
11 the project cost.’; and

12 (3) by striking subsection (g) and inserting the
13 following:

14 ‘(g) FUNDING.—

15 ‘(1) INTERCITY, FIXED ROUTE OVER-THE-ROAD
16 BUS SERVICE.—Of the amounts made available to
17 carry out this section in each fiscal year, 75 percent
18 shall be available for operators of over-the-road
19 buses used substantially or exclusively in intercity,
20 fixed-route over-the-road bus service to finance the
21 incremental capital and training costs of the Depart-
22 ment of Transportation’s final rule regarding acces-
23 sibility of over-the-road buses. Such amounts shall
24 remain available until expended.

1 ‘(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of
2 the amounts made available to carry out this section
3 in each fiscal year, 25 percent shall be available for
4 operators of other over-the-road bus service to fi-
5 nance the incremental capital and training costs of
6 the Department of Transportation’s final rule re-
7 garding accessibility of over-the-road buses. Such
8 amounts shall remain available until expended.’.

9 (b) CONFORMING AMENDMENTS.—The table of con-
10 tents contained in section 1(b) of the Transportation Eq-
11 uity Act for the 21st Century (112 Stat. 107) is amended
12 by striking the item relating to section 3038 and inserting
13 the following:

 ‘3038. Over-the-road bus accessibility program.’.

14 **SEC. 3036. UPDATED TERMINOLOGY.**

15 (a) AMENDMENTS TO CHAPTER 53.—Chapter 53 is
16 amended—

17 (1) in the chapter heading by striking ‘**MASS**’
18 and inserting ‘**PUBLIC**’;

19 (2) in section 5310(h) by striking ‘Mass’ and
20 inserting ‘Public’;

21 (3) in the subsection heading for section
22 5331(b) by striking ‘Mass’ and inserting ‘Public’;
23 and

24 (4) by striking ‘mass’ each place it appears in
25 such chapter before ‘transportation’ and inserting

1 'public', except in sections 5301(f), 5302(a)(7),
2 5315, 5323(a)(1), and 5323(a)(1)(B).

3 (b) TABLE OF CHAPTERS.—The table of chapters for
4 subtitle III is amended in the item relating to chapter 53
5 by striking 'mass' and inserting 'public'.

6 **SEC. 3037. PROJECT AUTHORIZATIONS FOR NEW FIXED**
7 **GUIDEWAY CAPITAL PROJECTS.**

8 (a) EXISTING FULL FUNDING GRANT AGREE-
9 MENTS.—The following projects are authorized for final
10 design and construction for existing full funding grant
11 agreements in not less than the amount specified for each
12 fiscal year:

13 (1) Baltimore—Central LRT Double Tracking
14 \$39,367,154 for fiscal year 2004, \$28,777,920 for
15 fiscal year 2005, and \$12,655,664 for fiscal year
16 2006.

17 (2) Chicago—Chicago Transit Authority Doug-
18 las Branch Reconstruction \$83,655,202 for fiscal
19 year 2004, \$84,320,000 for fiscal year 2005, and
20 \$45,825,190 for fiscal year 2006.

21 (3) Chicago—Chicago Transit Authority
22 Ravenswood Expansion Project \$9,841,789 for fiscal
23 year 2004, \$39,680,000 for fiscal year 2005,
24 \$40,000,000 for fiscal year 2006, \$40,000,000 for

1 fiscal year 2007, \$40,000,000 for fiscal year 2008,
2 and \$65,152,615 for fiscal year 2009.

3 (4) Cleveland—Euclid Corridor Transportation
4 Project \$10,825,967 for fiscal year 2004,
5 \$24,800,000 for fiscal year 2005, and \$24,974,513
6 for fiscal year 2006.

7 (5) Dallas—North Central LRT Extension
8 \$29,684,097 for fiscal year 2004.

9 (6) Denver Southeast Corridor LRT
10 \$78,734,308 for fiscal year 2004, \$79,360,000 for
11 fiscal year 2005, \$80,000,000 for fiscal year 2006,
12 \$80,000,000 for fiscal year 2007, and \$77,192,758
13 for fiscal year 2008.

14 (7) Fort Lauderdale—Tri-Rail Commuter Rail
15 Upgrade \$18,118,733 for fiscal year 2004 and
16 \$11,318,230 for fiscal year 2005.

17 (8) Los Angeles—Metro Gold Line Eastside
18 Extension \$59,520,000 for fiscal year 2005,
19 \$80,000,000 for fiscal year 2006, \$100,000,000 for
20 fiscal year 2007, \$80,000,000 for fiscal year 2008,
21 and \$80,000,000 for fiscal year 2009.

22 (9) Memphis—Medical Center Extension
23 \$9,101,281 for fiscal year 2004.

24 (10) Metra North Central Corridor Commuter
25 Rail \$19,177,300 for fiscal year 2004, \$20,000,000

1 for fiscal year 2005, and \$20,613,452 for fiscal year
2 2006.

3 (11) Metra Southwest Corridor Commuter Rail
4 \$15,000,000 for fiscal year 2004, \$20,000,000 for
5 fiscal year 2005, and \$7,281,395 for fiscal year
6 2006.

7 (12) Metra Union Pacific West Line Extension
8 \$17,000,000 for fiscal year 2004, \$12,000,000 for
9 fiscal year 2005, and \$14,285,749 for fiscal year
10 2006.

11 (13) Minneapolis—Hiawatha Corridor LRT
12 \$73,793,730 for fiscal year 2004 and \$33,428,865
13 for fiscal year 2005.

14 (14) New Jersey Urban Core—Hudson-Bergen
15 LRT MOS-2 \$98,417,885 for fiscal year 2004,
16 \$99,200,000 for fiscal year 2005, \$100,000,000 for
17 fiscal year 2006, \$100,000,000 for fiscal year 2007,
18 and \$53,202,995 for fiscal year 2008.

19 (15) New Jersey Urban Core—Newark-Eliza-
20 beth Rail Link MOS-1 \$22,209,000 for fiscal year
21 2004, \$316,907 for fiscal year 2005, and
22 \$1,025,169 for fiscal year 2006.

23 (16) New Orleans MOS-1 Canal Street
24 \$22,922,877 for fiscal year 2004 and \$16,613,047
25 for fiscal year 2005.

1 (17) Phoenix—Central Phoenix/East Valley
2 LRT \$74,400,000 for fiscal year 2005, \$90,000,000
3 for fiscal year 2006, \$90,000,000 for fiscal year
4 2007, \$90,000,000 for fiscal year 2008, and
5 \$90,000,000 for fiscal year 2009.

6 (18) Pittsburgh—Stage II LRT Reconstruction
7 \$31,733,314 for fiscal year 2004 and \$1,131,666 for
8 fiscal year 2005.

9 (19) Portland—Interstate MAX LRT Exten-
10 sion \$76,273,861 for fiscal year 2004, \$23,292,160
11 fiscal year 2005, and \$18,292,550 for fiscal year
12 2006.

13 (20) Salt Lake City—Medical Center
14 \$30,178,231 for fiscal year 2004 and \$8,765,421 for
15 fiscal year 2005.

16 (21) San Diego—Mission Valley East LRT Ex-
17 tension \$63,971,625 for fiscal year 2004,
18 \$80,896,880 fiscal year 2005, and \$8,353,424 for
19 fiscal year 2006.

20 (22) San Diego—Oceanside Escondido Rail
21 Corridor \$47,240,585 for fiscal year 2004,
22 \$54,560,000 fiscal year 2005, and \$12,211,061 for
23 fiscal year 2006.

24 (23) San Francisco—BART Extension to San
25 Francisco Airport \$98,417,890 for fiscal year 2004,

1 \$99,200,000 fiscal year 2005, and \$82,655,680 for
2 fiscal year 2006.

3 (24) San Juan—Tren Urbano \$19,683,577 for
4 fiscal year 2004, \$44,263,040 fiscal year 2005, and
5 \$10,555,900 for fiscal year 2006.

6 (25) Seattle—Central Link Initial Segment
7 LRT \$73,813,414 for fiscal year 2004, \$79,360,000
8 for fiscal year 2005, \$80,000,000 for fiscal year
9 2006, \$80,000,000 for fiscal year 2007,
10 \$70,000,000 for fiscal year 2008, and \$24,668,149
11 for fiscal year 2009.

12 (26) Washington DC/MD—Largo Metrorail Ex-
13 tension \$63,971,625 for fiscal year 2004 and
14 \$76,156,450 for fiscal year 2005.

15 (b) FINAL DESIGN AND CONSTRUCTION.—The fol-
16 lowing projects are authorized for final design and con-
17 struction for fiscal years 2004 through 2009 under para-
18 graphs (1)(B), (2)(A), and (2)(B)(ii) of section 5309(m)
19 of title 49, United States Code: [To be supplied]

20 (c) ALTERNATIVES ANALYSIS AND PRELIMINARY EN-
21 GINEERING.—The following projects are authorized for al-
22 ternatives analysis and preliminary engineering for fiscal
23 years 2004 through 2009 under paragraphs (1)(B),
24 (2)(A), and (2)(B)(ii) of section 5309(m) of title 49,
25 United States Code: [To be supplied]

1 (d) RULES RELATING TO FUNDING.—

2 (1) SUBSECTION (A) PROJECTS.—

3 (A) IN GENERAL.—The Secretary is au-
4 thorized to expend funds made available under
5 section 5309(m) of title 49, United States
6 Code, for final design and construction of
7 projects authorized by subsection (a) as existing
8 full funding grant agreements.

9 (B) MINIMUM FUNDING LEVELS.—The
10 Secretary shall make available not less than the
11 following amounts for projects authorized by
12 subsection (a): \$1,065,923,445 for fiscal year
13 2004, \$1,071,360,586 for fiscal year 2005,
14 \$729,169,747 for fiscal year 2006,
15 \$490,000,000 for fiscal year 2007,
16 \$410,395,753 for fiscal year 2008, and
17 \$259,820,764 for fiscal year 2009.

18 (2) SUBSECTION (B) PROJECTS.—

19 (A) IN GENERAL.—Projects authorized by
20 subsection (b) for final design and construction
21 are also authorized for alternatives analysis and
22 preliminary engineering.

23 (B) MINIMUM FUNDING LEVELS.—The
24 Secretary shall make available not less than the
25 following amounts for projects authorized by

1 subsection (b): \$30,584,075 for fiscal year
2 2004, \$186,149,050 for fiscal year 2005,
3 \$683,631,289 for fiscal year 2006,
4 \$1,024,856,176 for fiscal year 2007,
5 \$1,199,242,825 for fiscal year 2008, and
6 \$1,456,006,690 for fiscal year 2009.

7 (C) PRIORITY.—In making funds available
8 under subparagraph (B), the Secretary shall
9 first make such funds available for any full
10 funding grant agreement executed by the Sec-
11 retary in fiscal year 2005 after the date of en-
12 actment of this Act and for any full funding
13 grant agreement executed by the Secretary in
14 the amount indicated in fiscal years 2005
15 through 2009 in the amount indicated in the
16 ‘Schedule of Federal Funds for the Project’ in-
17 cluded in such agreement.

18 (3) SUBSECTION (C) PROJECTS.—

19 (A) IN GENERAL.—Effective October 1,
20 2006, projects authorized by subsection (c) for
21 alternatives analysis and preliminary engineer-
22 ing are also authorized for final design and con-
23 struction.

24 (B) MAXIMUM FUNDING LEVELS.—The
25 Secretary shall make available not more than

1 the following amounts for projects authorized
2 by subsection (c): \$95,348,480 for fiscal year
3 2004, \$109,348,664 for fiscal year 2005, and
4 \$122,852,264 for fiscal year 2006.

5 (C) MAXIMUM FUNDING LEVELS FOR AL-
6 TERNATIVES ANALYSIS AND PRELIMINARY EN-
7 GINEERING.—In fiscal years 2007, 2008, and
8 2009, the Secretary shall make available not
9 more than the following amounts for projects
10 authorized by subsection (b), and projects au-
11 thorized by subsection (c), to conduct alter-
12 natives analysis and preliminary engineering ac-
13 tivities: \$131,726,624 in fiscal year 2007,
14 \$139,968,572 in fiscal year 2008, and
15 \$149,984,996 in fiscal year 2009.

16 (e) NEW JERSEY URBAN CORE PROJECT.—Section
17 3031(d) of the Intermodal Surface Transportation Effi-
18 ciency Act of 1991 (112 Stat. 380; 105 Stat. 2122) is
19 amended—

20 (1) by striking ‘associated components to and
21 at the contiguous New Jersey Meadowlands Sports
22 Complex),’ and inserting ‘to and at the contiguous
23 New Jersey Meadowlands Sports Complex), includ-
24 ing a connection to the Hudson River Waterfront

1 **SEC. 3039. NATIONAL FUEL CELL BUS TECHNOLOGY DE-**
2 **VELOPMENT PROGRAM.**

3 (a) **ESTABLISHMENT.**—The Secretary shall establish
4 a national fuel cell bus technology development program
5 (in this section referred to as the ‘program’) to facilitate
6 the development of commercially viable fuel cell bus tech-
7 nology and related infrastructure.

8 (b) **GENERAL AUTHORITY.**—The Secretary may
9 enter into grants, contracts, and cooperative agreements
10 with no more than 4 geographically diverse nonprofit orga-
11 nizations and recipients under chapter 53 of title 49,
12 United States Code, to conduct fuel cell bus technology
13 and infrastructure projects under the program.

14 (c) **GRANT CRITERIA.**—In selecting applicants for
15 grants under the program, the Secretary shall consider the
16 applicant’s—

17 (1) ability to contribute significantly to fur-
18 thering fuel cell technology as it relates to transit
19 bus operations, including hydrogen production, en-
20 ergy storage, fuel cell technologies, vehicle systems
21 integration, and power electronics technologies;

22 (2) financing plan and cost share potential;

23 (3) fuel cell technology to ensure that the pro-
24 gram advances different fuel cell technologies, in-
25 cluding hydrogen-fueled and methanol-powered liq-

1 uid-fueled fuel cell technologies, that may be viable
2 for public transportation systems; and

3 (4) other criteria that the Secretary determines
4 are necessary to carry out the program.

5 (d) COMPETITIVE GRANT SELECTION.—The Sec-
6 retary shall conduct a national solicitation for applications
7 for grants under the program. Grant recipients shall be
8 selected on a competitive basis. The Secretary shall give
9 priority consideration to applicants that have successfully
10 managed advanced transportation technology projects, in-
11 cluding projects related to hydrogen and fuel cell public
12 transportation operations for a period of not less than 10
13 years.

14 (e) FEDERAL SHARE.—The Federal share of costs of
15 the program shall be provided from funds made available
16 to carry out this section. The Federal share of the cost
17 of a project carried out under the program shall not exceed
18 50 percent of such cost.

19 (f) GRANT REQUIREMENTS.—A grant under this sec-
20 tion shall be subject to—

21 (1) all terms and conditions applicable to a
22 grant made under section 5309 of title 49, United
23 States Code; and

24 (2) such other terms and conditions as are de-
25 termined by the Secretary.

1 **SEC. 3040. HIGH-INTENSITY SMALL-URBANIZED AREA FOR-**
2 **MULA GRANT PROGRAM.**

3 (a) DEFINITIONS.—In this section, the following defi-
4 nitions apply:

5 (1) ELIGIBLE AREA.—The term ‘eligible area’
6 means an urbanized area with a population of less
7 than 200,000 that meets or exceeds in one or more
8 performance categories the industry average for all
9 urbanized areas with a population of at least
10 200,000 but not more than 999,999, as determined
11 by the Secretary in accordance with subsection
12 (c)(2).

13 (2) PERFORMANCE CATEGORY.—The term ‘per-
14 formance category’ means each of the following:

15 (A) Passenger miles traveled per vehicle
16 revenue mile.

17 (B) Passenger miles traveled per vehicle
18 revenue hour.

19 (C) Vehicle revenue miles per capita.

20 (D) Vehicle revenue hours per capita.

21 (E) Passenger miles traveled per capita.

22 (F) Passengers per capita.

23 (b) GENERAL AUTHORITY.—In order to address the
24 needs of small urbanized areas with unusually high levels
25 of public transportation service, the Secretary shall make
26 capital and operating grants under this section to eligible

1 recipients described in subsection (d) for use in eligible
2 areas.

3 (c) APPORTIONMENT.—

4 (1) APPORTIONMENT FORMULA.—Funds made
5 available for grants under this section in a fiscal
6 year shall be apportioned among eligible areas in the
7 ratio that—

8 (A) the number of performance categories
9 for which each eligible area meets or exceeds
10 the industry average in urbanized areas with a
11 population of at least 200,000 but not more
12 than 999,999; bears to

13 (B) the aggregate number of performance
14 categories for which all eligible areas meet or
15 exceed the industry average in urbanized areas
16 with a population of at least 200,000 but not
17 more than 999,999.

18 (2) DATA USED IN FORMULA.—The Secretary
19 shall calculate apportionments under this subsection
20 for a fiscal year using data from the national transit
21 database used to calculate apportionments for that
22 fiscal year under section 5336 of title 49, United
23 States Code.

24 (d) ELIGIBLE RECIPIENT.—Grant amounts appor-
25 tioned to an eligible area under this section shall be made

1 available to a public transportation agency or other gov-
2 ernmental entity in the eligible area for obligation in the
3 eligible area.

4 (e) GOVERNMENT'S SHARE OF COSTS.—

5 (1) CAPITAL GRANTS.—A grant for a capital
6 project under this section (including associated cap-
7 ital maintenance items) shall be for 80 percent of
8 the net capital costs of the project, as determined by
9 the Secretary. The recipient may provide additional
10 local matching amounts for such projects.

11 (2) OPERATING GRANTS.—A grant under this
12 section for operating assistance may not exceed 50
13 percent of the net operating costs of the project, as
14 determined by the Secretary.

15 (3) REMAINDER.—The remainder of the net
16 project costs may be provided from an undistributed
17 cash surplus, a replacement or depreciation cash
18 fund or reserve, or new capital.

19 (f) PERIOD OF AVAILABILITY.—Funds apportioned
20 under this section to an eligible area shall remain available
21 for obligation in that eligible area for a period of 3 years
22 after the last day of the fiscal year for which the funds
23 are apportioned. Any amounts so apportioned that remain
24 unobligated at the end of that period shall be added to

1 the amount that may be apportioned under this section
2 in the next fiscal year.

3 (g) APPLICATION OF OTHER SECTIONS.—Sections
4 5302, 5318, 5323, 5332, 5333, and 5336(e) of title 49,
5 United States Code, apply to this section and to a grant
6 made under this section.

7 (h) FUNDING.—Of the amounts made available to
8 carry out section 5307 of title 49, United States Code,
9 \$38,000,000 for fiscal year 2005, \$41,000,000 for fiscal
10 year 2006, \$44,000,000 for fiscal year 2007, \$47,000,000
11 for fiscal year 2008, and \$50,000,000 for fiscal year 2009
12 shall be available to carry out this section.

13 (i) TECHNICAL AMENDMENTS.—Section 5336 is
14 amended—

15 (1) in subsection (a)—

16 (A) by striking ‘of this title’ and inserting
17 ‘to carry out section 5307’; and

18 (B) in paragraph (2) by inserting before
19 the period at the end the following: ‘, except
20 that the amount apportioned to the Anchorage
21 urbanized area under subsection (b) shall be
22 available to the Alaska Railroad for any costs
23 related to its passenger operations’;

1 (2) in subsection (b)(1) by inserting ‘and the
2 Alaska Railroad passenger operations’ after ‘recipi-
3 ent’;

4 (3) in subsection (j) by striking ‘a grant made
5 under’ each place it appears and inserting ‘a grant
6 made with funds apportioned under’; and

7 (4) in subsection (k)(1) by striking ‘section
8 5302(a)(13) of this title’ and inserting ‘section
9 5302(a)’.

10 **SEC. 3041. ALLOCATIONS FOR NATIONAL RESEARCH AND**
11 **TECHNOLOGY PROGRAMS.**

12 (a) IN GENERAL.—Amounts appropriated pursuant
13 to section 5338(d) of title 49, United States Code, for na-
14 tional research and technology programs under sections
15 5312, 5314, and 5322 of such title shall be allocated by
16 the Secretary as follows:

17 (1) SAFETY AND EMERGENCY PREPARED-
18 NESS.—

19 (A) IN GENERAL.—For carrying out safety
20 and emergency preparedness research activities
21 consisting of technical assistance, training, and
22 data analysis and reporting to improve public
23 transportation system safety and security and
24 emergency preparedness—

25 (i) \$7,000,000 for fiscal year 2005;

- 1 (ii) \$7,400,000 for fiscal year 2006;
2 (iii) \$7,800,000 for fiscal year 2007;
3 (iv) \$8,200,000 for fiscal year 2008;
4 and
5 (v) \$8,700,000 for fiscal year 2009.

6 (B) PUBLIC TRANSPORTATION NATIONAL
7 SECURITY STUDY.—

8 (i) IN GENERAL.—Not later than 6
9 months after the date of enactment of this
10 Act, the Secretary shall enter into an
11 agreement with the National Academy of
12 Sciences to conduct a study and evaluation
13 of the value major public transportation
14 systems in the United States serving the
15 38 urbanized areas that have a population
16 of more than 1,000,000 individuals provide
17 to the Nation's security and the ability of
18 such systems to accommodate the evacu-
19 ation, egress or ingress of people to or
20 from critical locations in times of emer-
21 gency.

22 (ii) ALTERNATIVE ROUTES.—For each
23 system described in clause (i) the study
24 shall identify—

1 (I) potential alternative routes
2 for evacuation using other transpor-
3 tation modes such as highway, air,
4 marine, and pedestrian activities; and

5 (II) transit routes that, if dis-
6 rupted, do not have sufficient transit
7 alternatives available.

8 (iii) REPORT.—Not later than 24
9 months after the date of entry into the
10 agreement, the Academy shall submit to
11 the Secretary and the Committee on
12 Transportation and Infrastructure of the
13 House of Representatives and the Com-
14 mittee on Banking, Housing and Urban
15 Affairs of the Senate a final report on the
16 results of the study and evaluation, to-
17 gether with such recommendations as the
18 Academy considers appropriate.

19 (iv) FUNDING.—Of the amounts made
20 available under section 5338(d) of title 49,
21 United States Code, \$250,000 shall be
22 available for each of fiscal years 2005 and
23 2006 to carry out this subparagraph.

24 (2) EQUIPMENT AND INFRASTRUCTURE.—For
25 carrying out equipment and infrastructure research

1 activities on public transportation and infrastructure
2 technologies and methods and voluntary industry
3 standards development—

4 (A) \$5,700,000 for fiscal year 2005;

5 (B) \$6,200,000 for fiscal year 2006;

6 (C) \$6,550,000 for fiscal year 2007;

7 (D) \$6,900,000 for fiscal year 2008; and

8 (E) \$7,200,000 for fiscal year 2009.

9 (3) PUBLIC TRANSPORTATION OPERATIONS EF-
10 FICIENCY.—For carrying out public transportation
11 operations efficiency research activities on high-per-
12 formance public transportation services and other in-
13 novations in fleet operations and maintenance—

14 (A) \$4,700,000 for fiscal year 2005;

15 (B) \$4,900,000 for fiscal year 2006;

16 (C) \$5,200,000 for fiscal year 2007;

17 (D) \$5,500,000 for fiscal year 2008; and

18 (E) \$5,800,000 for fiscal year 2009.

19 (4) ENERGY INDEPENDENCE AND ENVIRON-
20 MENTAL PROTECTION.—

21 (A) IN GENERAL.—For carrying out en-
22 ergy independence and environmental protection
23 research activities on improved public transpor-
24 tation energy use and propulsion systems and
25 public transportation oriented development—

- 1 (i) \$3,700,000 for fiscal year 2005;
2 (ii) \$3,900,000 for fiscal year 2006;
3 (iii) \$4,150,000 for fiscal year 2007;
4 (iv) \$4,300,000 for fiscal year 2008;
5 and
6 (v) \$4,300,000 for fiscal year 2009.

7 (B) TRANSIT-ORIENTED DEVELOPMENT
8 CENTER.—Of the funds allocated for each of
9 fiscal years 2005 through 2009 under subpara-
10 graph (A), not less than \$1,000,000 shall be
11 made available by the Secretary for establish-
12 ment and operation of a national center for
13 transit-oriented development—

14 (i) to develop standards and defini-
15 tions for transit-oriented development adja-
16 cent to public transportation facilities;

17 (ii) to develop system planning guid-
18 ance, performance criteria, and modeling
19 techniques for metropolitan planning agen-
20 cies and public transportation agencies to
21 maximize ridership through land use plan-
22 ning and adjacent development; and

23 (iii) to provide research support and
24 technical assistance to public transpor-
25 tation agencies, metropolitan planning

1 agencies, and other persons regarding
2 transit-oriented development.

3 (5) MOBILITY MANAGEMENT.—

4 (A) IN GENERAL.—or carrying out re-
5 search activities on mobility management, as
6 described in section 5302(a)(1) of title 49,
7 United States Code—

8 (i) \$7,000,000 for fiscal year 2005;

9 (ii) \$7,400,000 for fiscal year 2006;

10 (iii) \$7,800,000 for fiscal year 2007;

11 (iv) \$8,200,000 for fiscal year 2008;

12 and

13 (v) \$8,700,000 for fiscal year 2009.

14 (B) TRANSPORTATION EQUITY RESEARCH
15 PROGRAM.—Of the funds allocated for each of
16 fiscal years 2005 through 2009 under subpara-
17 graph (A), not less than \$1,000,000 shall be
18 made available by the Secretary for research
19 and demonstration activities that focus on the
20 impacts that transportation planning, invest-
21 ment, and operations have on low-income and
22 minority populations that are transit dependent.
23 Such activities shall include the development of
24 strategies to advance economic and community
25 development in low-income and minority com-

1 communities and the development of training pro-
2 grams that promote the employment of low-in-
3 come and minority community residents on
4 Federal-aid transportation projects constructed
5 in their communities.

6 (6) PUBLIC TRANSPORTATION CAPACITY BUILD-
7 ING.—

8 (A) IN GENERAL.—For carrying out public
9 transportation capacity building activities con-
10 sisting of workforce and industry development,
11 the International Mass Transportation Pro-
12 gram, and technology transfer and industry
13 adoption activities—

14 (i) \$2,400,000 for fiscal year 2005;

15 (ii) \$2,500,000 for fiscal year 2006;

16 (iii) \$2,600,000 for fiscal year 2007;

17 (iv) \$2,700,000 for fiscal year 2008;

18 and

19 (v) \$3,000,000 for fiscal year 2009.

20 (B) TRANSIT CAREER LADDER TRAINING
21 PROGRAM.—Of the funds allocated for each fis-
22 cal year under subparagraph (A), not less than
23 \$1,000,000 shall be available for a nationwide
24 career ladder job training partnership program
25 for public transportation employees to respond

1 to technological changes in the public transpor-
2 tation industry, especially in the area of mainte-
3 nance. Such program shall be carried out by the
4 Secretary through a contract with a national
5 nonprofit organization with a demonstrated ca-
6 pacity to develop and provide such programs.

7 (7) STRATEGIC PLANNING AND PERFORMANCE
8 MEASURES.—For carrying out strategic planning
9 and performance measures consisting of policy and
10 program development, research program planning
11 and performance, evaluation, and industry out-
12 reach—

13 (A) \$3,500,000 for fiscal year 2005;

14 (B) \$3,700,000 for fiscal year 2006;

15 (C) \$4,000,000 for fiscal year 2007;

16 (D) \$4,200,000 for fiscal year 2008; and

17 (E) \$4,300,000 for fiscal year 2009.

18 (b) REMAINDER.—After making allocations under
19 subsection (a) of this section and section 5338(d)(2) of
20 title 49, United States Code, the remainder of funds made
21 available by section 5338(d)(2) of such title for national
22 research and technology programs under sections 5312,
23 5314, and 5322 for a fiscal year shall be allocated at the
24 discretion of the Secretary to other transit research, devel-

1 opment, demonstration and deployment projects author-
2 ized by sections 5312, 5314, and 5322 of such title.

3 **SEC. 3042. RELATIONSHIP TO OTHER LAWS.**

4 Section 5323(l) is amended to read as follows:

5 ‘(l) RELATIONSHIP TO OTHER LAWS.—Section 1001
6 of title 18 applies to a certificate, submission, or statement
7 provided under this chapter. The Secretary may terminate
8 financial assistance under this chapter and seek reim-
9 bursement directly, or by offsetting amounts, available
10 under this chapter, when a false or fraudulent statement
11 or related act within the meaning of such section 1001
12 is made in connection with a Federal transit program.’.

13 **SEC. 3043. COOPERATIVE PROCUREMENT.**

14 (a) REVIEW OF COOPERATIVE PROCUREMENT; AU-
15 THORITY TO INCREASE FEDERAL SHARE.—

16 (1) IN GENERAL.—Not later than 6 months
17 after the date of enactment of this Act, the Sec-
18 retary shall undertake a 30-day review of efforts to
19 use cooperative procurement to determine whether
20 benefits are sufficient to formally incorporate coop-
21 erative procurement into the mass transit program.
22 In particular the Secretary shall review the progress
23 made under the pilot program authorized under sec-
24 tion 166 of division F of the Consolidated Appro-
25 priations Act, 2004 (49 U.S.C. 5397 note; 118 Stat.

1 309), based on experience to date in the pilot pro-
2 gram and any available reports to Congress sub-
3 mitted under such section 166. The Secretary shall
4 also consider information gathered from grantees
5 about cooperative procurement, whether or not re-
6 lated to the pilot program.

7 (2) NOTIFICATION OF CONGRESS.—The Sec-
8 retary shall notify the Committee on Transportation
9 and Infrastructure of the House of Representatives
10 and the Committee on Banking, Housing, and
11 Urban Affairs of the Senate of the results of the re-
12 view required under paragraph (1), including a find-
13 ing of sufficient benefit or insufficient benefit and
14 the reasons for that finding.

15 **SEC. 3044. OBLIGATION CEILING.**

16 Notwithstanding any other provision of law, the total
17 of all obligations from amounts made available from the
18 Mass Transit Account of the Highway Trust Fund by, and
19 amounts appropriated under, subsections (a) through (f)
20 of section 5338 of title 49, United States Code, shall not
21 exceed—

- 22 (1) \$7,266,000,000 for fiscal year 2004;
23 (2) \$7,646,300,000 for fiscal year 2005;
24 (3) \$8,482,000,000 for fiscal year 2006;
25 (4) \$9,042,000,000 for fiscal year 2007;

1 (5) \$9,639,000,000 for fiscal year 2008; and

2 (6) \$10,277,000,000 for fiscal year 2009.

3 **SEC. 3045. ADJUSTMENTS FOR THE SURFACE TRANSPOR-**
4 **TATION EXTENSION ACT OF 2004, PART V.**

5 (a) IN GENERAL.—Notwithstanding any other provi-
6 sion of law, the Secretary shall ensure that the total ap-
7 portionments and allocations made to a designated grant
8 recipient under section 5338 of title 49, United States
9 Code, for fiscal year 2005 shall be reduced by the amount
10 apportioned to such designated recipient pursuant to sec-
11 tion 8 of the Surface Transportation Extension Act of
12 2004, Part V.

13 (b) FIXED GUIDEWAY MODERNIZATION ADJUST-
14 MENT.—In making the apportionments described in sub-
15 section (a), the Secretary shall adjust the amount appor-
16 tioned to each urbanized area for fixed guideway mod-
17 ernization for fiscal year 2005 to reflect the method for
18 apportioning funds in section 5337(a) of title 49, United
19 States Code.

20 **SEC. 3046. SPECIAL RULE FOR FISCAL YEAR 2004.**

21 In any case in which an amount is authorized to be
22 appropriated, made available, allocated, set aside, taken
23 down, or subject to an obligation limitation for fiscal year
24 2004 for a program, project, or activity in any provision
25 of this title, including an amendment made by this title,

1 that is different than the amount authorized to be appro-
2 priated, made available, allocated, set aside, taken down,
3 or subject to an obligation limitation for fiscal year 2004
4 for such program, project, or activity in any provision of
5 the Surface Transportation Extension Act of 2004, Part
6 IV (Public Law 108–280), including any amendment
7 made by such Act, the amount referred to in such Act
8 shall be the amount authorized to be appropriated, made
9 available, allocated, set aside, taken down, or subject to
10 an obligation limitation.

11 **TITLE IV—MOTOR CARRIER**
12 **TRANSPORTATION AND SAFETY**
13 **Subtitle A—Commercial Motor**
14 **Vehicle Safety**

15 **SEC. 4101. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) ADMINISTRATIVE EXPENSES.—Section 31104 of
17 title 49, United States Code, is amended by adding the
18 following at the end:

19 ‘(i) ADMINISTRATIVE EXPENSES.—

20 ‘(1) AUTHORIZATION OF APPROPRIATIONS.—

21 There are authorized to be appropriated from the
22 Highway Trust Fund (other than the Mass Transit
23 Account) for the Secretary of Transportation to pay
24 administrative expenses of the Federal Motor Car-
25 rier Safety Administration—

- 1 ‘(A) \$173,450,000 for fiscal year 2004;
2 ‘(B) \$254,849,000 for fiscal year 2005;
3 ‘(C) \$215,000,000 for fiscal year 2006;
4 ‘(D) \$230,000,000 for fiscal year 2007;
5 ‘(E) \$234,000,000 for fiscal year 2008;
6 and
7 ‘(F) \$240,000,000 for fiscal year 2009.

8 ‘(2) USE OF FUNDS.—The funds authorized by
9 this subsection shall be used for personnel costs; ad-
10 ministrative infrastructure; rent; information tech-
11 nology; programs for research and technology, infor-
12 mation management, regulatory development (in-
13 cluding a medical review board), the administration
14 of the performance and registration information sys-
15 tem management, and outreach and education; other
16 operating expenses; and such other expenses as may
17 from time to time become necessary to implement
18 statutory mandates of the Administration not fund-
19 ed from other sources.

20 ‘(3) PERIOD OF AVAILABILITY.—The amounts
21 made available under this section shall remain avail-
22 able until expended.

23 ‘(4) INITIAL DATE OF AVAILABILITY.—Author-
24 izations from the Highway Trust Fund (other than
25 the Mass Transit Account) to carry out subtitle IV,

1 part B, and subtitle VI, part B, of this title, or the
2 provisions of title IV of the Transportation Equity
3 Act: A Legacy for Users, shall be available for obli-
4 gation on the date of their apportionment or alloca-
5 tion or on October 1 of the fiscal year for which they
6 are authorized, whichever occurs first.

7 ‘(5) CONTRACT AUTHORITY.—Approval by the
8 Secretary of a grant with funds made available
9 under paragraph (4) imposes upon the United
10 States a contractual obligation for payment of the
11 Government’s share of costs incurred in carrying out
12 the objectives of the grant.’.

13 (b) GRANT PROGRAMS.—There are authorized to be
14 appropriated from the Highway Trust Fund (other than
15 the Mass Transit Account) the following sums for the fol-
16 lowing Federal Motor Carrier Safety Administration pro-
17 grams:

18 (1) For commercial driver’s license program im-
19 provement grants under section 31313 of title 49,
20 United States Code \$26,000,000 for each of fiscal
21 years 2006 and 2009.

22 (2) For border enforcement grants under sec-
23 tion 31107 of such title—

24 (A) \$32,000,000 for fiscal year 2006;

25 (B) \$32,000,000 for fiscal year 2007;

1 (C) \$32,000,000 for fiscal year 2008; and

2 (D) \$32,000,000 for fiscal year 2009.

3 (3) For the performance and registration infor-
4 mation system management grant program under
5 section 31109 of such title—

6 (A) \$5,000,000 for fiscal year 2006;

7 (B) \$5,000,000 for fiscal year 2007;

8 (C) \$6,000,000 for fiscal year 2008; and

9 (D) \$6,000,000 for fiscal year 2009.

10 (4) COMMERCIAL VEHICLE INFORMATION SYS-
11 TEMS AND NETWORKS DEPLOYMENT.—For carrying
12 out the commercial vehicle information systems and
13 networks deployment program under section 4009 of
14 this Act, \$25,000,000 for each of fiscal years 2006
15 through 2009.

16 (c) PERIOD OF AVAILABILITY.—The amounts made
17 available under subsection (b) of this section shall remain
18 available until expended.

19 (d) INITIAL DATE OF AVAILABILITY.—Amounts au-
20 thorized to be appropriated from the Highway Trust Fund
21 (other than the Mass Transit Account) by subsection (b)
22 shall be available for obligation on the date of their appor-
23 tionment or allocation or on October 1 of the fiscal year
24 for which they are authorized, whichever occurs first.

1 (e) CONTRACT AUTHORITY.—Approval by the Sec-
2 retary of a grant with funds made available under sub-
3 section (b) imposes upon the United States a contractual
4 obligation for payment of the Government’s share of costs
5 incurred in carrying out the objectives of the grant.

6 **SEC. 4102. MOTOR CARRIER SAFETY GRANTS.**

7 (a) STATE PLAN CONTENTS.—Section 31102(b)(1)
8 of title 49, United States Code, is amended—

9 (1) by striking subparagraph (A) and inserting
10 the following:

11 ‘(A) implements performance-based activities,
12 including deployment of technology to enhance the
13 efficiency and effectiveness of commercial motor ve-
14 hicle safety programs;’;

15 (2) by striking subparagraph (Q) and inserting
16 the following:

17 ‘(Q) provides that the State has established a
18 program to ensure accurate, complete, and timely
19 motor carrier safety data is collected and reported to
20 the Secretary and that the State will participate in
21 a national motor carrier safety data correction sys-
22 tem prescribed by the Secretary;’;

23 (3) by aligning subparagraph (R) with subpara-
24 graph (S);

1 (4) by striking ‘and’ at the end of subpara-
2 graph (S);

3 (5) by striking the period at the end of sub-
4 paragraph (T) and inserting a semicolon; and

5 (6) by adding at the end the following:

6 ‘(U) provides that the State will include in the
7 training manual for the licensing examination to
8 drive a noncommercial motor vehicle and a commer-
9 cial motor vehicle, information on best practices for
10 driving safely in the vicinity of commercial motor ve-
11 hicles and in the vicinity of noncommercial motor ve-
12 hicles, respectively;

13 ‘(V) provides that the State will enforce the
14 registration requirements of section 13902 by pro-
15 hibiting the operation of any vehicle discovered to be
16 operated by a motor carrier without a registration
17 issued under such section or to be operating beyond
18 the scope of such registration; and

19 ‘(W) provides that the State will conduct com-
20 prehensive and highly visible traffic enforcement and
21 commercial motor vehicle safety inspection programs
22 in high-risk locations and corridors.’.

23 (b) USE OF GRANTS TO ENFORCE OTHER LAWS.—
24 Section 31102 of such title is amended—

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

3 ‘(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—
4 A State may use amounts received under a grant under
5 subsection (a)—

6 ‘(1) for the following activities if the activities
7 are carried out in conjunction with an appropriate
8 inspection of the commercial motor vehicle to enforce
9 Government or State commercial motor vehicle safe-
10 ty regulations:

11 ‘(A) enforcement of commercial motor ve-
12 hicle size and weight limitations at locations
13 other than fixed weight facilities, at specific lo-
14 cations such as steep grades or mountainous
15 terrains where the weight of a commercial
16 motor vehicle can significantly affect the safe
17 operation of the vehicle, or at ports where inter-
18 modal shipping containers enter and leave the
19 United States; and

20 ‘(B) detection of the unlawful presence of
21 a controlled substance (as defined under section
22 102 of the Comprehensive Drug Abuse Preven-
23 tion and Control Act of 1970 (21 U.S.C. 802))
24 in a commercial motor vehicle or on the person

1 of any occupant (including the operator) of the
2 vehicle; and

3 ‘(2) for documented enforcement of State traf-
4 fic laws and regulations designed to promote the
5 safe operation of commercial motor vehicles, includ-
6 ing documented enforcement of such laws and regu-
7 lations relating to noncommercial motor vehicles
8 when necessary to promote the safe operation of
9 commercial motor vehicles if the number of roadside
10 safety inspections conducted in the State is main-
11 tained at a level at least equal to the average num-
12 ber conducted in the State in fiscal years 2001,
13 2002, and 2003; except that the State may not use
14 more than 5 percent of the aggregate amount the
15 State receives under the grant under subsection (a)
16 for enforcement activities relating to noncommercial
17 motor vehicles described in this paragraph.’; and

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

19 ‘(e) ANNUAL REPORT.—The Secretary shall submit
20 to the Committee on Transportation and Infrastructure
21 of the House of Representatives and the Committee on
22 Commerce, Science and Transportation of the Senate an
23 annual report that describes the effect of activities carried
24 out with funds from grants made under this section on
25 commercial motor vehicle safety.’.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
2 31104(a) of such title is amended to read as follows:

3 ‘(a) IN GENERAL.—Subject to subsection (f), there
4 are authorized to be appropriated from the Highway Trust
5 Fund (other than the Mass Transit Account) to carry out
6 section 31102—

7 ‘(1) \$188,852,000 for fiscal year 2004;

8 ‘(2) \$188,480,000 for fiscal year 2005;

9 ‘(3) \$188,000,000 for fiscal year 2006;

10 ‘(4) \$197,000,000 for fiscal year 2007;

11 ‘(5) \$202,000,000 for fiscal year 2008; and

12 ‘(6) \$209,000,000 for fiscal year 2009.’.

13 (d) NEW ENTRANT AUDITS.—Section 31104(f) of
14 such title is amended—

15 (1) in paragraph (1) by striking ‘deduction
16 under subsection (e)’ and inserting ‘deductions
17 under subsection (e) and paragraphs (2) and (3)’;

18 (2) the first sentence of paragraph (2)(A)—

19 (A) by striking ‘or’; and

20 (B) by inserting after ‘technologies’ the
21 following: ‘, or improve the quality and accuracy
22 of data provided by the State’;

23 (3) in paragraph (2)—

24 (A) by striking ‘and border activities.—’

25 and all that follows through ‘5 percent’ and in-

1 serting ‘activities.—The Secretary may des-
2 ignate up to 10 percent’; and

3 (B) by striking subparagraph (B); and

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

5 ‘(3) NEW ENTRANT AUDITS.—The Secretary
6 may deduct up to \$15,000,000 of the amounts avail-
7 able under subsection (a) for a fiscal year for audits
8 of new entrant motor carriers under section
9 31144(g).’.

10 (e) TECHNICAL AMENDMENTS.—Sections
11 31102(b)(3) and 31103(a) of such title are amended by
12 striking ‘(1)(D)’ and inserting ‘(1)(E)’.

13 **SEC. 4103. BORDER ENFORCEMENT GRANTS.**

14 (a) IN GENERAL.—Chapter 311 of title 49, United
15 States Code, is amended—

16 (1) by striking:

17 **‘Subchapter I—State Grants and Other**
18 **Commercial Motor Vehicle Programs’; and**

19 (2) inserting

20 **‘Subchapter I—General Authority and State**
21 **Grants’; and**

22 (3) by striking section 31107 and inserting the
23 following:

1 **‘§ 31107. Border enforcement grants**

2 ‘(a) GENERAL AUTHORITY.—The Secretary of
3 Transportation may make a grant in a fiscal year to a
4 State that shares a land border with another country for
5 carrying out border commercial motor vehicle safety pro-
6 grams and related enforcement activities and projects.

7 ‘(b) MAINTENANCE OF EXPENDITURES.—The Sec-
8 retary may make a grant to a State under this section
9 only if the State agrees that the total expenditure of
10 amounts of the State and political subdivisions of the
11 State, exclusive of amounts from the United States, for
12 carrying out border commercial motor vehicle safety pro-
13 grams and related enforcement activities and projects will
14 be maintained at a level at least equal to the average level
15 of that expenditure by the State and political subdivisions
16 of the State for the last 2 fiscal years of the State ending
17 before the date of enactment of the Transportation Equity
18 Act: A Legacy for Users.

19 ‘(c) GOVERNMENTS SHARE OF COSTS.—The Sec-
20 retary shall reimburse a State under a grant made under
21 this section an amount that is not more than 100 percent
22 of the costs incurred by the State in a fiscal year for car-
23 rying out border commercial motor vehicle safety pro-
24 grams and related enforcement activities and projects.

25 ‘(d) AVAILABILITY AND REALLOCATION OF
26 AMOUNTS.—Allocations to a State remain available for ex-

1 penditure in the State for the fiscal year in which they
 2 are allocated and for the next fiscal year. Amounts not
 3 expended by a State during those 2 fiscal years are avail-
 4 able to the Secretary for reallocation under this section.’.

5 (b) CONFORMING AMENDMENTS.—The analysis for
 6 such chapter is amended—

7 (1) by striking

‘SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE
 PROGRAMS’; and inserting the following:

‘SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS’; and

8 (2) by striking the item relating to section
 9 31107 and inserting the following:

‘31107. Border enforcement grants.’.

10 **SEC. 4104. COMMERCIAL DRIVER’S LICENSE IMPROVE-**
 11 **MENTS.**

12 (a) STATE GRANTS.—Chapter 313 of title 49, United
 13 States Code, is amended by inserting after section 31312
 14 the following:

15 **‘§ 31313. Grants for commercial driver’s license pro-**
 16 **gram improvements**

17 (a) GRANTS FOR COMMERCIAL DRIVER’S LICENSE
 18 PROGRAM IMPROVEMENTS.—

19 (1) GENERAL AUTHORITY.—The Secretary of
 20 Transportation may make a grant to a State in a
 21 fiscal year—

1 ‘(A) to comply with the requirements of
2 section 31311; and

3 ‘(B) in the case of a State that is in sub-
4 stantial compliance with the requirements of
5 section 31311 and this section, to improve its
6 implementation of its commercial driver’s li-
7 cense program.

8 ‘(2) PURPOSES FOR WHICH GRANTS MAY BE
9 USED.—A State may use grants under paragraphs
10 (1)(A) and (1)(B) only for expenses directly related
11 to its compliance with section 31311; except that a
12 grant under paragraph (1)(B) may be used for im-
13 proving implementation of the State’s commercial
14 driver’s license program, including expenses for com-
15 puter hardware and software, publications, testing,
16 personnel, training, and quality control. The grant
17 may not be used to rent, lease, or buy land or build-
18 ings.

19 ‘(3) APPLICATION.—In order to receive a grant
20 under this section, a State must submit an applica-
21 tion for such grant that is in such form, and con-
22 tains such information, as the Secretary may re-
23 quire. The application shall include the State’s as-
24 sessment of its commercial drivers license program.

1 ‘(4) MAINTENANCE OF EXPENDITURES.—The
2 Secretary may make a grant to a State under this
3 subsection only if the State agrees that the total ex-
4 penditure of amounts of the State and political sub-
5 divisions of the State, exclusive of amounts from the
6 United States, for the State’s commercial driver’s li-
7 cense program will be maintained at a level at least
8 equal to the average level of that expenditure by the
9 State and political subdivisions of the State for the
10 last 2 fiscal years of the State ending before the
11 date of enactment of the Transportation Equity Act:
12 A Legacy for Users.

13 ‘(5) GOVERNMENT SHARE.—The Secretary
14 shall reimburse a State under a grant made under
15 this subsection an amount that is not more than 80
16 percent of the costs incurred by the State in a fiscal
17 year in complying with section 31311 and improving
18 its implementation of its commercial driver’s license
19 program. In determining such costs, the Secretary
20 shall include in-kind contributions by the State.
21 Amounts required to be expended by the State under
22 paragraph (4) may not be included as part of the
23 non-Federal share of such costs.

24 ‘(b) HIGH-PRIORITY ACTIVITIES.—

1 ‘(1) GRANTS FOR NATIONAL CONCERNS.—The
2 Secretary may make a grant to a State agency, local
3 government, or other person for 100 percent of the
4 costs of research, development, demonstration
5 projects, public education, and other special activi-
6 ties and projects relating to commercial driver li-
7 censing and motor vehicle safety that are of benefit
8 to all jurisdictions of the United States or are de-
9 signed to address national safety concerns and cir-
10 cumstances.

11 ‘(2) FUNDING.—The Secretary may deduct up
12 to 10 percent of the amounts made available to
13 carry out this section for a fiscal year to make
14 grants under this subsection.’.

15 (b) CONFORMING AMENDMENT.—The analysis for
16 such chapter is amended by inserting after the item relat-
17 ing to section 31312 the following:

 ‘31313. Grants for commercial driver’s license program improvements.’.

18 (c) AMOUNTS WITHHELD.—Subsections (a) and (b)
19 of section 31314 of such title are each amended by insert-
20 ing ‘up to’ after ‘withhold’.

21 **SEC. 4105. HOBBS ACT.**

22 (a) JURISDICTION OF COURT OF APPEALS OVER
23 COMMERCIAL MOTOR VEHICLE SAFETY REGULATION
24 AND OPERATORS AND MOTOR CARRIER SAFETY.—Section
25 2342(3)(A) of title 28, United States Code, is amended

1 by inserting before ‘of title 49’ the following: ‘, subchapter
2 III of chapter 311, chapter 313, or chapter 315’.

3 (b) JUDICIAL REVIEW.—Section 351(a) of title 49,
4 United States Code, is amended by striking ‘Federal
5 Highway Administration’ and inserting ‘Federal Motor
6 Carrier Safety Administration’.

7 (c) AUTHORITY TO CARRY OUT CERTAIN TRANS-
8 FERRED DUTIES AND POWERS.—Section 352 of title 49,
9 United States Code, is amended by striking ‘Federal
10 Highway Administration’ and inserting ‘Federal Motor
11 Carrier Safety Administration’.

12 **SEC. 4106. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

13 Section 521(b) of title 49, United States Code, is
14 amended—

15 (1) by striking ‘(b)(1)(A) If the Secretary’ and
16 inserting the following:

17 ‘(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR
18 VEHICLE SAFETY REGULATION AND OPERATORS.—

19 ‘(1) NOTICE.—

20 ‘(A) IN GENERAL.—If the Secretary’; and

21 (2) by adding at the end of paragraph (2) the
22 following:

23 ‘(E) COPYING OF RECORDS AND ACCESS
24 TO EQUIPMENT, LANDS, AND BUILDINGS.—A
25 person subject to chapter 51 or part B of sub-

1 title VI who fails to allow the Secretary, or an
2 employee designated by the Secretary, promptly
3 upon demand to inspect and copy any record or
4 inspect and examine equipment, lands, build-
5 ings, and other property in accordance with sec-
6 tion 504(c), 5121(c), or 14122(b) shall be liable
7 to the United States for a civil penalty not to
8 exceed \$1,000 for each offense. Each day the
9 Secretary is denied the right to inspect and
10 copy any record or inspect and examine equip-
11 ment, lands, buildings, and other property shall
12 constitute a separate offense; except that the
13 total of all civil penalties against any violator
14 for all offenses related to a single violation shall
15 not exceed \$10,000. It shall be a defense to
16 such penalty that the records did not exist at
17 the time of the Secretary's request or could not
18 be timely produced without unreasonable ex-
19 pense or effort. Nothing in this subparagraph
20 shall be construed as amending or superseding
21 any remedy available to the Secretary under
22 section 502(d), section 507(c), or any other
23 provision of this title.'

1 **SEC. 4107. MEDICAL REVIEW BOARD.**

2 Section 113 of title 49, United States Code, is
3 amended by adding at the end the following:

4 ‘(j) **MEDICAL REVIEW BOARD.**—

5 ‘(1) **ESTABLISHMENT AND FUNCTION.**—The
6 Administrator shall establish a Medical Review
7 Board as an advisory committee to provide the Ad-
8 ministration with medical advice and recommenda-
9 tions on driver qualification medical standards and
10 guidelines, medical examiner education, and medical
11 research.

12 ‘(2) **COMPOSITION.**—The Medical Review Board
13 shall consist of 5 members appointed for a term not
14 to exceed 3 years by the Secretary from medical in-
15 stitutions and private medical practice. The member-
16 ship shall reflect expertise in a variety of medical
17 specialties relevant to the functions of the Adminis-
18 tration.’.

19 **SEC. 4108. INCREASED PENALTIES FOR OUT-OF-SERVICE**
20 **VIOLATIONS AND FALSE RECORDS.**

21 (a) **RECORDKEEPING AND REPORTING VIOLA-**
22 **TIONS.**—Section 521(b)(2)(B) of title 49, United States
23 Code, is amended—

24 (1) in clause (i) by striking ‘\$500’ and inserting
25 ‘\$1,000’; and

1 (2) by striking ‘\$5,000’ each place it appears
2 and inserting ‘\$10,000’.

3 (b) VIOLATIONS OF OUT-OF-SERVICE ORDERS.—
4 Section 31310(i)(2) of title 49, United States Code, is
5 amended—

6 (1) by striking ‘Not later than December 18,
7 1992, the’ and inserting ‘The’;

8 (2) in subparagraph (A)—

9 (A) by striking ‘90 days’ and inserting
10 ‘180 days’; and

11 (B) by striking ‘\$1,000’ and inserting
12 ‘\$2,500’;

13 (3) in subparagraph (B)—

14 (A) by striking ‘one year’ and inserting ‘2
15 years’; and

16 (B) by striking ‘\$1,000; and’ and inserting
17 ‘\$5,000;’; and

18 (4) in subparagraph (C) by striking ‘\$10,000.’
19 and inserting ‘\$25,000; and’.

20 **SEC. 4109. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
21 **AND NETWORKS DEPLOYMENT.**

22 (a) IN GENERAL.—The Secretary shall carry out a
23 commercial vehicle information systems and networks pro-
24 gram to—

1 (1) improve the safety and productivity of com-
2 mercial vehicles and drivers; and

3 (2) reduce costs associated with commercial ve-
4 hicle operations and Federal and State commercial
5 vehicle regulatory requirements.

6 (b) PURPOSE.—The program shall advance the tech-
7 nological capability and promote the deployment of intel-
8 ligent transportation system applications for commercial
9 motor vehicle operations, commercial driver, and carrier-
10 specific information systems and networks.

11 (c) CORE DEPLOYMENT GRANTS.—

12 (1) IN GENERAL.—The Secretary shall make
13 grants to eligible States for the core deployment of
14 commercial vehicle information systems and net-
15 works.

16 (2) AMOUNT OF GRANTS.—The maximum ag-
17 gregate amount the Secretary may grant to a State
18 for the core deployment of commercial vehicle infor-
19 mation systems and networks under this subsection
20 and sections 5001(a)(5) and 5001(a)(6) of the
21 Transportation Equity Act for the 21st Century
22 (112 Stat. 420) may not exceed \$2,500,000.

23 (3) USE OF FUNDS.—Funds from a grant
24 under this subsection may only be used for the core
25 deployment of commercial vehicle information sys-

1 tems and networks. An eligible State that has either
2 completed the core deployment of commercial vehicle
3 information systems and networks or completed such
4 deployment before grant funds are expended under
5 this subsection may use the grant funds for the ex-
6 panded deployment of commercial vehicle informa-
7 tion systems and networks in the State.

8 (d) EXPANDED DEPLOYMENT GRANTS.—

9 (1) IN GENERAL.—For each fiscal year, from
10 the funds remaining after the Secretary has made
11 grants under subsection (c), the Secretary may make
12 grants to each eligible State, upon request, for the
13 expanded deployment of commercial vehicle informa-
14 tion systems and networks.

15 (2) ELIGIBILITY.—Each State that has com-
16 pleted the core deployment of commercial vehicle in-
17 formation systems and networks in such State is eli-
18 gible for an expanded deployment grant under this
19 subsection.

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, but not to exceed \$1,000,000 per State.

24 (4) USE OF FUNDS.—A State may use funds
25 from a grant under this subsection only for the ex-

1 panded deployment of commercial vehicle informa-
2 tion systems and networks.

3 (e) ELIGIBILITY.—To be eligible for a grant under
4 this section, a State—

5 (1) shall have a commercial vehicle information
6 systems and networks program plan approved by the
7 Secretary that describes the various systems and
8 networks at the State level that need to be refined,
9 revised, upgraded, or built to accomplish deployment
10 of core capabilities;

11 (2) shall certify to the Secretary that its com-
12 mercial vehicle information systems and networks
13 deployment activities, including hardware procure-
14 ment, software and system development, and infra-
15 structure modifications—

16 (A) are consistent with the national intel-
17 ligent transportation systems and commercial
18 vehicle information systems and networks archi-
19 tectures and available standards; and

20 (B) promote interoperability and efficiency
21 to the extent practicable; and

22 (3) shall agree to execute interoperability tests
23 developed by the Federal Motor Carrier Safety Ad-
24 ministration to verify that its systems conform with
25 the national intelligent transportation systems archi-

1 tecture, applicable standards, and protocols for com-
2 mercial vehicle information systems and networks.

3 (f) FEDERAL SHARE.—The Federal share of the cost
4 of a project payable from funds made available to carry
5 out this section shall not exceed 50 percent. The total Fed-
6 eral share of the cost of a project payable from all eligible
7 sources shall not exceed 80 percent.

8 (g) DEFINITIONS.—In this section, the following defi-
9 nitions apply:

10 (1) COMMERCIAL VEHICLE INFORMATION SYS-
11 TEMS AND NETWORKS.—The term ‘commercial vehi-
12 cle information systems and networks’ means the in-
13 formation systems and communications networks
14 that provide the capability to—

15 (A) improve the safety of commercial
16 motor vehicle operations;

17 (B) increase the efficiency of regulatory in-
18 spection processes to reduce administrative bur-
19 dens by advancing technology to facilitate in-
20 spections and increase the effectiveness of en-
21 forcement efforts;

22 (C) advance electronic processing of reg-
23 istration information, driver licensing informa-
24 tion, fuel tax information, inspection and crash
25 data, and other safety information;

1 (D) enhance the safe passage of commer-
2 cial motor vehicles across the United States and
3 across international borders; and

4 (E) promote the communication of infor-
5 mation among the States and encourage
6 multistate cooperation and corridor develop-
7 ment.

8 (2) COMMERCIAL MOTOR VEHICLE OPER-
9 ATIONS.—The term ‘commercial motor vehicle oper-
10 ations’—

11 (A) means motor carrier operations and
12 motor vehicle regulatory activities associated
13 with the commercial motor vehicle movement of
14 goods, including hazardous materials, and pas-
15 sengers; and

16 (B) with respect to the public sector, in-
17 cludes the issuance of operating credentials, the
18 administration of motor vehicle and fuel taxes,
19 and roadside safety and border crossing inspec-
20 tion and regulatory compliance operations.

21 (3) CORE DEPLOYMENT.—The term ‘core de-
22 ployment’ means the deployment of systems in a
23 State necessary to provide the State with the fol-
24 lowing capabilities:

25 (A) Safety information exchange to—

1 (i) electronically collect and transmit
2 commercial motor vehicle and driver in-
3 spection data at a majority of inspection
4 sites in the State;

5 (ii) connect to the safety and fitness
6 electronic records system for access to
7 interstate carrier and commercial motor
8 vehicle data, summaries of past safety per-
9 formance, and commercial motor vehicle
10 credentials information; and

11 (iii) exchange carrier data and com-
12 mercial motor vehicle safety and creden-
13 tials information within the State and con-
14 nect to such system for access to interstate
15 carrier and commercial motor vehicle data.

16 (B) Interstate credentials administration
17 to—

18 (i) perform end-to-end processing, in-
19 cluding carrier application, jurisdiction ap-
20 plication processing, and credential
21 issuance, of at least the international reg-
22 istration plan and international fuel tax
23 agreement credentials and extend this
24 processing to other credentials, including
25 intrastate registration, vehicle titling, over-

1 size vehicle permits, overweight vehicle per-
2 mits, carrier registration, and hazardous
3 materials permits;

4 (ii) connect to such plan and agree-
5 ment clearinghouses; and

6 (iii) have at least 10 percent of the
7 credentialing transaction volume in the
8 State handled electronically and have the
9 capability to add more carriers and to ex-
10 tend to branch offices where applicable.

11 (C) Roadside electronic screening to elec-
12 tronically screen transponder-equipped commer-
13 cial vehicles at a minimum of one fixed or mo-
14 bile inspection site in the State and to replicate
15 this screening at other sites in the State.

16 (4) EXPANDED DEPLOYMENT.—The term ‘ex-
17 panded deployment’ means the deployment of sys-
18 tems in a State that exceed the requirements of a
19 core deployment of commercial vehicle information
20 systems and networks, improve safety and the pro-
21 ductivity of commercial motor vehicle operations,
22 and enhance transportation security.

23 (h) REPEAL.—Section 5209 of the Transportation
24 Equity Act for the 21st Century (23 U.S.C. 502 note; 112
25 Stat. 460–461) is repealed.

1 **SEC. 4110. SAFETY FITNESS.**

2 (a) IN GENERAL.—Section 31144(a) of title 49,
3 United States Code, is amended to read as follows:

4 ‘(a) IN GENERAL.—The Secretary shall—

5 (1) determine whether an owner or operator is
6 fit to operate safely commercial motor vehicles, uti-
7 lizing among other things the accident record of an
8 owner or operator operating in interstate commerce
9 and the accident record and safety inspection record
10 of such owner or operator in operations that affect
11 interstate commerce;

12 (2) periodically update such safety fitness de-
13 terminations;

14 (3) make such final safety fitness determina-
15 tions readily available to the public; and

16 (4) prescribe by regulation penalties for viola-
17 tions of this section consistent with section 521.’.

18 (b) PROHIBITED TRANSPORTATION.—The first sub-
19 section (c) of such section 31144 is amended by adding
20 at the end the following:

21 (5) TRANSPORTATION AFFECTING INTERSTATE
22 COMMERCE.—Owners or operators of commercial
23 motor vehicles prohibited from operating in inter-
24 state commerce pursuant to paragraphs (1) through
25 (3) may not operate any commercial motor vehicle

1 that affects interstate commerce until the Secretary
2 determines that such owner or operator is fit.’.

3 (c) DETERMINATION OF UNFITNESS BY A STATE.—

4 Such section 31144 is further amended—

5 (1) by redesignating subsections (d), (e), and
6 the second subsection (e) as subsections (e), (f), and
7 (g), respectively;

8 (2) by inserting after the first subsection (e)
9 the following:

10 ‘(d) DETERMINATION OF UNFITNESS BY A STATE.—

11 If a State that receives a grant under section 31102 deter-
12 mines, by applying the standards prescribed by the Sec-
13 retary under subsection (b), that an owner or operator of
14 commercial motor vehicles that has its principal place of
15 business in that State and operates in intrastate com-
16 merce is unfit under such standards and prohibits the
17 owner or operator from operating such vehicles in the
18 State, the Secretary shall prohibit the owner or operator
19 from operating such vehicles in interstate commerce until
20 the State determines that the owner or operator is fit.’;
21 and

22 (3) in subsection (g) (as redesignated by para-
23 graph (1) of this subsection) by adding at the end
24 the following:

1 ‘(5) GRANTS FOR AUDITS.—From amounts de-
2 ducted under section 31104(f)(3), the Secretary may
3 make grants to States and local governments for
4 new entrant motor carrier audits under this sub-
5 section without requiring a matching contribution
6 from such States or local governments.

7 ‘(6) DOT AUDITS.—If the Secretary determines
8 that a State or local government is unable to use
9 government employees to conduct new entrant motor
10 carrier audits, the Secretary may utilize the funds
11 deducted under section 31104(f)(3) to conduct such
12 audits in areas under the jurisdiction of such State
13 or local government.’.

14 **SEC. 4111. PATTERN OF SAFETY VIOLATIONS BY MOTOR**
15 **CARRIER OR BROKER MANAGEMENT.**

16 (a) DUTIES OF EMPLOYERS AND EMPLOYEES.—Sec-
17 tion 31135 of title 49, United States Code, is amended—

18 (1) by inserting ‘(a) In General.—’ before
19 ‘Each’; and

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

21 ‘(b) PATTERN OF NONCOMPLIANCE.—If an officer of
22 a motor carrier or broker engages in a pattern or practice
23 of avoiding compliance, or masking or otherwise con-
24 cealing noncompliance, with regulations prescribed under
25 this chapter, the Secretary may suspend, amend, or revoke

1 any part of the registration of the motor carrier or broker
2 under section 13905.

3 ‘(c) LIST OF PROPOSED OFFICERS.—Each person
4 seeking registration as a motor carrier under section
5 13902 or as a broker under section 13904 shall submit
6 a list of the proposed officers of the motor carrier or
7 broker. If the Secretary determines that any of the pro-
8 posed officers has previously engaged in a pattern or prac-
9 tice of avoiding compliance, or masking or otherwise con-
10 cealing noncompliance, with regulations prescribed under
11 this chapter, the Secretary may deny the person’s applica-
12 tion for registration as a motor carrier under section
13 13902(a)(3) or as a broker under section 13904(a).

14 ‘(d) REGULATIONS.—The Secretary shall by regula-
15 tion establish standards to implement subsections (b) and
16 (c) and a procedure to allow a person who is denied reg-
17 istration under subsection (c) or whose registration is sus-
18 pended, amended, or revoked under subsection (b) to rem-
19 edy the pattern or practice that results in the denial, sus-
20 pension, amendment, or revocation.

21 ‘(e) DEFINITIONS.—In this section, the following
22 definitions shall apply:

23 ‘(1) MOTOR CARRIER AND BROKER.—The terms
24 “motor carrier” and “broker” have the meanings
25 such terms have under section 13102.

1 ‘(2) OFFICER.—The term “officer” means an
2 owner, chief executive officer, chief operating officer,
3 chief financial officer, safety director, vehicle mainte-
4 nance supervisor, and driver supervisor of a motor
5 carrier, regardless of the title attached to those
6 functions.’.

7 (b) MOTOR CARRIER REGISTRATION.—Section
8 13902(a)(1)(B) of such title is amended to read as follows:

9 ‘(B) (i) any safety regulations imposed by
10 the Secretary;

11 ‘(ii) the duties of employers and employees
12 established by the Secretary under section
13 31135; and

14 ‘(iii) the safety fitness requirements estab-
15 lished by the Secretary under section 31144;
16 and’.

17 **SEC. 4112. MOTOR CARRIER RESEARCH AND TECHNOLOGY**
18 **PROGRAM.**

19 (a) IN GENERAL.—Section 31108 of title 49, United
20 States Code, is amended to read as follows:

21 **‘§ 31108. Motor carrier research and technology pro-**
22 **gram**

23 ‘(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY
24 TRANSFER ACTIVITIES.—

1 ‘(1) ESTABLISHMENT.—The Secretary of
2 Transportation shall establish and carry out a motor
3 carrier research and technology program.

4 ‘(2) MULTIYEAR PLAN.—The program must in-
5 clude a multi-year research plan that focuses on
6 nonredundant innovative research.

7 ‘(3) RESEARCH, DEVELOPMENT, AND TECH-
8 NOLOGY TRANSFER ACTIVITIES.—The Secretary may
9 carry out under the program research, development,
10 technology, and technology transfer activities with
11 respect to—

12 ‘(A) the causes of accidents, injuries, and
13 fatalities involving commercial motor vehicles;

14 ‘(B) means of reducing the number and se-
15 verity of accidents, injuries, and fatalities in-
16 volving commercial motor vehicles;

17 ‘(C) improving commercial motor vehicle
18 and motor carrier safety, and industry effi-
19 ciency, through technological improvement;

20 ‘(D) improving technology used by enforce-
21 ment officers when conducting roadside inspec-
22 tions and compliance reviews to increase effi-
23 ciency and information transfers; and

24 ‘(E) increasing the safety and security of
25 hazardous materials transportation.

1 ‘(4) TESTS AND DEVELOPMENT.—The Sec-
2 retary may test, develop, or assist in testing and de-
3 veloping any material, invention, patented article, or
4 process related to the research and technology pro-
5 gram.

6 ‘(5) TRAINING.—The Secretary may use the
7 funds made available to carry out this section for
8 training or education of commercial motor vehicle
9 safety personnel, including training in accident re-
10 construction and detection of controlled substances
11 or other contraband and stolen cargo or vehicles.

12 ‘(6) PROCEDURES.—The Secretary may carry
13 out this section—

14 ‘(A) independently;

15 ‘(B) in cooperation with other Federal de-
16 partments, agencies, and instrumentalities and
17 Federal laboratories; or

18 ‘(C) by making grants to, or entering into
19 contracts, cooperative agreements, and other
20 transactions with, any Federal laboratory, State
21 agency, authority, association, institution, for-
22 profit or nonprofit corporation, organization,
23 foreign country, or person.

24 ‘(7) DEVELOPMENT AND PROMOTION OF USE
25 OF PRODUCTS.—The Secretary shall use funds made

1 available to carry out this section to develop, admin-
2 ister, communicate, and promote the use of products
3 of research, technology, and technology transfer pro-
4 grams under this section.

5 ‘(b) COLLABORATIVE RESEARCH AND DEVELOP-
6 MENT.—

7 ‘(1) IN GENERAL.—To advance innovative solu-
8 tions to problems involving commercial motor vehicle
9 and motor carrier safety, security, and efficiency,
10 and to stimulate the deployment of emerging tech-
11 nology, the Secretary may carry out, on a cost-
12 shared basis, collaborative research and development
13 with—

14 ‘(A) non-Federal entities, including State
15 and local governments, foreign governments,
16 colleges and universities, corporations, institu-
17 tions, partnerships, and sole proprietorships
18 that are incorporated or established under the
19 laws of any State; and

20 ‘(B) Federal laboratories.

21 ‘(2) COOPERATIVE AGREEMENTS.—In carrying
22 out this subsection, the Secretary may enter into co-
23 operative research and development agreements (as
24 defined in section 12 of the Stevenson-Wydler Tech-
25 nology Innovation Act of 1980 (15 U.S.C. 3710a)).

1 ‘(3) COST SHARING.—

2 ‘(A) FEDERAL SHARE.—The Federal share
3 of the cost of activities carried out under a co-
4 operative research and development agreement
5 entered into under this subsection shall not ex-
6 ceed 50 percent; except that, if there is sub-
7 stantial public interest or benefit associated
8 with any such activity, the Secretary may ap-
9 prove a greater Federal share.

10 ‘(B) TREATMENT OF DIRECTLY INCURRED
11 NON-FEDERAL COSTS.—All costs directly in-
12 curred by the non-Federal partners, including
13 personnel, travel, and hardware or software de-
14 velopment costs, shall be credited toward the
15 non-Federal share of the cost of the activities
16 described in subparagraph (A).

17 ‘(4) USE OF TECHNOLOGY.—The research, de-
18 velopment, or use of a technology under a coopera-
19 tive research and development agreement entered
20 into under this subsection, including the terms
21 under which the technology may be licensed and the
22 resulting royalties may be distributed, shall be sub-
23 ject to the Stevenson-Wydler Technology Innovation
24 Act of 1980 (15 U.S.C. 3701 et seq.).’.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 311 of such title is amended by striking the item
3 relating to section 31108 and inserting the following:

‘31108. Motor carrier research and technology program.’.

4 **SEC. 4113. INTERNATIONAL COOPERATION.**

5 (a) IN GENERAL.—Chapter 311 of title 49, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 ‘SUBCHAPTER IV—MISCELLANEOUS

9 **§ 31161. International cooperation**

10 ‘The Secretary of Transportation is authorized to use
11 funds made available by section 31104(i) to participate
12 and cooperate in international activities to enhance motor
13 carrier, driver, and highway safety by such means as ex-
14 changing information, conducting research, and examining
15 needs, best practices, and new technology.’.

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

‘SUBCHAPTER IV—MISCELLANEOUS

‘31161. International cooperation.’.

18 **SEC. 4114. PERFORMANCE AND REGISTRATION INFORMA-**
19 **TION SYSTEM MANAGEMENT.**

20 (a) DESIGN AND CONDITIONS FOR PARTICIPATION.—
21 Section 31106(b) of title 49, United States Code, is
22 amended by striking paragraphs (2), (3), and (4) and in-
23 serting the following:

1 ‘(2) DESIGN.—The program shall link Federal
2 motor carrier safety information systems with State
3 commercial vehicle registration and licensing systems
4 and shall be designed to enable a State to—

5 ‘(A) determine the safety fitness of a
6 motor carrier or registrant when licensing or
7 registering the registrant or motor carrier or
8 while the license or registration is in effect; and

9 ‘(B) deny, suspend, or revoke the commer-
10 cial motor vehicle registrations of a motor car-
11 rier or registrant that has been issued an oper-
12 ations out-of-service order by the Secretary.

13 ‘(3) CONDITIONS FOR PARTICIPATION.—The
14 Secretary shall require States, as a condition of par-
15 ticipation in the program, to—

16 ‘(A) comply with the uniform policies, pro-
17 cedures, and technical and operational stand-
18 ards prescribed by the Secretary under sub-
19 section (a)(4); and

20 ‘(B) possess or seek the authority to deny,
21 suspend, or revoke commercial motor vehicle
22 registrations based on the issuance of an oper-
23 ations out-of-service order by the Secretary.’.

24 (b) PERFORMANCE AND REGISTRATION INFORMA-
25 TION SYSTEM MANAGEMENT GRANTS.—

1 (1) IN GENERAL.—Subchapter I of chapter 311
2 of title 49, United States Code, is further amended
3 by adding at the end the following:

4 **‘§ 31109. Performance and registration information**
5 **system management**

6 ‘(a) IN GENERAL.—The Secretary of Transportation
7 may make a grant to a State to implement the perform-
8 ance and registration information system management re-
9 quirements of section 31106(b).

10 ‘(b) AVAILABILITY OF AMOUNTS.—Amounts made
11 available to a State under this section shall remain avail-
12 able until expended.’.

13 (2) CONFORMING AMENDMENT.—The analysis
14 for such subchapter is amended by adding at the
15 end the following:

‘31109. Performance and registration information system management.’.

16 **SEC. 4115. DATA QUALITY IMPROVEMENT.**

17 Section 31106(a)(3) of title 49, United States Code,
18 is amended—

19 (1) by striking ‘and’ at the end of subpara-
20 graph (D);

21 (2) by striking the period at the end of sub-
22 paragraph (E) and inserting a semicolon; and

23 (3) by adding at the end the following:

24 ‘(F) ensure, to the maximum extent prac-
25 tical, all the data is complete, timely, and accu-

1 rate across all information systems and initia-
2 tives; and

3 '(G) establish and implement a national
4 motor carrier safety data correction system.'

5 **SEC. 4116. DRIVEAWAY SADDLEMOUNT VEHICLES.**

6 (a) DEFINITION.—Section 31111(a) of title 49,
7 United States Code, is amended by adding at the end of
8 the following:

9 '(4) DRIVE-AWAY SADDLEMOUNT WITH
10 FULLMOUNT VEHICLE TRANSPORTER COMBINA-
11 TION.—The term “drive-away saddlemount with
12 fullmount vehicle transporter combination” means a
13 vehicle combination designed and specifically used to
14 tow up to 3 trucks or truck tractors, each connected
15 by a saddle to the frame or fifth-wheel of the for-
16 ward vehicle of the truck or truck tractor in front
17 of it.'

18 (b) GENERAL LIMITATIONS.—Section 31111(b)(1) of
19 such title is amended—

20 (1) by redesignating subparagraphs (D) and
21 (E) as subparagraphs (E) and (F), respectively; and

22 (2) by inserting after subparagraph (C) the fol-
23 lowing:

24 '(D) imposes a vehicle length limitation of not
25 less than or more than 97 feet on a driveaway

1 **SEC. 4118. REGISTRATION OF MOTOR CARRIERS AND**
2 **FREIGHT FORWARDERS.**

3 (a) DEFINITIONS RELATING TO MOTOR CARRIERS.—
4 Paragraphs (6), (7), (12), and (13) of section 13102 of
5 title 49, United States Code, are each amended by striking
6 ‘motor vehicle’ and inserting ‘commercial motor vehicle (as
7 defined in section 31132)’.

8 (b) FREIGHT FORWARDERS.—Section 13903(a) of
9 title 49, United States Code, is amended—

10 (1) by striking ‘The Secretary’ and inserting
11 the following:

12 ‘(1) HOUSEHOLD GOODS.—The Secretary’;

13 (2) by inserting ‘of household goods’ after
14 ‘freight forwarder’; and

15 (3) by adding at the end the following:

16 ‘(2) OTHERS.—The Secretary may register a
17 person to provide service subject to jurisdiction
18 under subchapter III of chapter 135 as a freight for-
19 warder (other than a freight forwarder of household
20 goods) if the Secretary finds that such registration
21 is needed for the protection of shippers and that the
22 person is fit, willing, and able to provide the service
23 and to comply with this part and applicable regula-
24 tions of the Secretary and Board.’.

1 **SEC. 4119. DEPOSIT OF CERTAIN CIVIL PENALTIES INTO**
2 **HIGHWAY TRUST FUND.**

3 Sections 31138(d)(5) and 31139(f)(5) of title 49,
4 United States Code, are each amended by striking ‘Treas-
5 ury as miscellaneous receipts’ and inserting ‘Highway
6 Trust Fund (other than the Mass Transit Account)’.

7 **SEC. 4120. OUTREACH AND EDUCATION.**

8 (a) IN GENERAL.—The Secretary shall conduct,
9 through any combination of grants, contracts, or coopera-
10 tive agreements, an outreach and education program to
11 be administered by the Federal Motor Carrier Safety Ad-
12 ministration and the National Highway Traffic Safety Ad-
13 ministration.

14 (b) PROGRAM ELEMENTS.—The program shall in-
15 clude, at a minimum, the following:

16 (1) A program to promote a more comprehen-
17 sive and national effort to educate commercial motor
18 vehicle drivers and passenger vehicle drivers about
19 how commercial motor vehicle drivers and passenger
20 vehicle drivers can more safely share the road with
21 each other.

22 (2) A program to promote enhanced traffic en-
23 forcement efforts aimed at reducing the incidence of
24 the most common unsafe driving behaviors that
25 cause or contribute to crashes involving commercial
26 motor vehicles and passenger vehicles.

1 (3) A program to establish a public-private
2 partnership to provide resources and expertise for
3 the development and dissemination of information
4 relating to sharing the road referred to in para-
5 graphs (1) and (2) to each partner's constituents
6 and to the general public through the use of bro-
7 chures, videos, paid and public advertisements, the
8 Internet, and other media.

9 (c) FEDERAL SHARE.—The Federal share of a pro-
10 gram or activity for which a grant is made under this sec-
11 tion shall be 100 percent of the cost of such program or
12 activity.

13 (d) ANNUAL REPORT.—The Secretary shall prepare
14 and transmit to Congress an annual report on the pro-
15 grams and activities carried out under this section.

16 (e) FUNDING.—From amounts made available under
17 section 31104(i) of title 49, United States Code, the Sec-
18 retary shall make available \$1,000,000 to the Federal
19 Motor Carrier Safety Administration, and \$3,000,000 to
20 the National Highway Traffic Safety Administration, for
21 each of fiscal years 2005, 2006, 2007, 2008, and 2009
22 to carry out this section.

23 **SEC. 4121. INSULIN TREATED DIABETES MELLITUS.**

24 (a) NO PERIOD OF COMMERCIAL DRIVING WHILE
25 USING INSULIN REQUIRED FOR QUALIFICATION.—The

1 Secretary may not require individuals with insulin-treated
2 diabetes mellitus who are applying for an exemption from
3 the physical qualification standards to have experience op-
4 erating commercial motor vehicles while using insulin in
5 order to be exempted from the physical qualification
6 standards to operate a commercial motor vehicle in inter-
7 state commerce.

8 (b) MINIMUM PERIOD OF INSULIN USE.—Subject to
9 subsection (a), the Secretary shall require individuals with
10 insulin-treated diabetes mellitus to have a minimum period
11 of insulin use to demonstrate stable control of diabetes
12 before operating a commercial motor vehicle in interstate
13 commerce. For individuals who have been newly diagnosed
14 with type 1 diabetes, the minimum period of insulin use
15 may not exceed 2 months, unless directed by the treating
16 physician. For individuals who have type 2 diabetes and
17 are converting to insulin use, the minimum period of insu-
18 lin use may not exceed 1 month, unless directed by the
19 treating physician.

20 (c) LIMITATIONS.—Insulin-treated individuals may
21 not be held by the Secretary to a higher standard of phys-
22 ical qualification in order to operate a commercial motor
23 vehicle in interstate commerce than other individuals ap-
24 plying to operate, or operating, a commercial motor vehicle
25 in interstate commerce; except to the extent that limited

1 operating, monitoring, and medical requirements are
2 deemed medically necessary under regulations issued by
3 the Secretary.

4 **SEC. 4122. GRANT PROGRAM FOR COMMERCIAL MOTOR VE-**
5 **HICLE OPERATORS.**

6 (a) ESTABLISHMENT.—The Secretary shall establish
7 a grant program for training operators of commercial
8 motor vehicles (as defined in section 31301 of title 49,
9 United States Code). The purpose of the program shall
10 be to train operators and future operators in the safe use
11 of such vehicle.

12 (b) FEDERAL SHARE.—The Federal share of the cost
13 for which a grant is made under this section shall be 80
14 percent.

15 (c) FUNDING.—From amounts made available under
16 section 31104(i) of title 49, United States Code, the Sec-
17 retary shall make available \$1,000,000 for each of fiscal
18 years 2005, 2006, 2007, 2008, and 2009 to carry out this
19 section.

20 **SEC. 4123. COMMERCIAL MOTOR VEHICLE SAFETY ADVI-**
21 **SORY COMMITTEE.**

22 (a) ESTABLISHMENT.—The Secretary shall establish
23 a commercial motor vehicle safety advisory committee to
24 provide advice and recommendations to the Secretary on
25 commercial motor vehicle safety regulations and other

1 matters relating to activities and functions of the Federal
2 Motor Carrier Safety Administration.

3 (b) COMPOSITION.—The members of the advisory
4 committee shall be appointed by the Secretary and shall
5 include representatives of the motor carrier industry, driv-
6 ers, safety advocates, manufacturers, safety enforcement
7 officials, law enforcement agencies of border States, and
8 other individuals affected by rulemakings under consider-
9 ation by the Department of Transportation. Representa-
10 tives of a single interest group may not constitute a major-
11 ity of the members of the advisory committee.

12 (c) TERMINATION DATE.—The advisory committee
13 shall remain in effect until September 30, 2009.

14 **SEC. 4124. SAFETY DATA IMPROVEMENT PROGRAM.**

15 (a) IN GENERAL.—The Secretary shall make grants
16 to States for projects and activities to improve the accu-
17 racy, timeliness, and completeness of commercial motor
18 vehicle safety data reported to the Secretary.

19 (b) ELIGIBILITY.—A State shall be eligible for a
20 grant under this section in a fiscal year if the Secretary
21 determines that the State has—

22 (1) conducted a comprehensive audit of its com-
23 mercial motor vehicle safety data system within the
24 preceding 2 years;

1 (2) developed a plan that identifies and
2 prioritizes its commercial motor vehicle safety data
3 needs and goals; and

4 (3) identified performance-based measures to
5 determine progress toward those goals.

6 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated from the Highway Trust
8 Fund (other than the Mass Transit Account) to carry out
9 this section \$3,000,000 for each of fiscal years 2006
10 through 2009.

11 (d) APPLICABILITY OF TITLE 23, UNITED STATES
12 CODE.—Funds authorized to be appropriated by this sec-
13 tion shall be available for obligation in the same manner
14 as if such funds were apportioned under chapter 1 of title
15 23, United States Code, except that the Federal share of
16 the cost of a project or activity carried out using such
17 funds shall be 80 percent and such funds shall remain
18 available until expended.

19 (e) BIENNIAL REPORT.—Not later 2 years after the
20 date of enactment of this Act, and biennially thereafter,
21 the Secretary shall transmit to Congress a report on the
22 activities and results of the program carried out under this
23 section, together with any recommendations the Secretary
24 determines appropriate.

1 **SEC. 4125. COMMERCIAL DRIVER'S LICENSE INFORMATION**
2 **SYSTEM MODERNIZATION.**

3 (a) **GENERAL AUTHORITY.**—The Secretary may
4 make a grant to a State or organization representing
5 agencies and officials of a State in a fiscal year to mod-
6 ernize its commercial driver's license information system
7 in accordance with subsection (c) if the State is in sub-
8 stantial compliance with the requirements of section
9 31311 of title 49, United States Code, and this section,
10 as determined by the Secretary. The Secretary shall estab-
11 lish criteria for the distribution of grants and notify each
12 State annually of such criteria.

13 (b) **MODERNIZATION PLAN.**—No later than 120 days
14 after the date of enactment of this Act, the Secretary shall
15 publish a comprehensive national plan to modernize the
16 commercial driver's license information system. The plan
17 shall be developed in consultation with representatives of
18 the motor carrier industry, State safety enforcement agen-
19 cies, and State licensing agencies designated by the Sec-
20 retary.

21 (c) **USE OF GRANT.**—A State may use a grant under
22 this section only to implement improvements that are con-
23 sistent with the modernization plan developed by the Sec-
24 retary.

25 (d) **PILOT PROGRAM.**—

1 (1) IN GENERAL.—The Secretary may conduct
2 with grants under this section a 3-year pilot pro-
3 gram in no more than 3 States to evaluate a system
4 for sharing driver’s license information on all com-
5 mercial and noncommercial driver’s licenses issued
6 in each participating State.

7 (2) FUNDING.—The Secretary may use no more
8 than 50 percent of the funds available to carry out
9 this section for the pilot program in any fiscal year.

10 (3) REPORT.—Not later than 1 year after the
11 last day of the pilot program, the Secretary shall
12 transmit to Congress a report on the results of the
13 pilot program.

14 (e) GOVERNMENT SHARE.—A grant under this sec-
15 tion to a State or organization may not be for more than
16 80 percent of the costs incurred by the State or organiza-
17 tion in a fiscal year in implementing the modernization
18 program developed by the Secretary. In determining these
19 costs, the Secretary shall include in-kind contributions of
20 the State.

21 (f) FUNDING.—There are authorized to be appro-
22 priated from the Highway Trust Fund (other than the
23 Mass Transit Account) to carry out this section—

24 (1) \$7,000,000 for fiscal year 2006;

25 (2) \$7,000,000 for fiscal year 2007;

1 (3) \$8,000,000 for fiscal year 2008; and

2 (4) \$8,000,000 for fiscal year 2009.

3 (g) CONTRACT AUTHORITY AND AVAILABILITY.—

4 (1) PERIOD OF AVAILABILITY.—The amounts
5 made available under subsection (f) shall remain
6 available until expended.

7 (2) INITIAL DATE OF AVAILABILITY.—Amounts
8 authorized to be appropriated from the Highway
9 Trust Fund (other than the Mass Transit Account)
10 by subsection (f) shall be available for obligation on
11 the date of their apportionment or allocation or on
12 October 1 of the fiscal year for which they are au-
13 thorized, whichever occurs first.

14 (3) CONTRACT AUTHORITY.—Approval by the
15 Secretary of a grant with funds made available
16 under subsection (f) imposes upon the United States
17 a contractual obligation for payment of the Govern-
18 ment's share of costs incurred in carrying out the
19 objectives of the grant.

20 **SEC. 4126. MAXIMUM HOURS OF SERVICE FOR OPERATORS**
21 **OF GROUND WATER WELL DRILLING RIGS.**

22 Section 345(a)(2) of the National Highway System
23 Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat
24 613) is amended by adding at the end the following: 'Ex-
25 cept as required in section 395.3 of title 49, Code of Fed-

1 eral Regulations, as in effect on the date of enactment
2 of this sentence, no additional off-duty time shall be re-
3 quired in order to operate such vehicle.’.

4 **SEC. 4127. SAFETY PERFORMANCE HISTORY SCREENING.**

5 (a) IN GENERAL.—The Secretary shall provide per-
6 sons conducting preemployment screening services for the
7 motor carrier industry electronic access to the following
8 reports contained in the Motor Carrier Management Infor-
9 mation System:

10 (1) Commercial motor vehicle accident reports.

11 (2) Inspection reports that contain no driver-re-
12 lated safety violations.

13 (3) Serious driver-related safety violation in-
14 spection reports.

15 (b) CONDITIONS ON PROVIDING ACCESS.—Before
16 providing a person access to the Motor Carrier Manage-
17 ment Information System under subsection (a), the Sec-
18 retary shall—

19 (1) ensure that any information that is released
20 to such person will be in accordance with the Fair
21 Credit Reporting Act (15 U.S.C. 1681 et seq.) and
22 all other applicable Federal law;

23 (2) ensure that such person will not conduct a
24 screening without the operator-applicant’s written
25 consent;

1 (3) ensure that any information that is released
2 to such person will not be released to any person or
3 entity, other than the motor carrier requesting the
4 screening services or the operator-applicant, unless
5 expressly authorized or required by law; and

6 (4) provide a procedure for the operator-appli-
7 cant to correct inaccurate information in the System
8 in a timely manner.

9 (c) DESIGN.—The process for providing access to the
10 Motor Carrier Management Information System under
11 subsection (a) shall be designed to assist the motor carrier
12 industry in assessing an individual operator’s crash and
13 serious safety violation inspection history as a preemploy-
14 ment condition. Use of the process shall not be mandatory
15 and may only be used during the preemployment assess-
16 ment of an operator-applicant.

17 (d) SERIOUS OPERATOR-RELATED SAFETY VIOLA-
18 TION DEFINED.—In this section, the term ‘serious oper-
19 ator-related violation’ means a violation by an operator of
20 a commercial motor vehicle (as defined in section 31102
21 of title 49, United States Code) that the Secretary deter-
22 mines will result in the operator being prohibited from
23 continuing to operate a commercial motor vehicle until the
24 violation is corrected.

1 **SEC. 4128. INTERMODAL CHASSIS ROADABILITY RULE-MAK-**
2 **ING.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Secretary, after pro-
5 viding notice and opportunity for comment, shall issue
6 regulations establishing a program to ensure that inter-
7 modal equipment used to transport intermodal containers
8 are safe.

9 (b) MOTOR CARRIER SAFETY REGULATIONS.—The
10 regulations under this section shall be issued as part of
11 the Federal motor carrier safety regulations of the De-
12 partment of Transportation.

13 (c) CONTENTS.—The regulations issued under this
14 section shall include, at a minimum—

15 (1) a requirement to identify providers of inter-
16 modal equipment that is interchanged or intended
17 for interchange to motor carriers in intermodal
18 transportation;

19 (2) a requirement to match such intermodal
20 equipment readily to the intermodal equipment pro-
21 vider through a unique identifying number;

22 (3) a requirement to ensure that each inter-
23 modal equipment provider maintains a system of
24 maintenance and repair records for such equipment;

1 (4) a requirement to evaluate the compliance of
2 intermodal equipment providers with the applicable
3 Federal motor carrier safety regulations;

4 (5) a provision that—

5 (A) establishes a civil penalty structure
6 consistent with section 521(b) of title 49,
7 United States Code, for intermodal equipment
8 providers that fail to attain satisfactory compli-
9 ance with applicable Federal motor carrier safe-
10 ty regulations; and

11 (B) prohibits intermodal equipment pro-
12 viders from placing intermodal equipment on
13 the public highways if such providers are found
14 to pose an imminent hazard;

15 (6) a process by which motor carriers and
16 agents of motor carriers may petition the Federal
17 Motor Carrier Safety Administration to undertake
18 an investigation of a noncompliant intermodal equip-
19 ment provider; and

20 (7) an inspection and audit program of inter-
21 modal equipment providers.

22 (d) DEADLINE FOR RULEMAKING PROCEEDING.—

23 The regulations under this section shall be issued pursu-
24 ant to a rulemaking proceeding initiated not later than
25 90 days after the date of enactment of this Act.

1 (e) DEFINITIONS.—In this section, the following defi-
2 nitions apply:

3 (1) INTERMODAL EQUIPMENT.—The term
4 ‘intermodal equipment’ means equipment that is
5 commonly used in the intermodal transportation of
6 freight over public highways in interstate commerce
7 (as defined in section 31132 of title 49, United
8 States Code), including trailers, chassis, and any as-
9 sociated devices.

10 (2) INTERMODAL EQUIPMENT PROVIDER.—The
11 term ‘intermodal equipment provider’ means any
12 person with any legal right, title, or interest in inter-
13 modal equipment that interchanges such equipment
14 to a motor carrier.

15 (3) INTERCHANGE.—The term ‘interchange’
16 means the act of providing intermodal equipment to
17 a motor carrier for the purpose of transporting the
18 equipment for loading or unloading by any person or
19 repositioning the equipment for the benefit of the
20 equipment provider. Such term does not include the
21 leasing of equipment to a motor carrier for use in
22 the motor carrier’s over-the-road freight hauling op-
23 erations.

24 (f) INSPECTION, REPAIR, AND MAINTENANCE OF
25 INTERMODAL EQUIPMENT.—Section 31136 of title 49,

1 United States Code, is amended by adding at the end the
2 following:

3 ‘(g) INSPECTION, REPAIR, AND MAINTENANCE OF
4 INTERMODAL EQUIPMENT.—The Secretary, or an em-
5 ployee of the Department of Transportation designated by
6 the Secretary, may inspect intermodal equipment, and
7 copy related maintenance and repair records for such
8 equipment, on demand and display of proper credentials
9 to inspect intermodal equipment.’.

10 (g) JURISDICTION OVER EQUIPMENT PROVIDERS.—
11 Section 31132(1) of such title is amended by inserting
12 after ‘towed vehicle’ the following: ‘(including intermodal
13 equipment, including trailers, chassis and associated de-
14 vices, commonly used for the transportation of intermodal
15 freight via highway)’.

16 **SEC. 4129. SUBSTANCE ABUSE PROFESSIONALS.**

17 The Secretary shall conduct a rulemaking to permit
18 State licensed or certified mental health counselors or ad-
19 diction specialists certified by the American Academy of
20 Health Care Providers in the Addictive Disorders to act
21 as substance abuse professionals under subpart O of part
22 40 of title 49, Code of Federal Regulations.

23 **SEC. 4130. INTERSTATE VAN OPERATIONS.**

24 The Federal motor carrier safety regulations (other
25 than regulations relating to commercial drivers license and

1 drug and alcohol testing requirements) shall apply to all
2 interstate operations of commercial motor vehicles used to
3 transport between 9 and 15 passengers (including the
4 driver), regardless of the distance traveled.

5 **SEC. 4131. HOURS OF SERVICE FOR OPERATORS OF UTIL-**
6 **ITY SERVICE VEHICLES.**

7 Section 345 of the National Highway System Des-
8 ignation Act of 1995 (49 U.S.C. 31136 note; 109 sTAT.
9 613) is amended—

10 (1) in subsection (a) by striking paragraph (4)
11 and inserting the following:

12 ‘(4) OPERATORS OF UTILITY SERVICE VEHI-
13 CLES.—

14 ‘(A) INAPPLICABILITY OF FEDERAL REGU-
15 LATIONS.—Such regulations shall not apply to
16 a driver of a utility service vehicle.

17 ‘(B) PROHIBITION ON STATE REGULA-
18 TIONS.—A State, a political subdivision of a
19 State, an interstate agency, or other entity con-
20 sisting of 2 or more States, shall not enact or
21 enforce any law, rule, regulation, or standard
22 that imposes requirements on a driver of a util-
23 ity service vehicle that are similar to the re-
24 quirements contained in such regulations.’.

1 (2) in subsection (b) by striking ‘Nothing’ and
2 inserting ‘Except as provided in subsection (a)(4),
3 nothing’; and

4 (3) in the first sentence of subsection (c) by
5 striking ‘paragraph (2)’ and inserting ‘an exemption
6 under paragraph (2) or (4)’.

7 **SEC. 4132. TECHNICAL CORRECTIONS.**

8 (a) **INTERMODAL TRANSPORTATION ADVISORY**
9 **BOARD.**—Section 5502(b) of title 49, United States Code,
10 is amended—

11 (1) by striking ‘and’ at the end of paragraph
12 (4);

13 (2) by striking the period at the end of para-
14 graph (5) and inserting ‘; and’; and

15 (3) by adding at the end the following:

16 ‘(6) the Federal Motor Carrier Safety Adminis-
17 tration.’.

18 (b) **REFERENCE TO AGENCY.**—Section 31502(e) of
19 such title is amended—

20 (1) in paragraph (2) by striking ‘Regional Di-
21 rector of the Federal Highway Administration’ and
22 inserting ‘Field Administrator of the Federal Motor
23 Carrier Safety Administration’; and

24 (2) in paragraph (3) by striking ‘Regional Di-
25 rector’ and inserting ‘Field Administrator’.

1 **SEC. 4133. SPECIAL RULE FOR FISCAL YEAR 2004.**

2 In any case in which an amount is authorized to be
3 appropriated, made available, allocated, set aside, taken
4 down, or subject to an obligation limitation for fiscal year
5 2004 for a program, project, or activity in any provision
6 of this title, including an amendment made by this title,
7 that is different than the amount authorized to be appro-
8 priated, made available, allocated, set aside, taken down,
9 or subject to an obligation limitation for fiscal year 2004
10 for such program, project, or activity in any provision of
11 the Surface Transportation Extension Act of 2004, Part
12 IV (Public Law 108–280), including any amendment
13 made by such Act, the amount referred to in such Act
14 shall be the amount authorized to be appropriated, made
15 available, allocated, set aside, taken down, or subject to
16 an obligation limitation.

17 **Subtitle B—Household Goods**
18 **Transportation**

19 **SEC. 4201. FEDERAL-STATE RELATIONS RELATING TO**
20 **TRANSPORTATION OF HOUSEHOLD GOODS.**

21 (a) NONPREEMPTION OF INTRASTATE TRANSPOR-
22 TATION OF HOUSEHOLD GOODS.—Section
23 14501(c)(2)(B) of title 49, United States Code, is amend-
24 ed by inserting ‘intrastate’ before ‘transportation’.

25 (b) ENFORCEMENT OF CONSUMER PROTECTION
26 WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS

1 CARRIERS.—Chapter 145 of such title is amended by add-
2 ing at the end the following:

3 **‘§ 14506. Enforcement of Federal regulations by State**
4 **attorneys General**

5 ‘(a) IN GENERAL.—A State, as *parens patriae*, may
6 bring a civil action on behalf of a resident of the State
7 in an appropriate district court of the United States to
8 enforce a regulation or order of the Secretary or Board—

9 ‘(1) to protect an individual shipper of house-
10 hold goods if such regulation or order governs the
11 delivery of the shipper’s household goods; or

12 ‘(2) to impose a civil penalty under section
13 14915 whenever the attorney general of the State
14 has reason to believe that the interests of the resi-
15 dents of the State have been or are being threatened
16 or adversely affected by—

17 ‘(A) a carrier or broker providing transpor-
18 tation of household goods subject to jurisdiction
19 under subchapter I or III of chapter 135 who
20 is committing repeat violations of section
21 14915; or

22 ‘(B) a foreign motor carrier providing
23 transportation of household goods who is reg-
24 istered under section 13902 and who is commit-
25 ting repeat violations of section 14915.

1 ‘(b) LIMITATION ON STATUTORY CONSTRUCTION.—

2 Nothing in this section shall be construed—

3 ‘(1) as preventing an attorney general from ex-
4 ercising the powers conferred on the attorney gen-
5 eral by the laws of such State to conduct investiga-
6 tions or to administer oaths or affirmations or to
7 compel the attendance of witnesses or the production
8 of documentary and other evidence;

9 ‘(2) as prohibiting a State official from pro-
10 ceeding in State court to enforce a criminal statute
11 of the State;

12 ‘(3) as authorizing a State or political subdivi-
13 sion of a State to bring an enforcement action under
14 a consumer protection law, regulation, or other pro-
15 vision of the State relating to interstate transpor-
16 tation of household goods (as defined in section
17 13102(10)(A)) with respect to an activity that is in-
18 consistent with Federal laws and regulations relating
19 to interstate transportation of household goods; or

20 ‘(4) as authorizing a State, as *parens patriae*,
21 to bring a class civil action on behalf of its residents
22 to enforce a regulation or order of the Secretary or
23 Board.

24 ‘(c) ACTIONS BY THE SECRETARY OR BOARD.—

25 Whenever a civil action has been instituted by or on behalf

1 of the Secretary or Board for violation of section 14915,
2 no State may, during the pendency of such action, insti-
3 tute a civil action under subsection (a) against any defend-
4 ant named in the complaint relating to such violation.

5 ‘(d) VENUE; SERVICE OF PROCESS.—Any civil action
6 to be brought under subsection (a) in a district court of
7 the United States may be brought in the district in which
8 the defendant is found, is an inhabitant, or transacts busi-
9 ness or wherever venue is proper under section 1391 of
10 title 28. Process in such an action may be served in any
11 district in which the defendant is an inhabitant or in which
12 the defendant may be found.’.

13 (c) CONFORMING AMENDMENT.—The analysis for
14 such chapter is amended by adding at the end the fol-
15 lowing:

‘14506. Enforcement of Federal regulations by State attorneys general.’.

16 **SEC. 4202. ARBITRATION REQUIREMENTS.**

17 (a) OFFERING SHIPPERS ARBITRATION.—Section
18 14708(a) of title 49, United States Code, is amended by
19 inserting before the period at the end the following: ‘and
20 to determine whether carrier charges, in addition to those
21 collected at delivery, must be paid by the shipper for trans-
22 portation and services related to the transportation of
23 household goods’.

1 (b) THRESHOLD FOR BINDING ARBITRATION.—Sec-
2 tion 14708(b)(6) of such title is amended by striking
3 ‘\$5,000’ each place it appears and inserting ‘\$10,000’.

4 (c) DEADLINE FOR DECISION.—Section 14708(b)(8)
5 of such title is 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) of such title is amended—

12 (1) by redesignating subparagraphs (A) and
13 (B) 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
18 settlement program was available to resolve the dis-
19 pute;’.

20 **SEC. 4203. CIVIL PENALTIES RELATING TO HOUSEHOLD**
21 **GOODS BROKERS AND UNAUTHORIZED**
22 **TRANSPORTATION.**

23 Section 14901(d) of title 49, United States Code, is
24 amended—

1 (1) by striking ‘If a carrier’ and inserting the
2 following:

3 ‘(1) IN GENERAL.—If a carrier’; and

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

5 ‘(2) ESTIMATE OF BROKER WITHOUT CARRIER
6 AGREEMENT.—If a broker for transportation of
7 household goods subject to jurisdiction under sub-
8 chapter I of chapter 135 makes an estimate of the
9 cost of transporting any such goods before entering
10 into an agreement with a carrier to provide trans-
11 portation of household goods subject to such juris-
12 diction, the broker is liable to the United States for
13 a civil penalty of not less than \$10,000 for each vio-
14 lation.

15 ‘(3) UNAUTHORIZED TRANSPORTATION.—If a
16 person provides transportation of household goods
17 subject to jurisdiction under subchapter I of chapter
18 135 or provides broker services for such transpor-
19 tation without being registered under chapter 139 to
20 provide such transportation or services as a motor
21 carrier or broker, as the case may be, such person
22 is liable to the United States for a civil penalty of
23 not less than \$25,000 for each violation.’.

1 **SEC. 4204. CIVIL PENALTY FOR HOLDING HOUSEHOLD**
2 **GOODS HOSTAGE.**

3 (a) IN GENERAL.—Chapter 149 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **‘§ 14915. Holding household goods hostage**

7 (a) HOLDING HOUSEHOLD GOODS HOSTAGE DE-
8 FINED.—For purposes of this section, the term “holding
9 household goods hostage” means the knowing and willful
10 refusal to relinquish possession of a shipment of household
11 goods described in section 13102(10)(A) upon payment of
12 not more than 100 percent of a binding estimate (or, in
13 the case of a nonbinding estimate, not more than 110 per-
14 cent of the estimated charges for such shipment).

15 (b) CIVIL PENALTY.—Whoever is found holding a
16 household goods shipment hostage is liable to the United
17 States for a civil penalty of not less than \$10,000 for each
18 violation. If such person is a carrier or broker, the Sec-
19 retary may suspend for a period of not less than 6 months
20 the registration of such carrier or broker under chapter
21 139.’.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 such chapter is amended by adding at the end the fol-
24 lowing:

‘14915. Holding household goods hostage.’.

1 **SEC. 4205. WORKING GROUP FOR DEVELOPMENT OF PRAC-**
2 **TICES AND PROCEDURES TO ENHANCE FED-**
3 **ERAL-STATE RELATIONS.**

4 (a) **IN GENERAL.**—Not later than 90 days after the
5 date of enactment of this Act, the Secretary shall establish
6 a working group of State attorneys general, State con-
7 sumer protection administrators, and Federal and local
8 law enforcement officials for the purpose of developing
9 practices and procedures to enhance the Federal-State
10 partnership in enforcement efforts, exchange of informa-
11 tion, and coordination of enforcement efforts with respect
12 to interstate transportation of household goods and of
13 making legislative and regulatory recommendations to the
14 Secretary concerning such enforcement efforts.

15 (b) **CONSULTATION.**—In carrying out subsection (a),
16 the working group shall consult with industries involved
17 in the transportation of household goods.

18 (c) **FEDERAL ADVISORY COMMITTEE ACT EXEMP-**
19 **TION.**—The Federal Advisory Committee Act (5 U.S.C.
20 App.) shall not apply to the working group established
21 under subsection (a).

22 (d) **TERMINATION DATE.**—The working group shall
23 remain in effect until September 30, 2009.

24 **SEC. 4206. CONSUMER HANDBOOK ON DOT WEB SITE.**

25 Not later than 1 year after the date of enactment
26 of this Act, the Secretary shall take such action as may

1 be necessary to ensure that publication ESA 03005 of the
2 Federal Motor Carrier Safety Administration entitled
3 ‘Your Rights and Responsibilities When You Move’, is
4 prominently displayed, and available in language that is
5 readily understandable by the general public, on the Web
6 site of the Department of Transportation.

7 **SEC. 4207. RELEASE OF HOUSEHOLD GOODS BROKER IN-**
8 **FORMATION.**

9 Not later than 1 year after the date of enactment
10 of this Act, the Secretary shall modify the regulations con-
11 tained in part 375 of title 49, Code of Federal Regula-
12 tions, to require a broker that is subject to such regula-
13 tions to provide shippers with the following information
14 whenever they have contact with a shipper or potential
15 shipper:

16 (1) The Department of Transportation number
17 of the broker.

18 (2) The ESA 03005 publication referred to in
19 section 4206 of this Act.

20 (3) A list of all motor carriers providing trans-
21 portation of household goods used by the broker and
22 a statement that the broker is not a motor carrier
23 providing transportation of household goods.

1 **SEC. 4208. CONSUMER COMPLAINT INFORMATION.**

2 (a) ESTABLISHMENT OF SYSTEM.—Not later than 1
3 year after the date of enactment of this Act, the Secretary
4 shall—

5 (1) establish a system for filing and logging
6 consumer complaints relating to motor carriers pro-
7 viding transportation of household goods and for
8 compiling complaint information gathered by the De-
9 partment of Transportation and the States with re-
10 gard to such carriers, a database of the complaints,
11 and a procedure for the public to have access to ag-
12 gregated information and for carriers to challenge
13 duplicate or fraudulent information in the database;
14 and

15 (2) issue regulations requiring each motor car-
16 rier of household goods to submit on a quarterly
17 basis a report summarizing—

18 (A) the number of shipments that originate
19 and are delivered for individual shippers during
20 the reporting period by the carrier;

21 (B) the number and general category of
22 complaints lodged by consumers with the car-
23 rier;

24 (C) the number of claims filed with the
25 carrier for loss and damage in excess of \$500;

1 (D) the number of such claims resolved
2 during the reporting period;

3 (E) the number of such claims declined in
4 the reporting period; and

5 (F) the number of such claims that are
6 pending at the close of the reporting period.

7 (b) USE OF INFORMATION.—The Secretary shall con-
8 sider information in the data base established under sub-
9 section (a) in its household goods compliance and enforce-
10 ment program.

11 **SEC. 4209. INSURANCE REGULATIONS.**

12 (a) REVIEW.—Not later than 1 year after the date
13 of enactment of this Act, the Secretary shall undertake
14 a review of the current Federal regulations regarding in-
15 surance coverage provided by motor carriers providing
16 transportation of household goods and revise such regula-
17 tions in order to provide enhanced protection for shippers
18 in the case of loss or damage as determined necessary.

19 (b) DETERMINATIONS.—The review shall include, but
20 not be limited to, a determination of—

21 (1) whether the current regulations provide ade-
22 quate protection for shippers;

23 (2) whether an individual shipper should pur-
24 chase insurance as opposed to the carrier; and

1 (3) whether there are abuses of the current reg-
2 ulations that leave the shipper unprotected in loss
3 and damage claims.

4 **SEC. 4210. ESTIMATING REQUIREMENTS.**

5 Section 14104(b)(1) of title 49, United States Code,
6 is amended to read as follows:

7 ‘(1) REQUIRED TO BE IN WRITING.—

8 ‘(A) IN GENERAL.—Except as otherwise
9 provided in this subsection, every motor carrier
10 providing transportation of household goods de-
11 scribed in section 13102(10)(A) subject to ju-
12 risdiction under subchapter I of chapter 135
13 shall conduct a physical survey of the household
14 goods to be transported on behalf of a prospec-
15 tive individual shipper and shall provide the
16 shipper with a written estimate of charges for
17 the transportation and all related services.

18 ‘(B) WAIVER.—A shipper may elect to
19 waive a physical survey under this paragraph by
20 written agreement signed by the shipper before
21 the shipment is loaded. A copy of the waiver
22 agreement must be retained as an addendum to
23 the bill of lading and shall be subject to the
24 same record inspection and preservation re-

1 quirements of the Secretary as are applicable to
2 bills of lading.

3 ‘(C) ESTIMATE.—

4 ‘(i) IN GENERAL.—Notwithstanding a
5 waiver under subparagraph (B), a carrier’s
6 statement of charges for transportation
7 must be submitted to the shipper in writ-
8 ing and must indicate whether it is binding
9 or nonbinding.

10 ‘(ii) BINDING.—A binding estimate
11 under this paragraph must indicate that
12 the carrier and shipper are bound by such
13 charges. The carrier may impose a charge
14 for providing a written binding estimate.

15 ‘(iii) NONBINDING.—A nonbinding es-
16 timate under this paragraph must indicate
17 that the actual charges will be based upon
18 the actual weight of the individual ship-
19 per’s shipment and the carrier’s lawful tar-
20 riff charges. The carrier may not impose a
21 charge for providing a nonbinding esti-
22 mate.’.

1 **SEC. 4211. APPLICATION OF STATE CONSUMER PROTEC-**
2 **TION LAWS TO CERTAIN HOUSEHOLD GOODS**
3 **CARRIERS.**

4 (a) **STUDY.**—The Comptroller General shall conduct
5 a study on the current consumer protection authorities
6 and actions of the Department of Transportation and the
7 impact on shippers and carriers of household goods involved
8 in interstate transportation of allowing State attorneys
9 general to apply State consumer protection laws to such
10 transportation.

11 (b) **MATTERS TO BE CONSIDERED.**—In conducting
12 the study, the Comptroller General shall consider, at a
13 minimum—

14 (1) the level of consumer protection being pro-
15 vided to consumers through Federal household goods
16 regulations and how household goods regulations re-
17 lating to consumer protection compare to regulations
18 relating to consumer protection for other modes of
19 transportation regulated by the Department of
20 Transportation;

21 (2) the history and background of State en-
22 forcement of State consumer protection laws on
23 household goods carriers providing intrastate trans-
24 portation and what effects such laws have on the
25 ability of intrastate household goods carriers to op-
26 erate;

1 (b) HOUSEHOLD GOODS MOTOR CARRIER DE-
2 FINED.—In this section, the term ‘household goods motor
3 carrier’ means a motor carrier as defined in section
4 13102(12) of title 49, United States Code, which, in the
5 ordinary course of its business of providing transportation
6 of household goods, offers some or all of the following ad-
7 ditional services: binding and nonbinding estimates,
8 inventorying, protective packing and unpacking of indi-
9 vidual items, and loading and unloading at personal resi-
10 dences.

11 **SEC. 4213. VIOLATIONS OF OUT-OF-SERVICE ORDERS.**

12 Section 31310(i)(2) of title 49, United States Code,
13 is amended by adding at the end the following:

14 (D) an employer that knowingly and willfully
15 allows or requires an employee to operate a commer-
16 cial motor vehicle in violation of an out-of-service
17 order shall, upon conviction, be subject for each of-
18 fense to imprisonment for a term not to exceed one
19 year or a fine under title 18, or both.’.

20 **SEC. 4214. CRIMINAL PENALTY FOR HOLDING GOODS HOS-**
21 **TAGE .**

22 Section 14915 of title 49, United States Code, as
23 added by section 4204 of this Act is amended by adding
24 at the end the following:

1 ‘(d) CRIMINAL PENALTY.—A motor carrier that has
2 been convicted of knowingly and willfully holding house-
3 hold goods hostage by falsifying documents or demanding
4 the payment of charges for services that were not per-
5 formed or were not necessary in the safe and adequate
6 movement of a shipment of household goods shall be fined
7 under title 18, or imprisoned not more than 2 years, or
8 both.’.

9 **TITLE V—TRANSPORTATION**
10 **RESEARCH AND EDUCATION**
11 **Subtitle A—Funding**

12 **SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.**

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

16 (1) SURFACE TRANSPORTATION RESEARCH, DE-
17 VELOPMENT, AND DEPLOYMENT PROGRAM.—To
18 carry out sections 502, 503, 506, 507, 509, and 510
19 of title 23, United States Code, and sections 5207,
20 5210, 5211, and 5402 of this title—

21 (A) \$169,000,000 for fiscal year 2004;

22 (B) \$239,500,000 for fiscal year 2005;

23 (C) \$239,500,000 for fiscal year 2006;

24 (D) \$239,500,000 for fiscal year 2007;

25 (E) \$239,500,000 for fiscal year 2008; and

1 (F) \$239,500,000 for fiscal year 2009.

2 (2) TRAINING AND EDUCATION.—To carry out
3 section 504 of title 23, United States Code, and sec-
4 tion 5211 of this Act, \$24,500,000 for fiscal year
5 2004 and \$33,500,000 for each of fiscal years 2005
6 through 2009.

7 (3) BUREAU OF TRANSPORTATION STATIS-
8 TICS.—For the Bureau of Transportation Statistics
9 to carry out section 111 of title 49, United States
10 Code, \$31,000,000 for fiscal year 2004 and
11 \$33,000,000 for each of fiscal years 2005 through
12 2009.

13 (4) UNIVERSITY TRANSPORTATION RE-
14 SEARCH.—To carry out sections 5505 and 5506 of
15 title 49, United States Code, \$54,500,000 for fiscal
16 year 2004 and \$71,000,000 for each of fiscal years
17 2005 through 2009.

18 (5) INTELLIGENT TRANSPORTATION SYSTEMS
19 (ITS) RESEARCH.—To carry out subtitle F of this
20 title, \$115,000,000 for each of fiscal years 2004
21 through 2009.

22 (6) ITS DEPLOYMENT.—To carry out sections
23 5208 and 5209 of the Transportation Equity Act for
24 the 21st Century (112 Stat. 458; 112 Stat. 460),
25 \$100,000,000 for fiscal years 2004 and 2005.

1 (b) APPLICABILITY OF TITLE 23, UNITED STATES
2 CODE.—Funds authorized to be appropriated by sub-
3 section (a) shall be available for obligation in the same
4 manner as if such funds were apportioned under chapter
5 1 of title 23, United States Code; except that the Federal
6 share of the cost of a project or activity carried out using
7 such funds shall be 50 percent, unless otherwise expressly
8 provided by this Act (including the amendments made by
9 this Act) or otherwise determined by the Secretary, and
10 such funds shall remain available until expended and shall
11 not be transferable.

12 **SEC. 5102. OBLIGATION CEILING.**

13 Notwithstanding any other provision of law, the total
14 of all obligations from amounts made available from the
15 Highway Trust Fund (other than the Mass Transit Ac-
16 count) by sections 5101(a) and 5401 of this Act shall not
17 exceed \$483,000,000 for fiscal year 2004, \$484,000,000
18 for fiscal year 2005, \$485,000,000 for fiscal year 2006,
19 \$485,000,000 for fiscal year 2007, \$486,000,000 for fis-
20 cal year 2008, and \$487,000,000 for fiscal year 2009.

21 **SEC. 5103. FINDINGS.**

22 Congress finds the following:

23 (1) Research and development are critical to de-
24 veloping and maintaining a transportation system
25 that meets the goals of safety, mobility, economic vi-

1 tality, efficiency, equity, and environmental protec-
2 tion.

3 (2) Federally sponsored surface transportation
4 research and development has produced many suc-
5 cesses. The development of rumble strips has in-
6 creased safety; research on materials has increased
7 the lifespan of pavements, saving money and reduc-
8 ing the disruption caused by construction; and Geo-
9 graphic Information Systems have improved the
10 management and efficiency of transit fleets.

11 (3) Despite these important successes, the Fed-
12 eral surface transportation research and develop-
13 ment investment represents less than one percent of
14 overall government spending on surface transpor-
15 tation.

16 (4) While Congress increased funding for over-
17 all transportation programs by about 40 percent in
18 the Transportation Equity Act for the 21st Century,
19 funding for transportation research and development
20 remained relatively flat.

21 (5) The Federal investment in research and de-
22 velopment should be balanced between short-term
23 applied and long-term fundamental research and de-
24 velopment. The investment should also cover a wide
25 range of research areas, including research on mate-

1 rials and construction, research on operations, re-
 2 search on transportation trends and human factors,
 3 and research addressing the institutional barriers to
 4 deployment of new technologies.

5 (6) Therefore, Congress finds that it is in the
 6 United States interest to increase the Federal in-
 7 vestment in transportation research and develop-
 8 ment, and to conduct research in critical research
 9 gaps, in order to ensure that the transportation sys-
 10 tem meets the goals of safety, mobility, economic vi-
 11 tality, efficiency, equity, and environmental protec-
 12 tion.

13 **Subtitle B—Research, Technology,**
 14 **and Education**

15 **SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

16 (a) RESEARCH, TECHNOLOGY, AND EDUCATION.—
 17 Title 23, United States Code, is amended—

18 (1) in the table of chapters by striking the item
 19 relating to chapter 5 and inserting the following:

 ‘5. RESEARCH, TECHNOLOGY, AND EDUCATION 501’.

20 (2) by striking the heading for chapter 5 and
 21 inserting the following:

1 **‘CHAPTER 5—RESEARCH, TECHNOLOGY,**
2 **AND EDUCATION’.**

3 (b) STATEMENT OF PRINCIPLES GOVERNING RE-
4 SEARCH AND TECHNOLOGY INVESTMENTS.—Section 502
5 of such title is amended—

6 (1) by redesignating subsections (a) through (g)
7 as subsections (b) through (h), respectively; and

8 (2) by inserting before subsection (b) (as so re-
9 designated) the following:

10 ‘(a) BASIC PRINCIPLES GOVERNING RESEARCH AND
11 TECHNOLOGY INVESTMENTS.—

12 ‘(1) COVERAGE.—Surface transportation re-
13 search and technology development shall include all
14 activities leading to technology development and
15 transfer, as well as the introduction of new and in-
16 novative ideas, practices, and approaches, through
17 such mechanisms as field applications, education and
18 training, and technical support.

19 ‘(2) FEDERAL RESPONSIBILITY.—Funding and
20 conducting surface transportation research and tech-
21 nology transfer activities shall be considered a basic
22 responsibility of the Federal Government when the
23 work—

24 ‘(A) is of national significance;

1 ‘(B) supports research in which there is a
2 clear public benefit and private sector invest-
3 ment is less than optimal;

4 ‘(C) supports a Federal stewardship role in
5 assuring that State and local governments use
6 national resources efficiently; or

7 ‘(D) presents the best means to support
8 Federal policy goals compared to other policy
9 alternatives.

10 ‘(3) ROLE.—Consistent with these Federal re-
11 sponsibilities, the Secretary shall—

12 ‘(A) conduct research;

13 ‘(B) support and facilitate research and
14 technology transfer activities by State highway
15 agencies;

16 ‘(C) share results of completed research;
17 and

18 ‘(D) support and facilitate technology and
19 innovation deployment.

20 ‘(4) PROGRAM CONTENT.—A surface transpor-
21 tation research program shall include—

22 ‘(A) fundamental, long-term highway re-
23 search;

1 ‘(B) research aimed at significant highway
2 research gaps and emerging issues with na-
3 tional implications; and

4 ‘(C) research related to policy and plan-
5 ning.

6 ‘(5) STAKEHOLDER INPUT.—Federal surface
7 transportation research and development activities
8 shall address the needs of stakeholders. Stakeholders
9 include States, metropolitan planning organizations,
10 local governments, the private sector, researchers,
11 research sponsors, and other affected parties, includ-
12 ing public interest groups.

13 ‘(6) COMPETITION AND PEER REVIEW.—Except
14 as otherwise provided in this Act, the Secretary shall
15 award all grants, contracts, and cooperative agree-
16 ments for research and development under this Act
17 based on open competition and peer review of pro-
18 posals.

19 ‘(7) PERFORMANCE REVIEW AND EVALUA-
20 TION.—To the maximum extent practicable, all sur-
21 face transportation research and development
22 projects shall include a component of performance
23 measurement and evaluation. Performance measures
24 shall be established during the proposal stage of a
25 research and development project and shall, to the

1 maximum extent possible, be outcome-based. All
2 evaluations shall be made readily available to the
3 public.’.

4 (c) PROCUREMENT FOR RESEARCH, DEVELOPMENT,
5 AND TECHNOLOGY TRANSFER ACTIVITIES.—Section
6 502(b)(3) of such title (as redesignated by subsection (b)
7 of this section) is amended to read as follows:

8 ‘(3) COOPERATION, GRANTS, AND CON-
9 TRACTS.—The Secretary may carry out research, de-
10 velopment, and technology transfer activities related
11 to transportation—

12 ‘(A) independently;

13 ‘(B) in cooperation with other Federal de-
14 partments, agencies, and instrumentalities and
15 Federal laboratories; or

16 ‘(C) by making grants to, or entering into
17 contracts, cooperative agreements, and other
18 transactions with one or more of the following:
19 the National Academy of Sciences, the Amer-
20 ican Association of State Highway and Trans-
21 portation Officials, any Federal laboratory,
22 Federal agency, State agency, authority, asso-
23 ciation, institution, for-profit or nonprofit cor-
24 poration, organization, foreign country, any
25 other person.’.

1 (d) TRANSPORTATION POOLED FUND PROGRAM.—
2 Section 502(b) of such title (as redesignated by subsection
3 (b) of this section), is amended by adding at the end the
4 following:

5 (6) POOLED FUNDING.—

6 (A) COOPERATION.—To promote effective
7 utilization of available resources, the Secretary
8 may cooperate with a State and an appropriate
9 agency in funding research, development, and
10 technology transfer activities of mutual interest
11 on a pooled funds basis.

12 (B) SECRETARY AS AGENT.—The Sec-
13 retary may enter into contracts, cooperative
14 agreements, grants, and other transactions as
15 agent for all participating parties in carrying
16 out such research, development, or technology
17 transfer.’.

18 (e) OPERATIONS ELEMENTS IN RESEARCH ACTIVI-
19 TIES.—Section 502 of such title is further amended—

20 (1) in subsection (b)(1)(B) (as redesignated by
21 subsection (b) of this section) by inserting ‘transpor-
22 tation system management and operations,’ after
23 ‘operation,’.

1 (2) in subsection (d)(5)(C) (as redesignated by
2 subsection (b) of this section) by inserting ‘system
3 management and’ after ‘transportation’; and

4 (3) by inserting at the end of subsection (d) (as
5 redesignated by subsection (b) of this section) the
6 following:

7 ‘(12) Investigation and development of various
8 operational methodologies to reduce the occurrence
9 and impact of recurrent congestion and nonrecurrent
10 congestion and increase transportation system reli-
11 ability.

12 ‘(13) Investigation of processes, procedures,
13 and technologies to secure container and hazardous
14 material transport, including the evaluation of regu-
15 lations and the impact of good security practices on
16 commerce and productivity.

17 ‘(14) Research, development, and technology
18 transfer related to asset management.’.

19 (f) FACILITATING TRANSPORTATION RESEARCH AND
20 TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section
21 502(c)(2) of such title (as redesignated by subsection (b)
22 of this section) is amended to read as follows:

23 ‘(2) COOPERATION, GRANTS, CONTRACTS, AND
24 AGREEMENTS.—Notwithstanding any other provision
25 of law, the Secretary may directly initiate contracts,

1 cooperative research and development agreements
2 (as defined in section 12 of the Stevenson-Wydler
3 Technology Innovation Act of 1980 (15 U.S.C.
4 3710a)), and other transactions to fund, and accept
5 funds from, the Transportation Research Board of
6 the National Research Council of the National Acad-
7 emy of Sciences, State departments of transpor-
8 tation, cities, counties, and their agents to conduct
9 joint transportation research and technology ef-
10 forts.’.

11 (g) EXPLORATORY ADVANCED RESEARCH PRO-
12 GRAM.—Section 502(e) of such title (as redesignated by
13 subsection (b) of this section) is amended to read as fol-
14 lows:

15 ‘(e) EXPLORATORY ADVANCED RESEARCH.—

16 ‘(1) IN GENERAL.—The Secretary shall estab-
17 lish an exploratory advanced research program, con-
18 sistent with the surface transportation research and
19 technology development strategic plan developed
20 under section 508 that involves and draws upon
21 basic research results to provide a better under-
22 standing of problems and develop innovative solu-
23 tions. In carrying out the program, the Secretary
24 shall strive to develop partnerships with public and
25 private sector entities.

1 ‘(2) RESEARCH AREAS.—In carrying out the
2 program, the Secretary may make grants and enter
3 into cooperative agreements and contracts in such
4 areas of surface transportation research and tech-
5 nology as the Secretary determines appropriate, in-
6 cluding the following:

7 ‘(A) Characterization of materials used in
8 highway infrastructure, including analytical
9 techniques, microstructure modeling, and the
10 deterioration processes.

11 ‘(B) Assessment of the effects of transpor-
12 tation decisions on human health.

13 ‘(C) Development of surrogate measures of
14 safety.

15 ‘(D) Environmental research.

16 ‘(E) Data acquisition techniques for sys-
17 tem condition and performance monitoring.

18 ‘(F) System performance data and infor-
19 mation processing needed to assess the day-to-
20 day operational performance of the system in
21 support of hour-to-hour operational decision-
22 making.’.

23 (h) LONG-TERM PAVEMENT PERFORMANCE PRO-
24 GRAM.—

1 (1) IN GENERAL.—Section 502(f) of such title
2 (as redesignated by subsection (b) of this section) is
3 amended to read as follows:

4 ‘(f) LONG-TERM PAVEMENT PERFORMANCE PRO-
5 GRAM.—

6 ‘(1) AUTHORITY.—The Secretary shall complete
7 the 20-year long-term pavement performance pro-
8 gram tests initiated under the strategic highway re-
9 search program established under section 307(d) (as
10 in effect on June 8, 1998).

11 ‘(2) GRANTS, COOPERATIVE AGREEMENTS, AND
12 CONTRACTS.—Under the program, the Secretary
13 shall make grants and enter into cooperative agree-
14 ments and contracts to—

15 ‘(A) monitor, material-test, and evaluate
16 highway test sections in existence as of the date
17 of the grant, agreement, or contract;

18 ‘(B) analyze the data obtained under sub-
19 paragraph (A); and

20 ‘(C) prepare products to fulfill program ob-
21 jectives and meet future pavement technology
22 needs.’.

23 (2) FUNDING.—Of the amounts made available
24 by section 5101(a)(1) of this Act, \$10,000,000 for
25 fiscal year 2004 and \$21,000,000 for each of fiscal

1 years 2005 through 2009 shall be available to carry
2 out section 502(f) of title 23, United States Code.

3 (i) TURNER-FAIRBANK HIGHWAY RESEARCH CEN-
4 TER.—Section 502 of title 23, United States Code, is fur-
5 ther amended by adding at the end the following:

6 ‘(i) TURNER-FAIRBANK HIGHWAY RESEARCH CEN-
7 TER.—

8 (1) IN GENERAL.—The Secretary shall operate
9 in the Federal Highway Administration a Turner-
10 Fairbank Highway Research Center.

11 (2) USES OF THE CENTER.—The Turner-
12 Fairbank Highway Research Center shall support—

13 (A) the conduct of highway research and
14 development related to new highway technology;

15 (B) the development of understandings,
16 tools, and techniques that provide solutions to
17 complex technical problems through the devel-
18 opment of economical and environmentally sen-
19 sitive designs, efficient and quality-controlled
20 construction practices, and durable materials;
21 and

22 (C) the development of innovative highway
23 products and practices.’.

24 (j) UNIVERSITY FUNDING.—Except as otherwise pro-
25 vided in this title and any amendments made by this title,

1 the Secretary may not provide financial assistance to a
2 university under section 5101 unless the university is se-
3 lected to receive such funds through a competitive process
4 that incorporates merit-based peer review and the selec-
5 tion is based on a proposal submitted to the Secretary by
6 the university in response to a request for proposals issued
7 by the Secretary.

8 **SEC. 5202. LONG-TERM BRIDGE PERFORMANCE PROGRAM;**
9 **INNOVATIVE BRIDGE RESEARCH AND DE-**
10 **PLOYMENT PROGRAM.**

11 (a) LONG-TERM BRIDGE PERFORMANCE PRO-
12 GRAM.—

13 (1) IN GENERAL.—Section 502 of title 23,
14 United States Code, is further amended by adding
15 at the end the following:

16 ‘(j) LONG-TERM BRIDGE PERFORMANCE PRO-
17 GRAM.—

18 ‘(1) AUTHORITY.—The Secretary shall establish
19 a 20-year long-term bridge performance program.

20 ‘(2) GRANTS, COOPERATIVE AGREEMENTS, AND
21 CONTRACTS.—Under the program, the Secretary
22 shall make grants and enter into cooperative agree-
23 ments and contracts to—

24 ‘(A) monitor, material-test, and evaluate
25 test bridges;

1 ‘(B) analyze the data obtained under sub-
2 paragraph (A); and

3 ‘(C) prepare products to fulfill program ob-
4 jectives and meet future bridge technology
5 needs.’.

6 (2) FUNDING.—Of the amounts made available
7 by section 5101(a)(1) of this Act, \$5,000,000 for
8 fiscal year 2004 and \$15,000,000 for each of fiscal
9 years 2005 through 2009 shall be available to carry
10 out section 502(j) of title 23, United States Code.

11 (b) INNOVATIVE BRIDGE RESEARCH AND DEPLOY-
12 MENT PROGRAM.—

13 (1) IN GENERAL.—Section 503(b)(1) of such
14 title is amended to read as follows:

15 ‘(1) IN GENERAL.—The Secretary shall estab-
16 lish and carry out a program to promote, dem-
17 onstrate, evaluate, and document the application of
18 innovative designs, materials, and construction
19 methods in the construction, repair, and rehabilita-
20 tion of bridges and other highway structures.’.

21 (2) GOALS.—Section 503(b)(2) of such title is
22 amended to read as follows:

23 ‘(2) GOALS.—The goals of the program shall
24 include—

1 ‘(A) the development of new, cost-effective,
2 innovative highway bridge applications;

3 ‘(B) the development of construction tech-
4 niques to increase safety and reduce construc-
5 tion time and traffic congestion;

6 ‘(C) the development of engineering design
7 criteria for innovative products, materials, and
8 structural systems for use in highway bridges
9 and structures;

10 ‘(D) the reduction of maintenance costs
11 and life-cycle costs of bridges, including the
12 costs of new construction, replacement, or reha-
13 bilitation of deficient bridges;

14 ‘(E) the development of highway bridges
15 and structures that will withstand natural dis-
16 asters;

17 ‘(F) the documentation and wide dissemi-
18 nation of objective evaluations of the perform-
19 ance and benefits of these innovative designs,
20 materials, and construction methods;

21 ‘(G) the effective transfer of resulting in-
22 formation and technology; and

23 ‘(H) the development of improved methods
24 to detect bridge scour and economical bridge

1 foundation designs that will withstand bridge
2 scour.’.

3 (3) FUNDING.—

4 (A) IN GENERAL.—Of the amounts made
5 available by section 5101(a)(1) of this Act,
6 \$20,000,000 for each of fiscal years 2004
7 through 2009 shall be available to carry out
8 section 503(b) of title 23, United States Code;
9 and

10 (B) HIGH PERFORMANCE CONCRETE
11 BRIDGE TECHNOLOGY RESEARCH AND DEPLOY-
12 MENT.—The Secretary shall obligate
13 \$2,000,000 of the amount described in subpara-
14 graph (A) for each of fiscal years 2004 through
15 2009 to conduct research and deploy technology
16 related to high-performance concrete bridges.

17 **SEC. 5203. SURFACE TRANSPORTATION ENVIRONMENT AND**
18 **PLANNING COOPERATIVE RESEARCH PRO-**
19 **GRAM.**

20 (a) IN GENERAL.—Section 507 of title 23, United
21 States Code, is amended to read as follows:

22 **‘§ 507. Surface Transportation environment and plan-**
23 **ning cooperative research program**

24 ‘(a) ESTABLISHMENT.—The Secretary shall establish
25 and carry out a collaborative, public-private surface trans-

1 portation environment and planning cooperative research
2 program.

3 ‘(b) AGREEMENT.—The Secretary shall enter into an
4 agreement with the National Academy of Sciences to carry
5 out administrative and management activities relating to
6 the governance of the surface transportation environment
7 and planning cooperative research program.

8 ‘(c) ADVISORY COMMITTEE.—

9 ‘(1) ESTABLISHMENT.—The Secretary shall es-
10 tablish a committee that will be responsible for pro-
11 gram oversight and project selection.

12 ‘(2) MEMBERSHIP.—The members of the com-
13 mittee shall be appointed by the Secretary and shall
14 be composed of—

15 ‘(A) representatives of State, regional, and
16 local transportation agencies, including transit
17 agencies;

18 ‘(B) representatives of State environmental
19 agencies and other environmental organizations;

20 ‘(C) representatives of the transportation
21 private sector;

22 ‘(D) transportation and environmental sci-
23 entists and engineers; and

24 ‘(E) representatives of the Federal High-
25 way Administration, Federal Transit Adminis-

1 tration, Environmental Protection Agency,
2 United States Fish and Wildlife Service, Corps
3 of Engineers, American Association of State
4 Highway and Transportation Officials, and
5 American Public Transportation Association,
6 who shall serve in an ex officio capacity.

7 ‘(3) BALANCE.—The majority of the commit-
8 tee’s voting members shall be representatives of gov-
9 ernment transportation agencies.

10 ‘(4) MEETINGS.—The National Academy of
11 Sciences shall convene meetings of the committee.

12 ‘(d) GOVERNANCE.—The program established under
13 this section shall include the following administrative and
14 management elements:

15 ‘(1) NATIONAL RESEARCH AGENDA.—The advi-
16 sory committee, in consultation with interested par-
17 ties, shall carry out and periodically update research
18 and development called for in the Transportation
19 Research Board Special Report 268, entitled “Sur-
20 face Transportation Environmental Research: A
21 Long-Term Strategy” and published in 2002, as de-
22 scribed in subsection (e). The national research
23 agenda shall include a multiyear strategic plan.

24 ‘(2) INVOLVEMENT.—Interested parties may—

25 ‘(A) submit research proposals;

1 ‘(B) participate in merit reviews of re-
2 search proposals and peer reviews of research
3 products; and

4 ‘(C) receive research results.

5 ‘(3) OPEN COMPETITION AND PEER REVIEW OF
6 RESEARCH PROPOSALS.—The National Academy of
7 Sciences may award under the program research
8 contracts and grants through open competition and
9 merit review conducted on a regular basis.

10 ‘(4) EVALUATION OF RESEARCH.—

11 ‘(A) PEER REVIEW.—Research contracts
12 and grants may allow peer review of the re-
13 search results.

14 ‘(B) PROGRAMMATIC EVALUATIONS.—The
15 National Academy of Sciences may conduct
16 periodic programmatic evaluations on a regular
17 basis.

18 ‘(5) DISSEMINATION OF RESEARCH FIND-
19 INGS.—The National Academy of Sciences shall dis-
20 seminate research findings to researchers, practi-
21 tioners, and decisionmakers, through conferences
22 and seminars, field demonstrations, workshops,
23 training programs, presentations, testimony to gov-
24 ernment officials, World Wide Web, and publications
25 for the general public.

1 ‘(e) CONTENTS.—The national research agenda for
2 the program required under subsection (d)(1) shall include
3 research in the following areas for the purposes described:

4 ‘(1) HUMAN HEALTH.—Human health to estab-
5 lish the links between transportation activities and
6 human health; substantiate the linkages between ex-
7 posure to concentration levels, emissions, and health
8 impacts; examine the potential health impacts from
9 the implementation and operation of transportation
10 infrastructure and services; develop strategies for
11 avoidance and reduction of these impacts; and de-
12 velop strategies to understand the economic value of
13 health improvements and for incorporating health
14 considerations into valuation methods.

15 ‘(2) ECOLOGY AND NATURAL SYSTEMS.—Ecol-
16 ogy and natural systems to measure transportation’s
17 short- and long-term impact on natural systems; de-
18 velop ecologically based performance measures; de-
19 velop insight into both the spatial and temporal
20 issues associated with transportation and natural
21 systems; study the relationship between highway
22 density and ecosystem integrity, including the im-
23 pacts of highway density on habitat integrity and
24 overall ecosystem health; develop a rapid assessment
25 methodology for use by transportation and regu-

1 latory agencies in determining the relationship be-
2 tween highway density and ecosystem integrity; and
3 develop ecologically based performance techniques to
4 evaluate the success of highway project mitigation
5 and enhancement measures.

6 ‘(3) ENVIRONMENTAL AND SOCIOECONOMIC RE-
7 LATIONSHIPS.—Environmental and socioeconomic
8 relationships to understand differences in mobility,
9 access, travel behavior, and travel preferences across
10 socioeconomic groups; develop improved planning ap-
11 proaches that better reflect and respond to commu-
12 nity needs; improve evaluation methods for exam-
13 ining the incidence of benefits and costs; examine
14 the differential impacts of current methods of fi-
15 nance and explore alternatives; understand the socio-
16 economic implications of emerging land development
17 patterns and new transportation technologies; de-
18 velop cost-effective applications of technology that
19 improve the equity of the transport system; and de-
20 velop improved methods for community involvement,
21 collaborative planning, and conflict resolution.

22 ‘(4) EMERGING TECHNOLOGIES.—Emerging
23 technologies to assist in the transition to environ-
24 mentally benign fuels and vehicles for passengers
25 and freight; develop responses to and demand for

1 new technologies that could offer improved environ-
2 mental performance; identify possible applications of
3 intelligent transportation systems technologies for
4 environmental benefit; develop policy instruments
5 that would encourage the development of beneficial
6 new technologies in a cost-effective manner; and re-
7 spond to the impact of new technologies.

8 ‘(5) LAND USE.—Land use to assess land con-
9 sumption trends and contributing factors of trans-
10 portation investment, housing policies, school qual-
11 ity, and consumer preferences; incorporate impacts
12 of transportation investments on location decision
13 and land use; identify the costs and benefits of cur-
14 rent development patterns and their transportation
15 implications; determine the effect of the built envi-
16 ronment on people’s willingness to walk, drive, or
17 take public transportation; determine the roles of
18 public policy and institutional arrangements in cur-
19 rent and prospective land use and transportation
20 choices; and develop improved data, methods, and
21 processes for considering land use, transportation,
22 and the environment in an integrated, systematic
23 fashion.

24 ‘(6) PLANNING AND PERFORMANCE MEAS-
25 URES.—Planning and performance measures to im-

1 prove understanding of travel needs and preferences;
2 improve planning methods for system analysis, fore-
3 casting, and decisionmaking; expand information on
4 consumer choice processes and travel and activity
5 patterns for both local and long-distance trips and
6 both passenger and freight transportation analysis
7 of social, environmental, and economic benefits and
8 cost of various transport options; develop tools for
9 measuring and forecasting complex transportation
10 decisions for all modes and users; and develop per-
11 formance measures and policy analysis approaches
12 that can be used to determine effectiveness.

13 ‘(7) OTHER RESEARCH AREAS.—Other research
14 areas to identify and address the emerging and fu-
15 ture surface transportation research needs related to
16 planning and environment.

17 ‘(f) FEDERAL SHARE.—The Federal share of the cost
18 of an activity carried out under this section shall be up
19 to 100 percent, and such funds shall remain available until
20 expended.

21 ‘(g) USE OF NON-FEDERAL FUNDS.—In addition to
22 using funds authorized to be appropriated to carry out this
23 section, the National Academy of Sciences may seek and
24 accept additional funding sources to carry out this section
25 from public and private entities capable of attracting and

1 accepting funding from the Department of Transpor-
2 tation, Environmental Protection Agency, Department of
3 Energy, United States Fish and Wildlife Service, and
4 other Federal environmental agencies, States, local gov-
5 ernments, nonprofit foundations, and the private sector.’.

6 (b) CONFORMING AMENDMENT.—The analysis for
7 chapter 5 of such title is amended by striking the item
8 relating to section 507 and inserting the following:

‘507. Surface transportation environment and planning cooperative research
program.’.

9 (c) FUNDING.—Of the amounts made available by
10 section 5101(a)(1) of this Act, \$5,000,000 for fiscal year
11 2004 and \$15,000,000 for each of fiscal years 2005
12 through 2009 shall be available to carry out section 507
13 of title 23, United States Code.

14 **SEC. 5204. TECHNOLOGY DEPLOYMENT.**

15 (a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section
16 503(a) of title 23, United States Code, is amended—

17 (1) in the subsection heading by striking ‘Initia-
18 tives and Partnerships’;

19 (2) by striking paragraph (1) and inserting the
20 following:

21 ‘(1) ESTABLISHMENT.—The Secretary shall de-
22 velop and administer a national technology deploy-
23 ment program.’;

1 (3) by striking paragraph (7) and inserting the
2 following:

3 ‘(7) GRANTS, COOPERATIVE AGREEMENTS, AND
4 CONTRACTS.—

5 ‘(A) IN GENERAL.—Under the program,
6 the Secretary shall make grants to, and enter
7 into cooperative agreements and contracts with,
8 States, other Federal agencies, universities and
9 colleges, private sector entities, and nonprofit
10 organizations to pay the Federal share of the
11 cost of research, development, and technology
12 transfer activities concerning innovative mate-
13 rials.

14 ‘(B) APPLICATIONS.—To receive a grant
15 under this subsection, an entity described in
16 subparagraph (A) shall submit an application to
17 the Secretary. The application shall be in such
18 form and contain such information as the Sec-
19 retary may require. The Secretary shall select
20 and approve an application based on whether
21 the project that is the subject of the grant
22 meets the purpose of the program described in
23 paragraph (2).’; and

24 (4) by striking paragraph (8) and inserting the
25 following:

1 ‘(8) TECHNOLOGY AND INFORMATION TRANS-
2 FER.—The Secretary shall ensure that the informa-
3 tion and technology resulting from research con-
4 ducted under paragraph (7) is made available to
5 State and local transportation departments and
6 other interested parties as specified by the Sec-
7 retary.’.

8 (b) INNOVATIVE PAVEMENT RESEARCH AND DE-
9 PLOYMENT PROGRAM.—

10 (1) IN GENERAL.—Section 503 of such title is
11 further amended by adding at the end the following:

12 ‘(c) INNOVATIVE PAVEMENT RESEARCH AND DE-
13 PLOYMENT PROGRAM.—

14 ‘(1) IN GENERAL.—The Secretary shall estab-
15 lish and implement a program to promote, dem-
16 onstrate, support, and document the application of
17 innovative pavement technologies, practices, per-
18 formance, and benefits.

19 ‘(2) GOALS.—The goals of the innovative pave-
20 ment research and deployment program shall in-
21 clude—

22 ‘(A) the deployment of new, cost-effective,
23 innovative designs, materials, recycled materials
24 (including taconite tailings and foundry sand),

1 and practices to extend pavement life and per-
2 formance and to improve customer satisfaction;

3 '(B) the reduction of initial costs and life-
4 cycle costs of pavements, including the costs of
5 new construction, replacement, maintenance,
6 and rehabilitation;

7 '(C) the deployment of accelerated con-
8 struction techniques to increase safety and re-
9 duce construction time and traffic disruption
10 and congestion;

11 '(D) the deployment of engineering design
12 criteria and specifications for innovative prac-
13 tices, products, and materials for use in high-
14 way pavements;

15 '(E) the deployment of new nondestructive
16 and real-time pavement evaluation technologies
17 and techniques;

18 '(F) the evaluation, refinement, and docu-
19 mentation of the performance and benefits of
20 innovative technologies deployed to improve life,
21 performance, cost effectiveness, safety, and cus-
22 tomer satisfaction;

23 '(G) effective technology transfer and in-
24 formation dissemination to accelerate imple-
25 mentation of innovative technologies and to im-

1 prove life, performance, cost effectiveness, safe-
2 ty, and customer satisfaction; and

3 ‘(H) the development of designs and mate-
4 rials to reduce storm water runoff.

5 ‘(3) RESEARCH TO IMPROVE NHS PAVEMENT.—

6 The Secretary shall obligate not less than
7 \$2,000,000 for fiscal year 2004 and \$6,000,000 for
8 each of fiscal years 2005 through 2009 from funds
9 made available to carry out this subsection to con-
10 duct research to improve asphalt pavement, concrete
11 pavement, and aggregates used in highways on the
12 National Highway System.’.

13 (2) FUNDING.—Of the amounts made available
14 by section 5101(a)(1) of this Act, \$5,000,000 for
15 fiscal year 2004 and \$15,000,000 for each of fiscal
16 years 2005 through 2009 shall be available to carry
17 out section 503(c) of title 23, United States Code.

18 (c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

19 (1) IN GENERAL.—Section 503 of such title is
20 further amended by adding the following:

21 ‘(d) SAFETY INNOVATION DEPLOYMENT PRO-
22 GRAM.—

23 ‘(1) IN GENERAL.—The Secretary shall estab-
24 lish and implement a program to demonstrate the

1 application of innovative technologies in highway
2 safety.

3 ‘(2) GOALS.—The goals of the program shall
4 include—

5 ‘(A) the deployment and evaluation of safe-
6 ty technologies and innovations at State and
7 local levels; and

8 ‘(B) the deployment of best practices in
9 training, management, design, and planning.

10 ‘(3) GRANTS, COOPERATIVE AGREEMENTS, AND
11 CONTRACTS.—

12 ‘(A) IN GENERAL.—Under the program,
13 the Secretary shall make grants to, and enter
14 into cooperative agreements and contracts with,
15 States, other Federal agencies, universities and
16 colleges, private sector entities, and nonprofit
17 organizations for research, development, and
18 technology transfer for innovative safety tech-
19 nologies.

20 ‘(B) APPLICATIONS.—To receive a grant
21 under this subsection, an entity described in
22 subparagraph (A) shall submit an application to
23 the Secretary. The application shall be in such
24 form and contain such information as the Sec-
25 retary may require. The Secretary shall select

1 and approve the applications based on whether
2 the project that is the subject of the application
3 meets the goals of the program described in
4 paragraph (2).

5 ‘(4) TECHNOLOGY AND INFORMATION TRANS-
6 FER.—The Secretary shall take such action as is
7 necessary to ensure that the information and tech-
8 nology resulting from research conducted under
9 paragraph (3) is made available to State and local
10 transportation departments and other interested
11 parties as specified by the Secretary.’

12 (2) FUNDING.—Of the amounts made available
13 by section 5101(a)(1) of this Act, \$5,000,000 for
14 fiscal year 2004 and \$15,000,000 for each of fiscal
15 years 2005 through 2009 shall be available to carry
16 out section 503(d) of title 23, United States Code.

17 (d) AUTHORITY TO PURCHASE PROMOTIONAL
18 ITEMS.—Section 503 of such title is further amended by
19 adding at the end the following:

20 ‘(e) PROMOTIONAL AUTHORITY.—Funds authorized
21 to be appropriated for necessary expenses for administra-
22 tion and operation of the Federal Highway Administration
23 shall be available to purchase promotional items of nomi-
24 nal value for use in the recruitment of individuals and to

1 promote the programs of the Federal Highway Adminis-
2 tration.’.

3 (e) WOOD COMPOSITE MATERIALS DEMONSTRATION
4 PROJECT.—

5 (1) FUNDING.—Of the funds made available to
6 carry out section 5101(a)(1), \$1,000,000 shall be
7 made available by the Secretary for each of fiscal
8 years 2005 and 2006 for conducting a demonstra-
9 tion of the durability and potential effectiveness of
10 wood composite materials in multimodal transpor-
11 tation facilities.

12 (2) FEDERAL SHARE.—The Federal share of
13 the cost of the demonstration under paragraph (1)
14 shall be 100 percent.

15 **SEC. 5205. TRAINING AND EDUCATION.**

16 (a) NATIONAL HIGHWAY INSTITUTE.—

17 (1) IN GENERAL.—Section 504(a)(3) of title
18 23, United States Code, is amended to read as fol-
19 lows:

20 ‘(3) COURSES.—The Institute may develop and
21 administer courses in modern developments, tech-
22 niques, methods, regulations, management, and pro-
23 cedures in areas, including surface transportation,
24 environmental mitigation, compliance, stewardship,
25 and streamlining, acquisition of rights-of-way, relo-

1 cation assistance, engineering, safety, transportation
2 system management and operations, construction,
3 maintenance, contract administration, inspection,
4 and highway finance.’.

5 (2) FUNDING.—Of the amounts made available
6 by section 5101(a)(2) of this Act, \$8,000,000 for
7 fiscal year 2004 and \$8,500,000 for each of fiscal
8 years 2005 through 2009 shall be available to carry
9 out section 504(a) of title 23, United States Code.

10 (b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

11 (1) IN GENERAL.—Section 504(b) of such title
12 is amended by adding at the end the following:

13 ‘(3) FEDERAL SHARE.—

14 ‘(A) GRANTS.—A grant under this sub-
15 section may be used to pay up to 50 percent of
16 local technical assistance program costs. Funds
17 available for technology transfer and training
18 purposes under this title and title 49 may be
19 used to cover the remaining 50 percent of the
20 program costs.

21 ‘(B) TRIBAL TECHNICAL ASSISTANCE CEN-
22 TERS.—The Federal share of the cost of activi-
23 ties carried out by the tribal technical assist-
24 ance centers under paragraph (2)(D)(ii) shall
25 be 100 percent.’.

1 (2) FUNDING.—Of the amounts made available
2 by section 5101(a)(2) of this Act, \$12,000,000 for
3 fiscal year 2004 and \$14,000,000 for each of fiscal
4 years 2005 through 2009 shall be available to carry
5 out section 504(b) of title 23, United States Code.

6 (c) EISENHOWER TRANSPORTATION FELLOWSHIP
7 PROGRAM.—Of the amounts made available by section
8 5101(a)(2) of this Act, \$2,000,000 for fiscal year 2004
9 and \$2,500,000 for each of fiscal years 2005 through
10 2009 shall be available to carry out section 504(c)(2) of
11 title 23, United States Code.

12 (d) GARRETT A. MORGAN TECHNOLOGY AND TRANS-
13 PORTATION EDUCATION PROGRAM.—

14 (1) IN GENERAL.—Section 504 of title 23,
15 United States Code, is further amended by adding
16 at the end the following new subsection:

17 ‘(d) GARRETT A. MORGAN TECHNOLOGY AND TRANS-
18 PORTATION EDUCATION PROGRAM.—

19 ‘(1) IN GENERAL.—The Secretary shall estab-
20 lish the Garrett A. Morgan Technology and Trans-
21 portation Education Program to improve the prepa-
22 ration of students, particularly women and minori-
23 ties, in science, technology, engineering, and mathe-
24 matics through curriculum development and other
25 activities related to transportation.

1 ‘(2) AUTHORIZED ACTIVITIES.—The Secretary
2 shall award grants under this subsection on the
3 basis of competitive, peer review. Grants awarded
4 under this subsection may be used for enhancing
5 science, technology, engineering, and mathematics at
6 the elementary and secondary school level through
7 such means as—

8 ‘(A) internships that offer students experi-
9 ence in the transportation field;

10 ‘(B) programs that allow students to spend
11 time observing scientists and engineers in the
12 transportation field; and

13 ‘(C) developing relevant curriculum that
14 uses examples and problems related to trans-
15 portation.

16 ‘(3) APPLICATION AND REVIEW PROCEDURES.—

17 ‘(A) IN GENERAL.—An entity described in
18 subparagraph (C) seeking funding under this
19 subsection shall submit an application to the
20 Secretary at such time, in such manner, and
21 containing such information as the Secretary
22 may require. Such application, at a minimum,
23 shall include a description of how the funds will
24 be used and a description of how the funds will

1 be used to serve the purposes described in para-
2 graph (2).

3 ‘(B) PRIORITY.—In making awards under
4 this subsection, the Secretary shall give priority
5 to applicants that will encourage the participa-
6 tion of women and minorities.

7 ‘(C) ELIGIBILITY.—Local education agen-
8 cies and State education agencies, which may
9 partner with institutions of higher education,
10 businesses, or other entities, shall be eligible to
11 apply for grants under this subsection.

12 ‘(4) DEFINITIONS.—For purposes of this sub-
13 section—

14 ‘(A) the term “institution of higher edu-
15 cation” has the meaning given that term in sec-
16 tion 101 of the Higher Education Act of 1965
17 (20 U.S.C. 1001);

18 ‘(B) the term “local educational agency”
19 has the meaning given that term in section
20 9101 of the Elementary and Secondary Edu-
21 cation Act of 1965 (20 U.S.C. 7801); and

22 ‘(C) the term “State educational agency”
23 has the meaning given that term in section
24 9101 of the Elementary and Secondary Edu-
25 cation Act of 1965 (20 U.S.C. 7801).’.

1 (2) FUNDING.—Of the amounts made available
2 by section 5101(a)(2) of this Act, \$500,000 for
3 2004 and \$1,000,000 for each of fiscal years 2005
4 through 2009 shall be available to carry out section
5 504(d) of title 23, United States Code.

6 (e) SURFACE TRANSPORTATION WORKFORCE DE-
7 VELOPMENT, TRAINING, AND EDUCATION.—Section 504
8 of such title is further amended by adding at the end the
9 following:

10 ‘(e) SURFACE TRANSPORTATION WORKFORCE DE-
11 VELOPMENT, TRAINING, AND EDUCATION.—

12 ‘(1) FUNDING.—Subject to project approval by
13 the Secretary, a State may obligate funds appor-
14 tioned to the State under sections 104(b)(1),
15 104(b)(2), 104(b)(3), 104(b)(4), and 144(e) for sur-
16 face transportation workforce development, training
17 and education, including—

18 ‘(A) tuition and direct educational ex-
19 penses, excluding salaries, in connection with
20 the education and training of employees of
21 State and local transportation agencies;

22 ‘(B) employee professional development;

23 ‘(C) student internships;

24 ‘(D) university or community college sup-
25 port; and

1 ‘(E) education activities, including out-
2 reach, to develop interest and promote partici-
3 pation in surface transportation careers.

4 ‘(2) FEDERAL SHARE.—The Federal share of
5 the cost of activities carried out in accordance with
6 this subsection shall be 100 percent.

7 ‘(3) SURFACE TRANSPORTATION WORKFORCE
8 DEVELOPMENT, TRAINING, AND EDUCATION DE-
9 FINED.—In this subsection, the term “surface trans-
10 portation workforce development, training, and edu-
11 cation” means activities associated with surface
12 transportation career awareness, student transpor-
13 tation career preparation, and training and profes-
14 sional development for surface transportation work-
15 ers, including activities for women and minorities.’.

16 (f) TRANSPORTATION EDUCATION DEVELOPMENT
17 PILOT PROGRAM.—Section 504 of such title is further
18 amended by inserting after subsection (e) the following:

19 ‘(f) TRANSPORTATION EDUCATION DEVELOPMENT
20 PILOT PROGRAM.—

21 ‘(1) ESTABLISHMENT.—The Secretary shall es-
22 tablish a program to make grants to institutions of
23 higher education that in partnership with industry
24 or State Departments of Transportation will de-
25 velop, test, and revise new curricula and education

1 programs to train individuals at all levels of the
2 transportation workforce.

3 ‘(2) SELECTION OF GRANT RECIPIENTS.—In se-
4 lecting applications for awards under this sub-
5 section, the Secretary shall consider—

6 ‘(A) the degree to which the new curricula
7 or education program meets the specific needs
8 of a segment of the transportation industry,
9 States, or regions;

10 ‘(B) providing for practical experience and
11 on-the-job training;

12 ‘(C) proposals oriented toward practi-
13 tioners in the field rather than the support and
14 growth of the research community;

15 ‘(D) the degree to which the new curricula
16 or program will provide training in areas other
17 than engineering, such as business administra-
18 tion, economics, information technology, envi-
19 ronmental science, and law;

20 ‘(E) programs or curricula in nontradi-
21 tional departments which train professionals for
22 work in the transportation field, such as mate-
23 rials, information technology, environmental
24 science, urban planning, and industrial tech-
25 nology; and

1 ‘(F) industry or a State’s Department of
2 Transportation commitment to the program.

3 ‘(3) FUNDING.—Of the amounts made available
4 by section 5101(a)(2) of this Act, \$1,500,000 for
5 each of fiscal years 2005 through 2009 shall be
6 available to carry out this subsection.

7 ‘(4) LIMITATIONS.—The amount of a grant
8 under this subsection shall not exceed \$250,000 per
9 year. After a recipient has received 3 years of Fed-
10 eral funding under this subsection, Federal funding
11 may equal no more than 75 percent of a grantee’s
12 program costs.’.

13 (g) DEFINITIONS AND DECLARATION OF POLICY.—
14 Section 101(a)(3) of such title is amended—

15 (1) by striking ‘and’ at the end of subpara-
16 graph (G);

17 (2) by striking the period at the end of sub-
18 paragraph (H) and inserting ‘; and’; and

19 (3) by adding at the end the following:

20 ‘(I) surface transportation workforce devel-
21 opment, training, and education.’.

22 (h) TRANSPORTATION TECHNOLOGY INNOVA-
23 TIONS.—

24 (1) FUNDAMENTAL PROPERTIES OF ASPHALTS
25 AND MODIFIED ASPHALTS.—The Secretary shall

1 continue to carry out section 5117(b)(5) of the
2 Transportation Equity Act for the 21st Century
3 (112 Stat. 450).

4 (2) TRANSPORTATION, ECONOMIC, AND LAND
5 USE SYSTEM.—The Secretary shall continue to carry
6 out section 5117(b)(7) of the Transportation Equity
7 Act for the 21st Century (112 Stat. 450).

8 (3) FUNDING.—Of the amounts made available
9 for each of fiscal years 2004 through 2009 by sec-
10 tion 5101(a)(1) of this Act, \$3,000,000 shall be
11 available to carry out paragraph (1) and \$1,000,000
12 shall be available to carry out paragraph (2).

13 (4) USE OF RIGHTS-OF-WAY.—Section
14 5117(b)(3) of the Transportation Equity Act for the
15 21st Century (112 Stat. 449; 112 Stat. 864; 115
16 Stat. 2330) is amended—

17 (A) by redesignating subparagraphs (E)
18 through (G) as subparagraphs (F) through (H),
19 respectively; and

20 (B) by inserting after subparagraph (D)
21 the following:

22 ‘(E) USE OF RIGHTS-OF-WAY.—

23 ‘(i) IN GENERAL.—An intelligent
24 transportation system project described in
25 paragraph (3), and an intelligent transpor-

1 tation system project described in para-
2 graph (6), that involves privately owned in-
3 telligent transportation system components
4 and is carried out using funds made avail-
5 able from the Highway Trust Fund (other
6 than the Mass Transit Account) shall not
7 be subject to any law or regulation of a
8 State or political subdivision of a State
9 prohibiting or regulating commercial activi-
10 ties in the rights-of-way of a highway for
11 which funds from the Highway Trust
12 Fund (other than the Mass Transit Ac-
13 count) have been used for planning, de-
14 sign, construction, or maintenance if the
15 Secretary determines that such use is in
16 the public interest.

17 ‘(ii) LIMITATION ON STATUTORY CON-
18 STRUCTION.—Nothing in this subpara-
19 graph shall be construed to affect the au-
20 thority of a State, or political subdivision
21 of a State, to regulate highway safety.’.

22 **SEC. 5206. FREIGHT PLANNING CAPACITY BUILDING.**

23 (a) IN GENERAL.—Section 504 of title 23, United
24 States Code, is further amended by adding at the end the
25 following:

1 ‘(g) FREIGHT CAPACITY BUILDING PROGRAM.—

2 ‘(1) ESTABLISHMENT.—The Secretary shall es-
3 tablish a freight planning capacity building initiative
4 to support enhancements in freight transportation
5 planning in order to—

6 ‘(A) better target investments in freight
7 transportation systems to maintain efficiency
8 and productivity; and

9 ‘(B) strengthen the decisionmaking capac-
10 ity of State transportation departments and
11 local transportation agencies with respect to
12 freight transportation planning and systems.

13 ‘(2) AGREEMENTS.—The Secretary shall enter
14 into agreements to support and carry out adminis-
15 trative and management activities relating to the
16 governance of the freight planning capacity initia-
17 tive.

18 ‘(3) STAKEHOLDER INVOLVEMENT.—In car-
19 rying out this section, the Secretary shall consult
20 with the Association of Metropolitan Planning Orga-
21 nizations, the American Association of State High-
22 way and Transportation Officials, and other freight
23 planning stakeholders, including the other Federal
24 agencies, State transportation departments, local

1 governments, nonprofit entities, academia, and the
2 private sector.

3 ‘(4) ELIGIBLE ACTIVITIES.—The freight plan-
4 ning capacity building initiative shall include re-
5 search, training, and education in the following
6 areas:

7 ‘(A) The identification and dissemination
8 of best practices in freight transportation.

9 ‘(B) Providing opportunities for freight
10 transportation staff to engage in peer exchange.

11 ‘(C) Refinement of data and analysis tools
12 used in conjunction with assessing freight
13 transportation needs.

14 ‘(D) Technical assistance to State trans-
15 portation departments and local transportation
16 agencies reorganizing to address freight trans-
17 portation issues.

18 ‘(E) Facilitating relationship building be-
19 tween governmental and private entities in-
20 volved in freight transportation.

21 ‘(F) Identifying ways to target the capac-
22 ity of State transportation departments and
23 local transportation agencies to address freight
24 considerations in operations, security, asset
25 management, and environmental excellence in

1 connection with long-range multimodal trans-
2 portation planning and project implementation.

3 ‘(5) FUNDING.—

4 ‘(A) FEDERAL SHARE.—The Federal share
5 of the cost of an activity carried out under this
6 section shall be up to 100 percent, and such
7 funds shall remain available until expended.

8 ‘(B) USE OF NON-FEDERAL FUNDS.—
9 Funds made available for the program estab-
10 lished under this subsection may be used for re-
11 search, program development, information col-
12 lection and dissemination, and technical assist-
13 ance. The Secretary may use such funds inde-
14 pendently or make grants to, or enter into con-
15 tracts, cooperative agreements, and other trans-
16 actions with, a Federal agency, State agency,
17 local agency, Federally recognized Indian tribal
18 government or tribal consortium, authority, as-
19 sociation, nonprofit or for-profit corporation, or
20 institution of higher education, to carry out the
21 purposes of this subsection.’.

22 (b) FUNDING.—Of the amounts made available by
23 section 5101(a)(2) of this Act, \$1,500,000 for fiscal year
24 2004 and \$5,000,000 for each of fiscal years 2005

1 through 2009 shall be available to carry out section 504(f)
2 of title 23, United States Code.

3 (c) TECHNICAL AMENDMENT.—Section 508(c)(3)(C)
4 of such title is amended by inserting ‘of title 31’ after
5 ‘1116’.

6 **SEC. 5207. ADVANCED TRAVEL FORECASTING PROCEDURES**
7 **PROGRAM.**

8 (a) CONTINUATION AND ACCELERATION OF
9 TRANSIMS DEPLOYMENT.—The Secretary shall accel-
10 erate the deployment of the advanced transportation
11 model known as the ‘Transportation Analysis Simulation
12 System’ (in this section referred to as ‘TRANSIMS’), de-
13 veloped by the Los Alamos National Laboratory. The pro-
14 gram shall assist State departments of transportation and
15 metropolitan planning organizations in the implementa-
16 tion of TRANSIMS, develop methods for TRANSIMS ap-
17 plications to transportation planning and air quality anal-
18 ysis, and provide training and technical assistance for the
19 implementation of TRANSIMS. The program may sup-
20 port the development of methods to plan for the transpor-
21 tation response to chemical and biological terrorism and
22 other security concerns.

23 (b) ELIGIBLE ACTIVITIES.—The Secretary shall use
24 funds made available by section 5101(a)(1) to—

1 (1) provide funding to State departments of
2 transportation and metropolitan planning organiza-
3 tions serving transportation management areas des-
4 ignated under chapter 52 of title 49, United States
5 Code, representing a diversity of populations, geo-
6 graphic regions, and analytic needs to implement
7 TRANSIMS;

8 (2) develop methods to demonstrate a wide
9 spectrum of TRANSIMS applications to support
10 metropolitan and statewide transportation planning,
11 including integrating highway and transit oper-
12 ational considerations into the transportation Plan-
13 ning process; and

14 (3) provide training and technical assistance
15 with respect to the implementation and application
16 of TRANSIMS to States, local governments, and
17 metropolitan planning organizations with responsi-
18 bility for travel modeling.

19 (c) ALLOCATION OF FUNDS.—Not more than 75 per-
20 cent of the funds made available to carry out this section
21 may be allocated to activities described in subsection
22 (b)(1).

23 (d) FUNDING.—Of the amounts made available by
24 section 5101(a)(1) of this Act, \$1,000,000 for fiscal year

1 2004 and \$3,000,000 for each of fiscal years 2005
2 through 2009 shall be available to carry out this section.

3 **SEC. 5208. NATIONAL COOPERATIVE FREIGHT TRANSPOR-**
4 **TATION RESEARCH PROGRAM.**

5 (a) IN GENERAL.—Chapter 5 of title 23, United
6 States Code, is further amended by adding at the end the
7 following:

8 **‘§ 509. National cooperative freight Transportation**
9 **research program**

10 (a) ESTABLISHMENT.—The Secretary shall establish
11 and support a national cooperative freight transportation
12 research program.

13 (b) AGREEMENT.—The Secretary shall enter into an
14 agreement with the National Academy of Sciences to sup-
15 port and carry out administrative and management activi-
16 ties relating to the governance of the national cooperative
17 freight transportation research program.

18 (c) ADVISORY COMMITTEE.—The National Academy
19 of Sciences shall select an advisory committee consisting
20 of a representative cross-section of freight stakeholders,
21 including the Department of Transportation, other Fed-
22 eral agencies, State transportation departments, local gov-
23 ernments, nonprofit entities, academia, and the private
24 sector.

1 ‘(d) GOVERNANCE.—The national cooperative freight
2 transportation research program established under this
3 section shall include the following administrative and man-
4 agement elements:

5 ‘(1) NATIONAL RESEARCH AGENDA.—The advi-
6 sory committee, in consultation with interested par-
7 ties, shall recommend a national research agenda for
8 the program. The agenda shall include a multiyear
9 strategic plan.

10 ‘(2) INVOLVEMENT.—Interested parties may—

11 ‘(A) submit research proposals to the advi-
12 sory committee;

13 ‘(B) participate in merit reviews of re-
14 search proposals and peer reviews of research
15 products; and

16 ‘(C) receive research results.

17 ‘(3) OPEN COMPETITION AND PEER REVIEW OF
18 RESEARCH PROPOSALS.—The National Academy of
19 Sciences may award research contracts and grants
20 under the program through open competition and
21 merit review conducted on a regular basis.

22 ‘(4) EVALUATION OF RESEARCH.—

23 ‘(A) PEER REVIEW.—Research contracts
24 and grants under the program may allow peer
25 review of the research results.

1 ‘(B) PROGRAMMATIC EVALUATIONS.—The
2 National Academy of Sciences may conduct
3 periodic programmatic evaluations on a regular
4 basis of research contracts and grants.

5 ‘(5) DISSEMINATION OF RESEARCH FIND-
6 INGS.—The National Academy of Sciences shall dis-
7 seminate research findings to researchers, practi-
8 tioners, and decisionmakers, through conferences
9 and seminars, field demonstrations, workshops,
10 training programs, presentations, testimony to gov-
11 ernment officials, World Wide Web, publications for
12 the general public, and other appropriate means.

13 ‘(e) CONTENTS.—The national research agenda re-
14 quired under subsection (d)(1) shall include research in
15 the following areas:

16 ‘(1) Techniques for estimating and quantifying
17 public benefits derived from freight transportation
18 projects.

19 ‘(2) Alternative approaches to calculating the
20 contribution of truck and rail traffic to congestion
21 on specific highway segments.

22 ‘(3) The feasibility of consolidating origins and
23 destinations for freight movement.

1 ‘(4) Methods for incorporating estimates of
2 international trade into landside transportation plan-
3 ning.

4 ‘(5) The use of technology applications to in-
5 crease capacity of highway lanes dedicated to truck-
6 only traffic.

7 ‘(6) Development of physical and policy alter-
8 natives for separating car and truck traffic.

9 ‘(7) Ways to synchronize infrastructure im-
10 provements with freight transportation demand.

11 ‘(8) The effect of changing patterns of freight
12 movement on transportation planning decisions re-
13 lating to rest areas.

14 ‘(9) Other research areas to identify and ad-
15 dress the emerging and future research needs re-
16 lated to freight transportation by all modes.

17 ‘(f) FUNDING.—

18 ‘(1) FEDERAL SHARE.—The Federal share of
19 the cost of an activity carried out under this section
20 shall be up to 100 percent, and such funds shall re-
21 main available until expended.

22 ‘(2) USE OF NON-FEDERAL FUNDS.—In addi-
23 tion to using funds authorized for this section, the
24 National Academy of Sciences may seek and accept
25 additional funding sources from public and private

1 entities capable of accepting funding from the De-
2 partment of Transportation, States, local govern-
3 ments, nonprofit foundations, and the private sec-
4 tor.’.

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

‘509. National cooperative freight transportation research program.’.

8 (c) FUNDING.—Of the amounts made available by
9 section 5101(a)(1) of this Act, \$1,500,000 for fiscal year
10 2004 and \$4,000,000 for each of fiscal years 2005
11 through 2009 shall be available to carry out section 509
12 of title 23, United States Code.

13 **SEC. 5209. FUTURE STRATEGIC HIGHWAY RESEARCH PRO-**
14 **GRAM.**

15 (a) IN GENERAL.—Chapter 5 of title 23, United
16 States Code, is further amended by adding at the end the
17 following:

18 **‘§ 510. Future strategic highway research program**

19 (a) ESTABLISHMENT.—The Secretary, in consulta-
20 tion with the American Association of State Highway and
21 Transportation Officials, shall establish and carry out,
22 acting through the National Research Council of the Na-
23 tional Academy of Sciences, the future strategic highway
24 research program.

1 ‘(b) COOPERATIVE AGREEMENTS.—The Secretary
2 may make grants to, and enter into cooperative agree-
3 ments with, the American Association of State Highway
4 and Transportation Officials and the National Academy
5 of Sciences to carry out such activities under this sub-
6 section as the Secretary determines are appropriate.

7 ‘(c) PERIOD OF AVAILABILITY.—Funds made avail-
8 able to carry out this section shall remain available for
9 the fiscal year in which such funds are made available and
10 the 3 succeeding fiscal years.

11 ‘(d) PROGRAM PRIORITIES.—

12 ‘(1) PROGRAM ELEMENTS.—The program es-
13 tablished under this section shall be based on the
14 National Research Council Special Report 260, enti-
15 tled “Strategic Highway Research: Saving Lives, Re-
16 ducing Congestion, Improving Quality of Life” and
17 the results of the detailed planning work subse-
18 quently carried out in 2002 and 2003 to identify the
19 research areas through National Cooperative Re-
20 search Program Project 20–58. The research pro-
21 gram shall include an analysis of the following:

22 ‘(A) Renewal of aging highway infrastruc-
23 ture with minimal impact to users of the facili-
24 ties.

1 ‘(B) Driving behavior and likely crash
2 causal factors to support improved counter-
3 measures.

4 ‘(C) Reducing highway congestion due to
5 nonrecurring congestion.

6 ‘(D) Planning and designing new road ca-
7 pacity to meet mobility, economic, environ-
8 mental, and community needs.

9 ‘(2) DISSEMINATION OF RESULTS.—The re-
10 search results of the program, expressed in terms of
11 technologies, methodologies, and other appropriate
12 categorizations, shall be disseminated to practicing
13 engineers for their use, as soon as practicable.

14 ‘(e) PROGRAM ADMINISTRATION.—In carrying out
15 the program under this section, the National Research
16 Council shall ensure, to the maximum extent practicable,
17 that—

18 ‘(1) projects and researchers are selected to
19 conduct research for the program on the basis of
20 merit and open solicitation of proposals and review
21 by panels of appropriate experts;

22 ‘(2) State department of transportation officials
23 and other stakeholders, as appropriate, are involved
24 in the governance of the program at the overall pro-

1 gram level and technical level through the use of ex-
2 pert panels and committees;

3 ‘(3) the Council acquires a qualified, permanent
4 core staff with the ability and expertise to manage
5 the program and multiyear budget; and

6 ‘(4) there is no duplication of research effort
7 between the program and any other research effort
8 of the Department.

9 ‘(f) REPORT ON IMPLEMENTATION OF RESULTS.—

10 ‘(1) REPORT.—The Transportation Research
11 Board of the National Research Council shall com-
12 plete a report on the strategies and administrative
13 structure to be used for implementation of the re-
14 sults of the future strategic highway research pro-
15 gram.

16 ‘(2) COMPONENTS.—The report under para-
17 graph (1) shall include with respect to the pro-
18 gram—

19 ‘(A) an identification of the most prom-
20 ising results of research under the program (in-
21 cluding the persons most likely to use the re-
22 sults);

23 ‘(B) a discussion of potential incentives
24 for, impediments to, and methods of, imple-
25 menting those results;

1 ‘(C) an estimate of costs of implementation
2 of those results; and

3 ‘(D) recommendations on methods by
4 which implementation of those results should be
5 conducted, coordinated, and supported in future
6 years, including a discussion of the administra-
7 tive structure and organization best suited to
8 carry out those recommendations.

9 ‘(3) CONSULTATION.—In developing the report,
10 the Transportation Research Board shall consult
11 with a wide variety of stakeholders, including—

12 ‘(A) the Federal Highway Administration;

13 ‘(B) the National Highway Traffic Safety
14 Administration; and

15 ‘(C) the American Association of State
16 Highway and Transportation Officials.

17 ‘(4) SUBMISSION.—Not later than February 1,
18 2009, the report shall be submitted to the Com-
19 mittee on Environment and Public Works of the
20 Senate and the Committee on Transportation and
21 Infrastructure of the House of Representatives.

22 ‘(h) FUNDING.—

23 ‘(1) FEDERAL SHARE.—The Federal share of
24 the cost of an activity carried out using amounts
25 made available under a grant or cooperative agree-

1 ment under this section shall be 100 percent, and
2 such funds shall remain available until expended.

3 ‘(2) ADVANCE PAYMENTS.—The Secretary may
4 make advance payments as necessary to carry out
5 the program under this section.’.

6 (b) PROGRAMMATIC EVALUATIONS.—Within 3 years
7 after the first research and development project grants,
8 cooperative agreements, or contracts are awarded under
9 section 510 of title 23, United States Code, the Comp-
10 troller General shall review the program under such sec-
11 tion, and recommend improvements. The review shall as-
12 sess the degree to which projects funded under such sec-
13 tion have addressed the research and development topics
14 identified in the Transportation Research Board Special
15 Report 260, including identifying those topics which have
16 not yet been addressed.

17 (c) CONFORMING AMENDMENT.—The analysis for
18 chapter 5 of such title is further amended by adding at
19 the end the following:

 ‘510. Future strategic highway research program.’.

20 (d) FUNDING.—Of the amounts made available by
21 section 5101(a)(1) of this Act, \$17,000,000 for fiscal year
22 2004, \$60,000,000 for fiscal year 2005, and \$63,000,000
23 for each of fiscal years 2006 through 2009, shall be avail-
24 able to carry out section 510 of title 23, United States
25 Code.

1 **SEC. 5210. TRANSPORTATION SAFETY INFORMATION MAN-**
2 **AGEMENT SYSTEM PROJECT.**

3 (a) IN GENERAL.—The Secretary shall fund and
4 carry out a project to further the development of a com-
5 prehensive transportation safety information management
6 system (in this section referred to as ‘TSIMS’).

7 (b) PURPOSES.—The purpose of the TSIMS project
8 is to further the development of a software application to
9 provide for the collection, integration, management, and
10 dissemination of safety data from and for use among State
11 and local safety and transportation agencies, including
12 driver licensing, vehicle registration, emergency manage-
13 ment system, injury surveillance, roadway inventory, and
14 motor carrier databases.

15 (c) FUNDING.—

16 (1) FEDERAL CONTRIBUTION.—Of the amounts
17 made available by section 5101(a)(1) of this Act,
18 \$1,000,000 for fiscal year 2004 and \$3,000,000 for
19 fiscal year 2005 shall be available to carry out the
20 TSIMS project under this section.

21 (2) STATE CONTRIBUTION.—The sums author-
22 ized in paragraph (1) are intended to supplement
23 voluntary contributions to be made by State depart-
24 ments of transportation and other State safety and
25 transportation agencies.

1 **SEC. 5211. SURFACE TRANSPORTATION CONGESTION RE-**
2 **LIEF SOLUTIONS RESEARCH INITIATIVE.**

3 (a) ESTABLISHMENT.—The Secretary, acting
4 through the Federal Highway Administration, shall estab-
5 lish a surface transportation congestion solutions research
6 initiative consisting of 2 independent research programs
7 described in subsections (b)(1) and (b)(2) and designed
8 to develop information to assist State transportation de-
9 partments and metropolitan planning organizations meas-
10 ure and address surface transportation congestion prob-
11 lems.

12 (b) SURFACE TRANSPORTATION CONGESTION SOLU-
13 TIONS RESEARCH PROGRAM.—

14 (1) IMPROVED SURFACE TRANSPORTATION CON-
15 GESTION MANAGEMENT SYSTEM MEASURES.—The
16 purposes of the first research program established
17 under this section shall be—

18 (A) to examine the effectiveness of surface
19 transportation congestion management systems
20 since enactment of the Intermodal Surface
21 Transportation Assistance Act of 1991 (Public
22 Law 102–240);

23 (B) to identify best case examples of lo-
24 cally designed reporting methods and incor-
25 porate such methods in research on national
26 models for developing and recommending im-

1 proved surface transportation congestion meas-
2 urement and reporting; and

3 (C) to incorporate such methods in the de-
4 velopment of national models and methods to
5 monitor, measure, and report surface transpor-
6 tation congestion information.

7 (2) ANALYTICAL TECHNIQUES FOR ACTION ON
8 SURFACE TRANSPORTATION CONGESTION.—The pur-
9 poses of the second research program established
10 under this section shall be—

11 (A) to analyze the effectiveness of proce-
12 dures used by State transportation departments
13 and metropolitan planning organizations to as-
14 sess surface transportation congestion problems
15 and communicate those problems to decision-
16 makers; and

17 (B) to identify methods to ensure that the
18 results of surface transportation congestion
19 analyses will lead to the targeting of funding
20 for programs, projects, or services with dem-
21 onstrated effectiveness in reducing travel delay,
22 congestion, and system unreliability.

23 (c) TECHNICAL ASSISTANCE AND TRAINING.—In fis-
24 cal year 2006, the Secretary, acting through the Federal
25 Highway Administration, shall develop a technical assist-

1 ance and training program to disseminate the results of
2 the surface transportation congestion solutions research
3 initiative for the purpose of assisting State transportation
4 departments and local transportation agencies with im-
5 proving their approaches to surface transportation conges-
6 tion measurement, analysis, and project programming.

7 (d) FUNDING.—Of the amounts made available by
8 sections 5101(a)(1) of this Act, \$4,000,000 for fiscal year
9 2004 and \$11,000,000 for each of fiscal years 2005
10 through 2009 shall be available to carry out subsections
11 (a) and (b). Of the amounts made available by section
12 5101(a)(2), \$500,000 for fiscal year 2004 and \$1,000,000
13 for each of fiscal years 2005 through 2009 shall be avail-
14 able to carry out subsection (c).

15 **SEC. 5212. MOTOR CARRIER EFFICIENCY STUDY.**

16 (a) IN GENERAL.—The Secretary, in coordination
17 with the motor carrier and wireless technology industry,
18 shall conduct a study to—

19 (1) identify inefficiencies in the transportation
20 of freight;

21 (2) evaluate the safety, productivity, and re-
22 duced cost improvements that may be achieved
23 through the use of wireless technologies to address
24 the inefficiencies identified in paragraph (1); and

1 **‘§ 508. Transportation research and development**
2 **strategic planning**

3 ‘(a) IN GENERAL.—

4 ‘(1) DEVELOPMENT.—Not later than 1 year
5 after the date of enactment of the Transportation
6 Equity Act: A Legacy for Users, the Secretary shall
7 develop a 5-year transportation research and devel-
8 opment strategic plan to guide Federal transpor-
9 tation research and development activities. This plan
10 shall be consistent with section 306 of title 5, sec-
11 tions 1115 and 1116 of title 31, and any other re-
12 search and development plan within the Department
13 of Transportation.

14 ‘(2) CONTENTS.—The strategic plan developed
15 under paragraph (1) shall—

16 ‘(A) describe the primary purposes of the
17 transportation research and development pro-
18 gram, which shall include, at a minimum—

19 ‘(i) reducing congestion and improving
20 mobility;

21 ‘(ii) promoting safety;

22 ‘(iii) promoting security;

23 ‘(iv) protecting and enhancing the en-
24 vironment;

25 ‘(v) preserving the existing transpor-
26 tation system; and

1 ‘(vi) improving the durability and ex-
2 tending the life of transportation infra-
3 structure;

4 ‘(B) for each purpose, list the primary re-
5 search and development topics that the Depart-
6 ment intends to pursue to accomplish that pur-
7 pose, which may include the fundamental re-
8 search in the physical and natural sciences, ap-
9 plied research, technology development, and so-
10 cial science research intended for each topic;
11 and

12 ‘(C) for each research and development
13 topic, describe—

14 ‘(i) the anticipated annual funding
15 levels for the period covered by the stra-
16 tegic plan; and

17 ‘(ii) the additional information the
18 Department expects to gain at the end of
19 the period covered by the strategic plan as
20 a result of the research and development in
21 that topic area.

22 ‘(3) CONSIDERATIONS.—In developing the stra-
23 tegic plan, the Secretary shall ensure that the
24 plan—

1 ‘(A) reflects input from a wide range of
2 stakeholders;

3 ‘(B) includes and integrates the research
4 and development programs of all the Depart-
5 ment’s operating administrations, including
6 aviation, transit, rail, and maritime; and

7 ‘(C) takes into account how research and
8 development by other Federal, State, private
9 sector, and not-for-profit institutions contrib-
10 utes to the achievement of the purposes identi-
11 fied under paragraph (2)(A), and avoids unnec-
12 essary duplication with these efforts.

13 ‘(4) PERFORMANCE PLANS AND REPORTS.—In
14 reports submitted under sections 1115 and 1116 of
15 title 31, the Secretary shall include—

16 ‘(A) a summary of the Federal transpor-
17 tation research and development activities for
18 the previous fiscal year in each topic area;

19 ‘(B) the amount of funding spent in each
20 topic area;

21 ‘(C) a description of the extent to which
22 the research and development is meeting the ex-
23 pectations set forth in paragraph (2)(C)(ii); and

24 ‘(D) any amendments to the strategic plan.

1 ‘(b) The Secretary shall submit to Congress an an-
2 nual report, along with the President’s annual budget re-
3 quest, describing the amount spent in the last completed
4 fiscal year on transportation research and development
5 and the amount proposed in the current budget for trans-
6 portation research and development.

7 ‘(c) NATIONAL RESEARCH COUNCIL REVIEW.—The
8 Secretary shall enter into an agreement for the review by
9 the National Research Council of the details of each—

10 ‘(1) strategic plan under section 508;

11 ‘(2) performance plan required under section
12 1115 of title 31; and

13 ‘(3) program performance report required
14 under section 1116 of title 31,

15 with respect to transportation research and development.’.

16 (b) CONFORMING AMENDMENT.—The analysis for
17 chapter 5 of such title is amended by striking the item
18 related to section 508 and inserting the following:

‘508. Transportation research and development strategic planning.’.

19 **SEC. 5214. LIMITATION ON REMEDIES FOR FUTURE STRA-**
20 **TEGIC HIGHWAY RESEARCH PROGRAM.**

21 Section 510 of title 23, United States Code, as added
22 by section 5209 of this Act, is amended by inserting after
23 subsection (f) the following:

24 ‘(g) LIMITATION OF REMEDIES.—

1 ‘(1) SAME REMEDY AS IF UNITED STATES.—

2 The remedy against the United States provided by
3 sections 1346(b) and 2672 of title 28 for injury, loss
4 of property, personal injury, or death shall apply to
5 any claim against the National Academy of Sciences
6 for money damages for injury, loss of property, per-
7 sonal injury, or death caused by any negligent or
8 wrongful act or omission by employees and individ-
9 uals described in paragraph (3) arising from activi-
10 ties conducted under or in connection with this sec-
11 tion. Any such claim shall be subject to the limita-
12 tions and exceptions which would be applicable to
13 such claim if such claim were against the United
14 States. With respect to any such claim, the Sec-
15 retary shall be treated as the head of the appro-
16 priate Federal agency for purposes of sections 2672
17 and 2675 of title 28.

18 ‘(2) EXCLUSIVENESS OF REMEDY.—The rem-
19 edy referred to in paragraph (1) shall be exclusive
20 of any other civil action or proceeding for the pur-
21 pose of determining liability arising from any such
22 act or omission without regard to when the act or
23 omission occurred.

24 ‘(3) TREATMENT.—Employees of the National
25 Academy of Sciences and other individuals appointed

1 by the president of the National Academy of
2 Sciences and acting on its behalf in connection with
3 activities carried out under this section shall be
4 treated as if they are employees of the Federal Gov-
5 ernment under section 2671 of title 28 for purposes
6 of a civil action or proceeding with respect to a claim
7 described in paragraph (1). The civil action or pro-
8 ceeding shall proceed in the same manner as any
9 proceeding under chapter 171 of title 28 or action
10 against the United States filed pursuant to section
11 1346(b) of title 28 and shall be subject to the limita-
12 tions and exceptions applicable to such a proceeding
13 or action.

14 (4) SOURCES OF PAYMENTS.—Payment of any
15 award, compromise, or settlement of a civil action or
16 proceeding with respect to a claim described in para-
17 graph (1) shall be paid first out of insurance main-
18 tained by the National Academy of Sciences, second
19 from funds made available to carry out this section,
20 and then from sums made available under section
21 1304 of title 31. For purposes of such section, such
22 an award, compromise, or settlement shall be
23 deemed to be a judgment, award, or settlement pay-
24 able under section 2414 or 2672 of title 28. The
25 Secretary may establish a reserve of funds made

1 available to carry out this section for making pay-
2 ments under this paragraph.’.

3 **Subtitle C—University Transpor-**
4 **tation Research; Scholarship**
5 **Opportunities**

6 **SEC. 5301. NATIONAL UNIVERSITY TRANSPORTATION CEN-**
7 **TERS.**

8 (a) IN GENERAL.—Section 5505 of title 49, United
9 States Code, is amended to read as follows:

10 **‘§ 5505. National university Transportation centers**

11 (a) IN GENERAL.—

12 (1) ESTABLISHMENT AND OPERATION.—The
13 Secretary of Transportation shall make grants under
14 this section to eligible nonprofit institutions of high-
15 er learning to establish and operate national univer-
16 sity transportation centers.

17 (2) ROLE OF CENTERS.—The role of each cen-
18 ter shall be to advance significantly transportation
19 research on critical national transportation issues
20 and to expand the workforce of transportation pro-
21 fessionals.

22 (b) APPLICABILITY OF REQUIREMENTS.—A grant
23 received by an eligible nonprofit institution of higher
24 learning under this section shall be available for the same
25 purposes, and shall be subject to the same terms and con-

1 ditions, as a grant made to a nonprofit institution of high-
2 er learning under section 5506.

3 ‘(c) ELIGIBLE NONPROFIT INSTITUTION OF HIGHER
4 LEARNING DEFINED.—In this section, the term “eligible
5 nonprofit institution of higher learning” means each of the
6 lead institutions identified in subsections (j)(4)(A),
7 (j)(4)(B), and (j)(4)(F) of section 5505 as in effect on
8 the day before the date of enactment of the Transpor-
9 tation Equity Act: A Legacy for Users, the university re-
10 ferred to in section 704 of Public Law 103–206 (107 Stat.
11 2447), and the university that, as of the day before such
12 date of enactment, is the lead institution for the regional
13 university transportation center for region 5 of the Stand-
14 ard Federal Regional Boundary System.

15 ‘(d) GRANTS.—In each of fiscal years 2004 through
16 2009, the Secretary shall make a grant under this section
17 to each eligible nonprofit institution of higher learning in
18 an amount not to exceed \$3,500,000.’.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 subchapter I of chapter 55 of such title is amended by
21 striking the item relating to section 5505 and inserting
22 the following:

‘5505. National university transportation centers.’.

23 **SEC. 5302. UNIVERSITY TRANSPORTATION RESEARCH.**

24 (a) IN GENERAL.—Section 5506 of title 49, United
25 States Code, is amended to read as follows:

1 **‘§ 5506. University Transportation research**

2 ‘(a) IN GENERAL.—The Secretary of Transportation
3 shall make grants under this section to nonprofit institu-
4 tions of higher learning to establish and operate university
5 transportation centers.

6 ‘(b) OBJECTIVES.—Grants received under this sec-
7 tion shall be used by nonprofit institutions of higher learn-
8 ing to advance significantly the state-of-the-art in trans-
9 portation research and expand the workforce of transpor-
10 tation professionals through the following programs and
11 activities:

12 ‘(1) RESEARCH.—Basic and applied research,
13 the products of which are judged by peers or other
14 experts in the field of transportation to advance the
15 body of knowledge in transportation.

16 ‘(2) EDUCATION.—An education program relat-
17 ing to transportation that includes multidisciplinary
18 course work and participation in research.

19 ‘(3) TECHNOLOGY TRANSFER.—An ongoing
20 program of technology transfer that makes transpor-
21 tation research results available to potential users in
22 a form that can be implemented, utilized, or other-
23 wise applied.

24 ‘(c) REGIONAL, TIER I, AND TIER II CENTERS.—

25 ‘(1) IN GENERAL.—For each of fiscal years
26 2004 through 2009, the Secretary shall make grants

1 under subsection (a) to nonprofit institutions of
2 higher learning to establish and operate—

3 ‘(A) 10 regional university transportation
4 centers; and

5 ‘(B) 10 Tier I university transportation
6 centers.

7 ‘(2) TIER II CENTERS.—For each of fiscal years
8 2005 through 2009, the Secretary shall make grants
9 under subsection (a) to nonprofit institutions of
10 higher learning to establish and operate 10 Tier II
11 university transportation centers.

12 ‘(3) LOCATION OF REGIONAL CENTERS.—One
13 regional university transportation center shall be lo-
14 cated in each of the 10 United States Government
15 regions that comprise the Standard Federal Re-
16 gional Boundary System.

17 ‘(4) LIMITATION.—A nonprofit institution of
18 higher learning may not directly receive a grant
19 under this section for a fiscal year for more than
20 one university transportation center.

21 ‘(d) COMPETITIVE SELECTION PROCESS.—

22 ‘(1) APPLICATIONS.—In order to be eligible to
23 receive a grant under this section, a nonprofit insti-
24 tution of higher learning shall submit to the Sec-

1 retary an application that is in such form and con-
2 tains such information as the Secretary may require.

3 ‘(2) GENERAL SELECTION CRITERIA.—Except
4 as otherwise provided by this section, the Secretary
5 shall select each recipient of a grant under this sec-
6 tion through a competitive process on the basis of
7 the following:

8 ‘(A) The demonstrated research and exten-
9 sion resources available to the recipient to carry
10 out this section.

11 ‘(B) The capability of the recipient to pro-
12 vide leadership in making national and regional
13 contributions to the solution of immediate and
14 long-range transportation problems.

15 ‘(C) The recipient’s demonstrated commit-
16 ment of at least \$400,000 each year in regu-
17 larly budgeted institutional amounts to support
18 ongoing transportation research and education
19 programs.

20 ‘(D) The recipient’s demonstrated ability
21 to disseminate results of transportation re-
22 search and education programs through a state-
23 wide or regionwide continuing education pro-
24 gram.

1 ‘(E) The strategic plan the recipient pro-
2 poses to carry out under the grant.

3 ‘(e) REGIONAL UNIVERSITY TRANSPORTATION CEN-
4 TERS.—

5 ‘(1) COMPETITION.—Not later than August 31,
6 2005, and not later than March 31st of every 4th
7 year thereafter, the Secretary shall complete a com-
8 petition among nonprofit institutions of higher
9 learning for grants to establish and operate the 10
10 regional university transportation centers referred to
11 in subsection (c)(1)(A).

12 ‘(2) SELECTION CRITERIA.—In conducting a
13 competition under paragraph (1), the Secretary shall
14 select a nonprofit institution of higher learning on
15 the basis of—

16 ‘(A) the criteria described in subsection
17 (d)(2);

18 ‘(B) the location of the center within the
19 Federal region to be served; and

20 ‘(C) whether or not the institution (or, in
21 the case of a consortium of institutions, the
22 lead institution) can demonstrate that it has a
23 well-established, nationally recognized program
24 in transportation research and education, as
25 evidenced by—

1 ‘(i) not less than \$2,000,000 in high-
2 way or public transportation research ex-
3 penditures each year for each of the pre-
4 ceding 5 years;

5 ‘(ii) not less than 10 graduate degrees
6 awarded in professional fields closely re-
7 lated to highways and public transpor-
8 tation for year for each of the preceding 5
9 years; and

10 ‘(iii) not less than 5 tenured or ten-
11 ure-track faculty members who specialize
12 on a full-time basis in professional fields
13 closely related to highways and public
14 transportation who, as a group, have pub-
15 lished a total at least 50 refereed journal
16 publications on highway or public transpor-
17 tation research during the preceding 5
18 years.

19 ‘(3) GRANT RECIPIENTS.—After selecting a
20 nonprofit institution of higher learning as a grant
21 recipient on the basis of a competition conducted
22 under this subsection, the Secretary shall make a
23 grant to the recipient to establish and operate a re-
24 gional university transportation center in each of the

1 first 4 fiscal years beginning after the date of the
2 competition.

3 ‘(4) SPECIAL RULE FOR FISCAL YEARS 2004
4 AND 2005.—For each of fiscal years 2004 and 2005,
5 the Secretary shall make a grant under this section
6 to each of the 10 nonprofit institutions of higher
7 learning that were competitively selected for grants
8 by the Secretary under this section in July 1999 to
9 operate regional university transportation centers.

10 ‘(5) AMOUNT OF GRANTS.—For each of fiscal
11 years 2004 through 2009, a grant made by the Sec-
12 retary to a nonprofit institution of higher learning
13 for a fiscal year to establish and operate a regional
14 university transportation center shall not exceed
15 \$3,500,000.

16 ‘(f) TIER I UNIVERSITY TRANSPORTATION CEN-
17 TERS.—

18 ‘(1) COMPETITION.—Not later than March 31,
19 2006, and not later than March 31st of every 4th
20 year thereafter, the Secretary shall complete a com-
21 petition among nonprofit institutions of higher
22 learning for grants to establish and operate the 10
23 Tier I university transportation centers referred to
24 in subsection (c)(1)(B).

1 ‘(2) SELECTION CRITERIA.—In conducting a
2 competition under paragraph (1), the Secretary shall
3 select a nonprofit institution of higher learning on
4 the basis of—

5 ‘(A) the criteria described in subsection
6 (d)(2); and

7 ‘(B) whether or not the institution (or, in
8 the case of a consortium of institutions, the
9 lead institution) can demonstrate that it has an
10 established, recognized program in transpor-
11 tation research and education, as evidenced
12 by—

13 ‘(i) not less than \$1,000,000 in high-
14 way or public transportation research ex-
15 penditures each year for each of the pre-
16 ceding 5 years or not less than \$6,000,000
17 in such expenditures during the 5 pre-
18 ceding years;

19 ‘(ii) not less than 5 graduate degrees
20 awarded in professional fields closely re-
21 lated to highways and public transpor-
22 tation each year for each of the preceding
23 5 years; and

24 ‘(iii) not less than 3 tenured or ten-
25 ure-track faculty members who specialize

1 on a full-time basis in professional fields
2 closely related to highways and public
3 transportation who, as a group, have pub-
4 lished a total at least 20 refereed journal
5 publications on highway or public transpor-
6 tation research during the preceding 5
7 years.

8 ‘(3) GRANT RECIPIENTS.—After selecting a
9 nonprofit institution of higher learning as a grant
10 recipient on the basis of a competition conducted
11 under this subsection, the Secretary shall make a
12 grant to the recipient to establish and operate a Tier
13 I university transportation center in each of the first
14 4 fiscal years beginning after the date of the com-
15 petition.

16 ‘(4) SPECIAL RULE FOR FISCAL YEARS 2004,
17 2005, AND 2006.—For each of fiscal years 2004,
18 2005, and 2006, the Secretary shall make a grant
19 under this section to each of the 10 nonprofit insti-
20 tutions of higher learning that were competitively se-
21 lected for grant awards by the Secretary under this
22 section in May 2002 to operate university transpor-
23 tation centers (other than regional centers).

24 ‘(5) AMOUNT OF GRANTS.—A grant made by
25 the Secretary to a nonprofit institution of higher

1 learning for a fiscal year to establish and operate a
2 Tier I university transportation center shall not ex-
3 ceed \$1,000,000 for fiscal year 2004 and
4 \$1,500,000 for each of fiscal years 2005 through
5 2009.

6 ‘(g) TIER II UNIVERSITY TRANSPORTATION CEN-
7 TERS.—

8 ‘(1) COMPETITION.—Not later than 60 days
9 after the date of enactment of the Transportation
10 Equity Act: A Legacy for Users, not later than
11 March 31, 2008, and not later than March 31st of
12 every 4th year thereafter, the Secretary shall com-
13 plete a competition among nonprofit institutions of
14 higher learning for grants to establish and operate
15 the 10 Tier II university transportation centers re-
16 ferred to in subsection (c)(2).

17 ‘(2) SELECTION CRITERIA.—In conducting a
18 competition under paragraph (1), the Secretary shall
19 select a nonprofit institution of higher learning on
20 the basis of the criteria described in subsection
21 (f)(2).

22 ‘(3) GRANT RECIPIENTS.—After selecting a
23 nonprofit institution of higher learning as a grant
24 recipient on the basis of a competition conducted
25 under this subsection, the Secretary shall—

1 ‘(A) in the case of the competition to be
2 completed not later than 60 days after the date
3 of enactment of the Transportation Equity Act:
4 A Legacy for Users, make a grant to the recipi-
5 ent to establish and operate a Tier II university
6 transportation center in each of fiscal years
7 2005 through 2008; and

8 ‘(B) in the case of each subsequent com-
9 petition, make a grant to the recipient to estab-
10 lish and operate a Tier II university transpor-
11 tation center in each of the first 4 fiscal years
12 beginning after the date of the competition.

13 ‘(4) AMOUNT OF GRANTS.—For each of fiscal
14 years 2005 through 2009, a grant made by the Sec-
15 retary to a nonprofit institution of higher learning
16 for a fiscal year to establish and operate a Tier II
17 university transportation center shall not exceed
18 \$1,000,000.

19 ‘(h) SUPPORT OF NATIONAL STRATEGY FOR SUR-
20 FACE TRANSPORTATION RESEARCH.—In order to be eligi-
21 ble to receive a grant under this section, a nonprofit insti-
22 tution of higher learning shall provide assurances satisfac-
23 tory to the Secretary that the research and education ac-
24 tivities of its university transportation center will support

1 the national strategy for surface transportation research,
2 as identified by—

3 ‘(1) the report of the National Highway Re-
4 search and Technology Partnership entitled “High-
5 way Research and Technology: The Need for Great-
6 er Investment”, dated April 2002; and

7 ‘(2) the programs of the National Research and
8 Technology Program of the Federal Transit Admin-
9 istration.

10 ‘(i) MAINTENANCE OF EFFORT.—In order to be eligi-
11 ble to receive a grant under this section, a nonprofit insti-
12 tution of higher learning shall enter into an agreement
13 with the Secretary to ensure that the institution will main-
14 tain total expenditures from all other sources to establish
15 and operate a university transportation center and related
16 research activities at a level at least equal to the average
17 level of such expenditures in its 2 fiscal years prior to
18 award of a grant under this section.

19 ‘(j) FEDERAL SHARE.—The Federal share of the
20 costs of activities carried out using a grant made under
21 this section shall be 50 percent of such costs. The non-
22 Federal share may include funds provided to a recipient
23 under section 503, 504(b), or 505 of title 23.

24 ‘(k) PROGRAM COORDINATION.—

1 ‘(1) COORDINATION.—The Secretary shall co-
2 ordinate the research, education, and technology
3 transfer activities that grant recipients carry out
4 under this section, disseminate the results of the re-
5 search, and establish and operate a clearinghouse to
6 disseminate the results of the research.

7 ‘(2) ANNUAL REVIEW AND EVALUATION.—At
8 least annually, and consistent with the plan devel-
9 oped under section 508 of title 23, the Secretary
10 shall review and evaluate programs of grant recipi-
11 ents.

12 ‘(3) MANAGEMENT AND OVERSIGHT.—The Sec-
13 retary shall expend \$1,500,000 for each of fiscal
14 years 2005 through 2009 from amounts made avail-
15 able to carry out this section to carry out manage-
16 ment and oversight of the centers receiving assist-
17 ance under this section.

18 ‘(l) PROGRAM ADMINISTRATION.—The Secretary
19 shall carry out this section acting through the Adminis-
20 trator of the Research and Innovative Technology Admin-
21 istration.

22 ‘(m) LIMITATION ON AVAILABILITY OF FUNDS.—
23 Funds made available to carry out this section shall re-
24 main available for obligation by the Secretary for a period

1 of 2 years after the last day of the fiscal year for which
2 such funds are authorized.’

3 (b) CONFORMING AMENDMENT.—The analysis for
4 subchapter I of chapter 55 of such title is amended by
5 striking the item relating to section 5506 and inserting
6 the following:

‘5506. University transportation research.’

7 **SEC. 5303. TRANSPORTATION SCHOLARSHIP OPPORTUNI-**
8 **TIES PROGRAM.**

9 (a) IN GENERAL.—

10 (1) ESTABLISHMENT OF PROGRAM.—The Sec-
11 retary may establish and implement a scholarship
12 program for the purpose of attracting qualified stu-
13 dents for transportation-related critical jobs.

14 (2) PARTNERSHIP.—The Secretary may estab-
15 lish the program in partnership with appropriate
16 nongovernmental institutions.

17 (b) PARTICIPATION AND FUNDING.—An operating
18 administration of the Department of Transportation and
19 the Office of Inspector General may participate in the
20 scholarship program. Notwithstanding any other provision
21 of law, the Secretary may use funds available to an oper-
22 ating administration or from the Office of Inspector Gen-
23 eral of the Department of Transportation for the purpose
24 of carrying out this section.

1 **Subtitle D—Advanced Technologies**

2 **SEC. 5401. ADVANCED HEAVY-DUTY VEHICLE TECH-** 3 **NOLOGIES RESEARCH PROGRAM.**

4 (a) IN GENERAL.—Subchapter I of chapter 55 of title
5 49, United States Code, is amended by adding at the end
6 the following:

7 **‘§ 5507. Advanced heavy-duty vehicle technologies re-** 8 **search program**

9 (a) IN GENERAL.—The Secretary of Transportation
10 shall conduct research, development, demonstration, and
11 testing to integrate emerging advanced heavy-duty vehicle
12 technologies in order to provide seamless, safe, secure, and
13 efficient transportation and to benefit the environment.

14 (b) CONSULTATION.—To ensure the activities per-
15 formed pursuant to this section achieve the maximum ben-
16 efit, the Secretary of Transportation shall consult with the
17 Secretary of Energy, the Administrator of the Environ-
18 mental Protection Agency, and other relevant Federal
19 agencies on research, development, and demonstration ac-
20 tivities authorized under this section related to advanced
21 heavy-duty vehicle technologies.

22 (c) GRANTS, COOPERATIVE AGREEMENTS, AND
23 OTHER TRANSACTIONS.—The Secretary may make grants
24 to, and enter into cooperative agreements and other trans-
25 actions with, Federal and other public agencies (including

1 State and local governments) and persons to carry out
2 subsection (a).

3 ‘(d) COST SHARING.—At least 50 percent of the
4 funding for projects carried out under this section must
5 be provided by non-Federal sources.

6 ‘(e) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated from the Highway Trust
8 Fund (other than the Mass Transit Account) to carry out
9 subsection (a) \$1,000,000 for fiscal year 2004 and
10 \$3,000,000 for each of fiscal years 2005 through 2009.

11 ‘(f) CONTRACT AUTHORITY.—The funds authorized
12 to be appropriated by subsection (e) shall be available for
13 obligation in the same manner as if such funds were ap-
14 portioned under chapter 1 of title 23 and shall be subject
15 to any limitation on obligations imposed on funds made
16 available to carry out title V of the Transportation Equity
17 Act: A Legacy for Users.’.

18 (b) CONFORMING AMENDMENT.—The analysis for
19 subchapter I of chapter 55 of such title is amended by
20 adding at the end the following:

‘5507. Advanced heavy-duty vehicle technologies research program.’.

21 **SEC. 5402. COMMERCIAL REMOTE SENSING PRODUCTS AND**
22 **SPATIAL INFORMATION TECHNOLOGIES.**

23 (a) IN GENERAL.—The Secretary shall establish and
24 carry out a program to validate commercial remote sens-
25 ing products and spatial information technologies for ap-

1 plication to national transportation infrastructure develop-
2 ment and construction.

3 (b) PROGRAM.—

4 (1) NATIONAL POLICY.—The Secretary shall es-
5 tablish and maintain a national policy for the use of
6 commercial remote sensing products and spatial in-
7 formation technologies in national transportation in-
8 frastructure development and construction.

9 (2) POLICY IMPLEMENTATION.—The Secretary
10 shall develop new applications of commercial remote
11 sensing products and spatial information tech-
12 nologies for the implementation of the national pol-
13 icy established and maintained under paragraph (1).

14 (c) COOPERATION.—The Secretary shall carry out
15 this section in cooperation with the commercial remote
16 sensing program of the National Aeronautics and Space
17 Administration and a consortium of university research
18 centers.

19 (d) FUNDING.—Of the amounts made available by
20 section 5101(a)(1) of this Act, \$3,000,000 for fiscal year
21 2004 and \$9,000,000 for each of fiscal years 2005
22 through 2009 shall be available to carry out this section.

1 **Subtitle E—Transportation Data**
2 **and Analysis**

3 **SEC. 5501. BUREAU OF TRANSPORTATION STATISTICS.**

4 Section 111 of title 49, United States Code, is
5 amended to read as follows:

6 **‘§ 111. Bureau of Transportation Statistics**

7 ‘(a) ESTABLISHMENT.—There is established in the
8 Research and Innovative Technology Administration a Bu-
9 reau of Transportation Statistics.

10 ‘(b) DIRECTOR.—

11 ‘(1) APPOINTMENT.—The Bureau shall be
12 headed by a Director who shall be appointed in the
13 competitive service by the Secretary.

14 ‘(2) QUALIFICATIONS.—The Director shall be
15 appointed from among individuals who are qualified
16 to serve as the Director by virtue of their training
17 and experience in the collection, analysis, and use of
18 transportation statistics.

19 ‘(c) RESPONSIBILITIES.—The Director of the Bureau
20 shall serve as the Secretary’s senior advisor on data and
21 statistics, and shall be responsible for carrying out the fol-
22 lowing duties:

23 ‘(1) PROVIDING DATA, STATISTICS, AND ANAL-
24 YSIS TO TRANSPORTATION DECISIONMAKERS.—En-
25 suring that the statistics compiled under paragraph

1 (5) are designed to support transportation decision-
2 making by the Federal Government, State and local
3 governments, metropolitan planning organizations,
4 transportation-related associations, the private sec-
5 tor (including the freight community), and the pub-
6 lic.

7 (2) COORDINATING COLLECTION OF INFORMA-
8 TION.—Working with the operating administrations
9 of the Department to establish and implement the
10 Bureau’s data programs and to improve the coordi-
11 nation of information collection efforts with other
12 Federal agencies.

13 (3) DATA MODERNIZATION.—Continually im-
14 proving surveys and data collection methods to im-
15 prove the accuracy and utility of transportation sta-
16 tistics.

17 (4) ENCOURAGING DATA STANDARDIZATION.—
18 Encouraging the standardization of data, data col-
19 lection methods, and data management and storage
20 technologies for data collected by the Bureau, the
21 operating administrations of the Department of
22 Transportation, States, local governments, metro-
23 politan planning organizations, and private sector
24 entities.

1 ‘(5) COMPILING TRANSPORTATION STATIS-
2 TICS.—Compiling, analyzing, and publishing a com-
3 prehensive set of transportation statistics on the per-
4 formance and impacts of the national transportation
5 system, including statistics on—

6 ‘(A) productivity in various parts of the
7 transportation sector;

8 ‘(B) traffic flows for all modes of transpor-
9 tation;

10 ‘(C) other elements of the Intermodal
11 Transportation Database established under sub-
12 section (g);

13 ‘(D) travel times and measures of conges-
14 tion;

15 ‘(E) vehicle weights and other vehicle char-
16 acteristics;

17 ‘(F) demographic, economic, and other
18 variables influencing traveling behavior, includ-
19 ing choice of transportation mode, and goods
20 movement;

21 ‘(G) transportation costs for passenger
22 travel and goods movement;

23 ‘(H) availability and use of mass transit
24 (including the number of passengers served by

1 each mass transit authority) and other forms of
2 for-hire passenger travel;

3 ‘(I) frequency of vehicle and transportation
4 facility repairs and other interruptions of trans-
5 portation service;

6 ‘(J) safety and security for travelers, vehi-
7 cles, and transportation systems;

8 ‘(K) consequences of transportation for the
9 human and natural environment;

10 ‘(L) the extent, connectivity, and condition
11 of the transportation system, building on the
12 National Transportation Atlas Database devel-
13 oped under subsection (g); and

14 ‘(M) transportation-related variables that
15 influence the domestic economy and global com-
16 petitiveness.

17 ‘(6) NATIONAL SPATIAL DATA INFRASTRUC-
18 TURE.—Building and disseminating the transpor-
19 tation layer of the National Spatial Data Infrastruc-
20 ture, including coordinating the development of
21 transportation geospatial data standards, compiling
22 intermodal geospatial data, and collecting geospatial
23 data that is not being collected by others.

24 ‘(7) ISSUING GUIDELINES.—Issuing guidelines
25 for the collection of information by the Department

1 of Transportation required for statistics to be com-
2 piled under paragraph (5) in order to ensure that
3 such information is accurate, reliable, relevant, and
4 in a form that permits systematic analysis. The Bu-
5 reau shall review and report to the Secretary of
6 Transportation on the sources and reliability of the
7 statistics proposed by the heads of the operating ad-
8 ministrations of the Department to measure outputs
9 and outcomes as required by the Government Per-
10 formance and Results Act of 1993, and the amend-
11 ments made by such Act, and shall carry out such
12 other reviews of the sources and reliability of other
13 data collected or statistical information published by
14 the heads of the operating administrations of the
15 Department as shall be requested by the Secretary.

16 ‘(8) MAKING STATISTICS ACCESSIBLE.—Making
17 the statistics published under this subsection readily
18 accessible.

19 ‘(d) INFORMATION NEEDS ASSESSMENT.—

20 ‘(1) IN GENERAL.—Within 60 days after the
21 date of the enactment of the Transportation Equity
22 Act: A Legacy for Users, the Secretary shall enter
23 into an arrangement with the National Research
24 Council to develop and publish a National Transpor-
25 tation Information Needs Assessment (referred to in

1 this subsection as the “Assessment”). The Assess-
2 ment shall be transmitted to the Secretary and the
3 Congress not later than 24 months after such ar-
4 rangement is entered into.

5 ‘(2) CONTENT.—The Assessment shall—

6 ‘(A) identify, in priority order, transpor-
7 tation data that is not being collected by the
8 Bureau, Department of Transportation oper-
9 ating administrations, or other Federal, State,
10 or local entities, but is needed to improve trans-
11 portation decisionmaking at the Federal, State,
12 and local level and to fulfill the requirements of
13 subsection (c)(5);

14 ‘(B) recommend whether the data identi-
15 fied in subparagraph (A) should be collected by
16 the Bureau, other parts of the Department, or
17 by other Federal, State, or local entities, and
18 whether any data is a higher priority than data
19 currently being collected;

20 ‘(C) identify any data the Bureau or other
21 Federal, State, and local entities is collecting
22 that is not needed;

23 ‘(D) describe new data collection methods
24 (including changes in surveys) and other
25 changes the Bureau or other Federal, State,

1 and local entities should implement to improve
2 the standardization, accuracy, and utility of
3 transportation data and statistics; and

4 ‘(E) estimate the cost of implementing any
5 recommendations.

6 ‘(3) CONSULTATION.—In developing the Assess-
7 ment, the National Research Council shall consult
8 with the Department’s Advisory Council on Trans-
9 portation Statistics and a representative cross-sec-
10 tion of transportation community stakeholders as
11 well as other Federal agencies, including the Envi-
12 ronmental Protection Agency, the Department of
13 Energy, and the Department of Housing and Urban
14 Development.

15 ‘(4) REPORT TO CONGRESS.—Not later than 6
16 months after the National Research Council trans-
17 mits the Assessment under paragraph (1), the Sec-
18 retary shall transmit a report to Congress that de-
19 scribes—

20 ‘(A) how the Department plans to fill the
21 data gaps identified under paragraph (2)(A);

22 ‘(B) how the Department plans to stop col-
23 lecting data identified under paragraph (2)(C);

24 ‘(C) how the Department plans to imple-
25 ment improved data collection methods and

1 other changes identified under paragraph
2 (2)(D);

3 ‘(D) the expected costs of implementing
4 subparagraphs (A), (B), and (C) of this para-
5 graph;

6 ‘(E) any findings of the Assessment under
7 paragraph (1) with which the Secretary dis-
8 agrees, and why; and

9 ‘(F) any proposed statutory changes need-
10 ed to implement the findings of the Assessment
11 under paragraph (1).

12 ‘(e) INTERMODAL TRANSPORTATION DATA BASE.—

13 ‘(1) IN GENERAL.—In consultation with the
14 Under Secretary for Policy, the Assistant Secre-
15 taries, and the heads of the operating administra-
16 tions of the Department of Transportation, the Di-
17 rector shall establish and maintain a transportation
18 data base for all modes of transportation.

19 ‘(2) USE.—The data base shall be suitable for
20 analyses carried out by the Federal Government, the
21 States, and metropolitan planning organizations.

22 ‘(3) CONTENTS.—The data base shall include—

23 ‘(A) information on the volumes and pat-
24 terns of movement of goods, including local,
25 interregional, and international movement, by

1 all modes of transportation and intermodal
2 combinations, and by relevant classification;

3 ‘(B) information on the volumes and pat-
4 terns of movement of people, including local,
5 interregional, and international movements, by
6 all modes of transportation (including bicycle
7 and pedestrian modes) and intermodal combina-
8 tions, and by relevant classification;

9 ‘(C) information on the location and
10 connectivity of transportation facilities and
11 services; and

12 ‘(D) a national accounting of expenditures
13 and capital stocks on each mode of transpor-
14 tation and intermodal combination.

15 ‘(f) NATIONAL TRANSPORTATION LIBRARY.—

16 ‘(1) IN GENERAL.—The Director shall establish
17 and maintain a National Transportation Library,
18 which shall contain a collection of statistical and
19 other information needed for transportation decision-
20 making at the Federal, State, and local levels.

21 ‘(2) ACCESS.—The Director shall facilitate and
22 promote access to the Library, with the goal of im-
23 proving the ability of the transportation community
24 to share information and the ability of the Director

1 to make statistics readily accessible under subsection
2 (c)(8).

3 ‘(3) COORDINATION.—The Director shall work
4 with other transportation libraries and other trans-
5 portation information providers, both public and pri-
6 vate, to achieve the goal specified in paragraph (2).

7 ‘(g) NATIONAL TRANSPORTATION ATLAS DATA
8 BASE.—

9 ‘(1) IN GENERAL.—The Director shall develop
10 and maintain geospatial data bases that depict—

11 ‘(A) transportation networks;

12 ‘(B) flows of people, goods, vehicles, and
13 craft over the networks; and

14 ‘(C) social, economic, and environmental
15 conditions that affect or are affected by the net-
16 works.

17 ‘(2) INTERMODAL NETWORK ANALYSIS.—The
18 data bases shall be able to support intermodal net-
19 work analysis.

20 ‘(h) MANDATORY RESPONSE AUTHORITY FOR
21 FREIGHT DATA COLLECTION.—Whoever, being the
22 owner, official, agent, person in charge, or assistant to the
23 person in charge of any corporation, company, business,
24 institution, establishment, or organization of any nature
25 whatsoever, neglects or refuses, when requested by the Di-

1 rector or other authorized officer, employee, or contractor
2 of the Bureau, to answer completely and correctly to the
3 best of his or her knowledge all questions relating to the
4 corporation, company, business, institution, establishment,
5 or other organization, or to make available records or sta-
6 tistics in his or her official custody, contained in a data
7 collection request prepared and submitted under the au-
8 thority of subsection (c)(1), shall be fined not more than
9 \$500; but if he or she willfully gives a false answer to
10 such a question, he or she shall be fined not more than
11 \$10,000.

12 ‘(i) RESEARCH AND DEVELOPMENT GRANTS.—The
13 Secretary may make grants to, or enter into cooperative
14 agreements or contracts with, public and nonprofit private
15 entities (including State transportation departments, met-
16 ropolitan planning organizations, and institutions of high-
17 er education) for—

18 ‘(1) investigation of the subjects specified in
19 subsection (c)(5) and research and development of
20 new methods of data collection, standardization,
21 management, integration, dissemination, interpreta-
22 tion, and analysis;

23 ‘(2) demonstration programs by States, local
24 governments, and metropolitan planning organiza-
25 tions to harmonize data collection, reporting, man-

1 agement, storage, and archiving to simplify data
2 comparisons across jurisdictions;

3 ‘(3) development of electronic clearinghouses of
4 transportation data and related information, as part
5 of the National Transportation Library under sub-
6 section (f); and

7 ‘(4) development and improvement of methods
8 for sharing geographic data, in support of the na-
9 tional transportation atlas data base under sub-
10 section (g) and the National Spatial Data Infra-
11 structure developed under Executive Order No.
12 12906.

13 ‘(j) LIMITATIONS ON STATUTORY CONSTRUCTION.—
14 Nothing in this section shall be construed—

15 ‘(1) to authorize the Bureau to require any
16 other department or agency to collect data; or

17 ‘(2) to reduce the authority of any other officer
18 of the Department of Transportation to collect and
19 disseminate data independently.

20 ‘(k) PROHIBITION ON CERTAIN DISCLOSURES.—

21 ‘(1) IN GENERAL.—An officer, employee or con-
22 tractor of the Bureau may not—

23 ‘(A) make any disclosure in which the data
24 provided by an individual or organization under
25 subsection (c) can be identified;

1 ‘(B) use the information provided under
2 subsection (c) for a nonstatistical purpose; or

3 ‘(C) permit anyone other than an indi-
4 vidual authorized by the Director to examine
5 any individual report provided under subsection
6 (c).

7 ‘(3) INFORMING RESPONDENT OF USE OF
8 DATA.—In a case in which the Bureau is authorized
9 by statute to collect data or information for a non-
10 statistical purpose, the Director shall clearly distin-
11 guish the collection of the data or information, by
12 rule and on the collection instrument, so as to in-
13 form a respondent that is requested or required to
14 supply the data or information of the nonstatistical
15 purpose.

16 ‘(l) TRANSPORTATION STATISTICS ANNUAL RE-
17 PORT.—The Director shall transmit to the President and
18 Congress a Transportation Statistics Annual Report which
19 shall include information on items referred to in sub-
20 section (c)(5), documentation of methods used to obtain
21 and ensure the quality of the statistics presented in the
22 report, and recommendations for improving transportation
23 statistical information.

24 ‘(m) DATA ACCESS.—The Director shall have access
25 to transportation and transportation-related information

1 in the possession of any Federal agency except informa-
2 tion—

3 ‘(1) the disclosure of which to another Federal
4 agency is expressly prohibited by law; or

5 ‘(2) the disclosure of which the agency so re-
6 quested determines would significantly impair the
7 discharge of authorities and responsibilities which
8 have been delegated to, or vested by law, in such
9 agency.

10 ‘(n) PROCEEDS OF DATA PRODUCT SALES.—Not-
11 withstanding section 3302 of title 31, funds received by
12 the Bureau from the sale of data products, for necessary
13 expenses incurred, may be credited to the Highway Trust
14 Fund (other than the Mass Transit Account) for the pur-
15 pose of reimbursing the Bureau for the expenses.

16 ‘(o) ADVISORY COUNCIL ON TRANSPORTATION STA-
17 TISTICS.—

18 ‘(1) ESTABLISHMENT.—The Director of the
19 Bureau of Transportation Statistics shall establish
20 an Advisory Council on Transportation Statistics.

21 ‘(2) FUNCTION.—It shall be the function of the
22 Advisory Council established under this subsection
23 to—

24 ‘(A) advise the Director of the Bureau of
25 Transportation Statistics on the quality, reli-

1 ability, consistency, objectivity, and relevance of
2 transportation statistics and analyses collected,
3 supported, or disseminated by the Bureau of
4 Transportation Statistics and the Department
5 of Transportation;

6 ‘(B) provide input to and review the report
7 to Congress under subsection (d)(4); and

8 ‘(C) advise the Director on methods to en-
9 courage harmonization and interoperability of
10 transportation data collected by the Bureau, the
11 operating administrations of the Department of
12 Transportation, States, local governments, met-
13 ropolitan planning organizations, and private
14 sector entities.

15 ‘(3) MEMBERSHIP.—The Advisory Council es-
16 tablished under this subsection shall be composed of
17 not fewer than 9 and not more than 11 members ap-
18 pointed by the Director, who are not officers or em-
19 ployees of the United States. Each member shall
20 have expertise in transportation data collection or
21 analysis or application; except that 1 member shall
22 have expertise in economics, 1 member shall have ex-
23 pertise in statistics, and 1 member shall have experi-
24 ence in transportation safety. At least 1 member
25 shall be a senior official of a State department of

1 transportation. Members shall include representation
2 of a cross-section of transportation community
3 stakeholders.

4 ‘(4) TERMS OF APPOINTMENT.—(A) Except as
5 provided in subparagraph (B), members shall be ap-
6 pointed to staggered terms not to exceed 3 years. A
7 member may be renominated for one additional 3-
8 year term.

9 ‘(B) Members serving on the Advisory Council
10 on Transportation Statistics as of the date of enact-
11 ment of the Transportation Equity Act: A Legacy
12 for Users shall serve until the end of their appointed
13 terms.

14 ‘(5) APPLICABILITY OF FEDERAL ADVISORY
15 COMMITTEE ACT.—The Federal Advisory Committee
16 Act shall apply to the Advisory Council established
17 under this subsection, except that section 14 of such
18 Act shall not apply to such Advisory Council.’.

19 **SEC. 5502. REPORTS OF BUREAU OF TRANSPORTATION**
20 **STATISTICS.**

21 Section 111(k) of title 49, United States Code, as
22 amended by section 5501 of this Act, is amended by in-
23 serting after paragraph (1) the following:

24 ‘(2) COPIES OF REPORTS.—

1 ‘(A) IN GENERAL.—No department, bu-
2 reau, agency, officer, or employee of the United
3 States (except the Director in carrying out this
4 section) may require, for any reason, a copy of
5 any report that has been filed under subsection
6 (c) with the Bureau or retained by an indi-
7 vidual respondent.

8 ‘(B) LIMITATION ON JUDICIAL PRO-
9 CEEDINGS.—A copy of a report described in
10 subparagraph (A) that has been retained by an
11 individual respondent or filed with the Bureau
12 or any of its employees, contractors, or
13 agents—

14 ‘(i) shall be immune from legal proc-
15 ess; and

16 ‘(ii) shall not, without the consent of
17 the individual concerned, be admitted as
18 evidence or used for any purpose in any
19 action, suit, or other judicial or adminis-
20 trative proceedings.

21 ‘(C) APPLICABILITY.—This paragraph
22 shall apply only to reports that permit informa-
23 tion concerning an individual or organization to
24 be reasonably determined by direct or indirect
25 means.’.

1 **Subtitle F—Intelligent**
2 **Transportation Systems Research**

3 **SEC. 5601. SHORT TITLE.**

4 This subtitle may be cited as the ‘Intelligent Trans-
5 portation Systems Act of 2005’.

6 **SEC. 5602. GOALS AND PURPOSES.**

7 (a) GOALS.—The goals of the intelligent transpor-
8 tation system program include—

9 (1) enhancement of surface transportation effi-
10 ciency and facilitation of intermodalism and inter-
11 national trade to enable existing facilities to meet a
12 significant portion of future transportation needs,
13 including public access to employment, goods, and
14 services and to reduce regulatory, financial, and
15 other transaction costs to public agencies and sys-
16 tem users;

17 (2) achievement of national transportation safe-
18 ty goals, including the enhancement of safe oper-
19 ation of motor vehicles and nonmotorized vehicles as
20 well as improved emergency response to a crash,
21 with particular emphasis on decreasing the number
22 and severity of collisions;

23 (3) protection and enhancement of the natural
24 environment and communities affected by surface
25 transportation, with particular emphasis on assisting

1 State and local governments to achieve national en-
2 vironmental goals;

3 (4) accommodation of the needs of all users of
4 surface transportation systems, including operators
5 of commercial motor vehicles, passenger motor vehi-
6 cles, motorcycles, and bicycles and pedestrians, in-
7 cluding individuals with disabilities; and

8 (5) improvement of the Nation's ability to re-
9 spond to security-related or other manmade emer-
10 gencies and natural disasters and enhancement of
11 national defense mobility.

12 (b) PURPOSES.—The Secretary shall implement ac-
13 tivities under the intelligent system transportation pro-
14 gram to, at a minimum—

15 (1) expedite, in both metropolitan and rural
16 areas, deployment and integration of intelligent
17 transportation systems for consumers of passenger
18 and freight transportation;

19 (2) ensure that Federal, State, and local trans-
20 portation officials have adequate knowledge of intel-
21 ligent transportation systems for full consideration
22 in the transportation planning process;

23 (3) improve regional cooperation and operations
24 planning for effective intelligent transportation sys-
25 tem deployment;

1 (4) promote the innovative use of private re-
2 sources;

3 (5) facilitate, in cooperation with the motor ve-
4 hicle industry, the introduction of a vehicle-based
5 safety enhancing systems;

6 (6) support the application of intelligent trans-
7 portation systems that increase the safety and effi-
8 ciency of commercial motor vehicle operations;

9 (7) develop a workforce capable of developing,
10 operating, and maintaining intelligent transportation
11 systems; and

12 (8) provide continuing support for operations
13 and maintenance of intelligent transportation sys-
14 tems.

15 **SEC. 5603. GENERAL AUTHORITIES AND REQUIREMENTS.**

16 (a) SCOPE.—Subject to the provisions of this subtitle,
17 the Secretary shall conduct an ongoing intelligent trans-
18 portation system program to research, develop, and oper-
19 ationally test intelligent transportation systems and ad-
20 vance nationwide deployment of such systems as a compo-
21 nent of the surface transportation systems of the United
22 States.

23 (b) POLICY.—Intelligent transportation system re-
24 search projects and operational tests funded pursuant to
25 this subtitle shall encourage and not displace public-pri-

1 vate partnerships or private sector investment in such
2 tests and projects.

3 (c) COOPERATION WITH GOVERNMENTAL, PRIVATE,
4 AND EDUCATIONAL ENTITIES.—The Secretary shall carry
5 out the intelligent transportation system program in co-
6 operation with State and local governments and other pub-
7 lic entities, the private sector of the United States, the
8 Federal laboratories, and colleges and universities, includ-
9 ing historically Black colleges and universities and other
10 minority institutions of higher education.

11 (d) CONSULTATION WITH FEDERAL OFFICIALS.—In
12 carrying out the intelligent transportation system pro-
13 gram, the Secretary shall consult with the heads of other
14 Federal departments and agencies, as appropriate.

15 (e) TECHNICAL ASSISTANCE, TRAINING, AND INFOR-
16 MATION.—The Secretary may provide technical assistance,
17 training, and information to State and local governments
18 seeking to implement, operate, maintain, or evaluate intel-
19 ligent transportation system technologies and services.

20 (f) TRANSPORTATION PLANNING.—The Secretary
21 may provide funding to support adequate consideration of
22 transportation systems management and operations, in-
23 cluding intelligent transportation systems, within metro-
24 politan and statewide transportation planning processes.

25 (g) INFORMATION CLEARINGHOUSE.—

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

2 (A) maintain a repository for technical and
3 safety data collected as a result of federally
4 sponsored projects carried out under this sub-
5 title (including the amendments made by this
6 subtitle); and

7 (B) make, on request, that information
8 (except for proprietary information and data)
9 readily available to all users of the repository at
10 an appropriate cost.

11 (2) AGREEMENT.—

12 (A) IN GENERAL.—The Secretary may
13 enter into an agreement with a third party for
14 the maintenance of the repository for technical
15 and safety data under paragraph (1)(A).

16 (B) FEDERAL FINANCIAL ASSISTANCE.—If
17 the Secretary enters into an agreement with an
18 entity for the maintenance of the repository, the
19 entity shall be eligible for Federal financial as-
20 sistance under this section.

21 (3) AVAILABILITY OF INFORMATION.—Informa-
22 tion in the repository shall not be subject to section
23 555 of title 5, United States Code.

24 (h) ADVISORY COMMITTEE.—

1 (1) IN GENERAL.—The Secretary shall establish
2 an Advisory Committee to advise the Secretary on
3 carrying out this subtitle.

4 (2) MEMBERSHIP.—The Advisory Committee
5 shall have no more than 20 members, be balanced
6 between metropolitan and rural interests, and in-
7 clude, at a minimum—

8 (A) a representative from a State highway
9 department;

10 (B) a representative from a local highway
11 department who is not from a metropolitan
12 planning organization;

13 (C) a representative from a State, local, or
14 regional transit agency;

15 (D) a representative from a metropolitan
16 planning organization;

17 (E) a private sector user of intelligent
18 transportation system technologies;

19 (F) an academic researcher with expertise
20 in computer science or another information
21 science field related to intelligent transportation
22 systems, and who is not an expert on transpor-
23 tation issues;

24 (G) an academic researcher who is a civil
25 engineer;

1 (H) an academic researcher who is a social
2 scientist with expertise in transportation issues;

3 (I) a representative from a not-for-profit
4 group representing the intelligent transpor-
5 tation system industry;

6 (J) a representative from a public interest
7 group concerned with safety;

8 (K) a representative from a public interest
9 group concerned with the impact of the trans-
10 portation system on land use and residential
11 patterns; and

12 (L) members with expertise in planning,
13 safety, and operations.

14 (3) DUTIES.—The Advisory Committee shall, at
15 a minimum, perform the following duties:

16 (A) Provide input into the development of
17 the Intelligent Transportation System aspects
18 of the strategic plan under section 508 of title
19 23, United States Code.

20 (B) Review, at least annually, areas of in-
21 telligent transportation systems research being
22 considered for funding by the Department, to
23 determine—

24 (i) whether these activities are likely
25 to advance either the state-of-the-practice

1 or state-of-the-art in intelligent transpor-
2 tation systems;

3 (ii) whether the intelligent transpor-
4 tation system technologies are likely to be
5 deployed by users, and, if not, to determine
6 the barriers to deployment; and

7 (iii) the appropriate roles for govern-
8 ment and the private sector in investing in
9 the research and technologies being consid-
10 ered.

11 (4) REPORT.—Not later than February 1 of
12 each year after the date of enactment of this Act,
13 the Secretary shall transmit to the Congress, a re-
14 port including—

15 (A) all recommendations made by the Ad-
16 visory Committee during the preceding calendar
17 year;

18 (B) an explanation of how the Secretary
19 has implemented those recommendations; and

20 (C) for recommendations not implemented,
21 the reasons for rejecting the recommendations.

22 (5) APPLICABILITY OF FEDERAL ADVISORY
23 COMMITTEE ACT.—The Advisory Committee shall be
24 subject to the Federal Advisory Committee Act (5
25 U.S.C. App.).

1 (i) REPORTING.—

2 (1) GUIDELINES AND REQUIREMENTS.—

3 (A) IN GENERAL.—The Secretary shall
4 issue guidelines and requirements for the re-
5 porting and evaluation of operational tests and
6 deployment projects carried out under this sub-
7 title.

8 (B) OBJECTIVITY AND INDEPENDENCE.—

9 The guidelines and requirements issued under
10 subparagraph (A) shall include provisions to en-
11 sure the objectivity and independence of the re-
12 porting entity so as to avoid any real or appar-
13 ent conflict of interest or potential influence on
14 the outcome by parties to any such test or de-
15 ployment project or by any other formal evalua-
16 tion carried out under this subtitle.

17 (C) FUNDING.—The guidelines and re-
18 quirements issued under subparagraph (A) shall
19 establish reporting funding levels based on the
20 size and scope of each test or project that en-
21 sure adequate reporting of the results of the
22 test or project.

23 (2) SPECIAL RULE.—Any survey, questionnaire,
24 or interview that the Secretary considers necessary
25 to carry out the reporting of any test, deployment

1 project, or program assessment activity under this
2 subtitle shall not be subject to chapter 35 of title 44.

3 **SEC. 5604. NATIONAL ARCHITECTURE AND STANDARDS.**

4 (a) IN GENERAL.—

5 (1) DEVELOPMENT, IMPLEMENTATION, AND
6 MAINTENANCE.—Consistent with section 12(d) of
7 the National Technology Transfer and Advancement
8 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783),
9 the Secretary shall develop, implement, and maintain
10 a national architecture and supporting standards
11 and protocols to promote the widespread use and
12 evaluation of intelligent transportation system tech-
13 nology as a component of the surface transportation
14 systems of the United States.

15 (2) INTEROPERABILITY AND EFFICIENCY.—To
16 the maximum extent practicable, the national archi-
17 tecture shall promote interoperability among, and ef-
18 ficiency of, intelligent transportation system tech-
19 nologies implemented throughout the United States.

20 (3) USE OF STANDARDS DEVELOPMENT ORGA-
21 NIZATIONS.—In carrying out this section, the Sec-
22 retary shall use the services of such standards devel-
23 opment organizations as the Secretary determines to
24 be appropriate.

25 (4) USE OF EXPERT PANEL.—

1 (A) DESIGNATION.—The Secretary shall
2 designate a panel of experts to recommend ways
3 to expedite and streamline the process for de-
4 veloping the standards and protocols to be de-
5 veloped pursuant to paragraph (1).

6 (B) NONAPPLICABILITY OF ADVISORY COM-
7 MITTEE ACT.—The expert panel shall not be
8 subject to the Federal Advisory Committee Act
9 (5 U.S.C. App.).

10 (C) DEADLINE FOR RECOMMENDATION.—
11 No later than September 30, 2006, the expert
12 panel shall provide the Secretary with a rec-
13 ommendation relating to such standards devel-
14 opment.

15 (b) PROVISIONAL STANDARDS.—

16 (1) IN GENERAL.—If the Secretary finds that
17 the development or balloting of an intelligent trans-
18 portation system standard jeopardizes the timely
19 achievement of the objectives identified in subsection
20 (a), the Secretary may establish a provisional stand-
21 ard, after consultation with affected parties, using,
22 to the extent practicable, the work product of appro-
23 priate standards development organizations.

24 (2) PERIOD OF EFFECTIVENESS.—A provisional
25 standard established under paragraph (1) shall be

1 published in the Federal Register and remain in ef-
2 fect until the appropriate standards development or-
3 ganization adopts and publishes a standard.

4 (c) CONFORMITY WITH NATIONAL ARCHITEC-
5 TURE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graphs (2) and (3), the Secretary shall ensure that
8 intelligent transportation system projects carried out
9 using funds made available from the Highway Trust
10 Fund, including funds made available under this
11 subtitle to deploy intelligent transportation system
12 technologies, conform to the national architecture,
13 applicable standards or provisional standards, and
14 protocols developed under subsection (a).

15 (2) SECRETARY'S DISCRETION.—The Secretary
16 may authorize exceptions to paragraph (1) for—

17 (A) projects designed to achieve specific re-
18 search objectives outlined in the national intel-
19 ligent transportation system program plan or
20 the surface transportation research and devel-
21 opment strategic plan developed under section
22 508 of title 23, United States Code; or

23 (B) the upgrade or expansion of an intel-
24 ligent transportation system in existence on the

1 date of enactment of this Act if the Secretary
2 determines that the upgrade or expansion—

3 (i) would not adversely affect the
4 goals or purposes of this subtitle;

5 (ii) is carried out before the end of
6 the useful life of such system; and

7 (iii) is cost-effective as compared to
8 alternatives that would meet the con-
9 formity requirement of paragraph (1).

10 (3) EXCEPTIONS.—Paragraph (1) shall not
11 apply to funds used for operation or maintenance of
12 an intelligent transportation system in existence on
13 the date of enactment of this Act.

14 **SEC. 5605. RESEARCH AND DEVELOPMENT.**

15 (a) IN GENERAL.—The Secretary shall carry out a
16 comprehensive program of intelligent transportation sys-
17 tem research, development, and operational tests of intel-
18 ligent vehicles and intelligent infrastructure systems and
19 other similar activities that are necessary to carry out this
20 subtitle.

21 (b) PRIORITY AREAS.—Under the program, the Sec-
22 retary shall give higher priority to funding projects that—

23 (1) enhance mobility and productivity through
24 improved traffic management, incident management,
25 transit management, freight management, road

1 weather management, toll collection, traveler infor-
2 mation, or highway operations systems and remote
3 sensing products;

4 (2) utilize interdisciplinary approaches to de-
5 velop traffic management strategies and tools to ad-
6 dress multiple impacts of congestion concurrently;

7 (3) enhance safety through improved crash
8 avoidance and protection, crash and other notifica-
9 tion, commercial motor vehicle operations, and infra-
10 structure-based or cooperative safety systems; and

11 (4) facilitate the integration of intelligent infra-
12 structure, vehicle, and control technologies.

13 (c) FEDERAL SHARE.—The Federal share of the cost
14 of operational tests and demonstrations under subsection
15 (a) shall not exceed 80 percent.

16 **SEC. 5606. INFRASTRUCTURE DEVELOPMENT.**

17 Funds made available to carry out this subtitle for
18 operational tests—

19 (1) shall be used primarily for the development
20 of intelligent transportation system infrastructure;
21 and

22 (2) to the maximum extent practicable, shall
23 not be used for the construction of physical highway
24 and public transportation infrastructure unless the
25 construction is incidental and critically necessary to

1 the implementation of an intelligent transportation
2 system project.

3 **SEC. 5607. ROAD WEATHER RESEARCH AND DEVELOPMENT**
4 **PROGRAM.**

5 (a) ESTABLISHMENT.—The Secretary shall establish
6 a road weather research and development program to—

7 (1) maximize use of available road weather in-
8 formation and technologies;

9 (2) expand road weather research and develop-
10 ment efforts to enhance roadway safety, capacity,
11 and efficiency while minimizing environmental im-
12 pacts; and

13 (3) promote technology transfer of effective
14 road weather scientific and technological advances.

15 (b) STAKEHOLDER INPUT.—In carrying out this sec-
16 tion, the Secretary shall consult with the National Oceanic
17 and Atmospheric Administration, the National Science
18 Foundation, the American Association of State Highway
19 and Transportation Officials, nonprofit organizations, and
20 the private sector.

21 (c) CONTENTS.—The program established under this
22 section shall solely carry out research and development
23 called for in the National Research Council’s report enti-
24 tled ‘A Research Agenda for Improving Road Weather
25 Services’. Such research and development includes—

1 (1) integrating existing observational networks
2 and data management systems for road weather ap-
3 plications;

4 (2) improving weather modeling capabilities and
5 forecast tools, such as the road surface and atmos-
6 pheric interface;

7 (3) enhancing mechanisms for communicating
8 road weather information to users, such as transpor-
9 tation officials and the public; and

10 (4) integrating road weather technologies into
11 an information infrastructure.

12 (d) ACTIVITIES.—In carrying out this section, the
13 Secretary shall—

14 (1) enable efficient technology transfer;

15 (2) improve education and training of road
16 weather information users, such as State and local
17 transportation officials and private sector transpor-
18 tation contractors; and

19 (3) coordinate with transportation weather re-
20 search programs in other modes, such as aviation.

21 (e) FUNDING.—

22 (1) IN GENERAL.—In awarding funds under
23 this section, the Secretary shall give preference to
24 applications with significant matching funds from
25 non-Federal sources.

1 (2) FUNDS FOR ROAD WEATHER RESEARCH
2 AND DEVELOPMENT.—Of the amounts made avail-
3 able by section 5101(a)(5), \$4,000,000 shall be
4 available to carry out this section for each of fiscal
5 years 2004 through 2009.

6 **SEC. 5608. DEFINITIONS.**

7 In this subtitle, the following definitions apply:

8 (1) INCIDENT.—The term ‘incident’ means a
9 crash, a natural disaster, workzone activity, special
10 event, or other emergency road user occurrence that
11 adversely affects or impedes the normal flow of traf-
12 fic.

13 (2) INTELLIGENT TRANSPORTATION INFRA-
14 STRUCTURE.—The term ‘intelligent transportation
15 infrastructure’ means fully integrated public sector
16 intelligent transportation system components, as de-
17 fined by the Secretary.

18 (3) INTELLIGENT TRANSPORTATION SYSTEM.—
19 The term ‘intelligent transportation system’ means
20 electronics, communications, or information proc-
21 essing used singly or in combination to improve the
22 efficiency or safety of a surface transportation sys-
23 tem.

1 (4) NATIONAL ARCHITECTURE.—The term ‘na-
2 tional architecture’ means the common framework
3 for interoperability that defines—

4 (A) the functions associated with intel-
5 ligent transportation system user services;

6 (B) the physical entities or subsystems
7 within which the functions reside;

8 (C) the data interfaces and information
9 flows between physical subsystems; and

10 (D) the communications requirements as-
11 sociated with the information flows.

12 (5) PROJECT.—The term ‘project’ means a un-
13 dertaking to research, develop, or operationally test
14 intelligent transportation systems or any other un-
15 dertaking eligible for assistance under this subtitle.

16 (6) STANDARD.—The term ‘standard’ means a
17 document that—

18 (A) contains technical specifications or
19 other precise criteria for intelligent transpor-
20 tation systems that are to be used consistently
21 as rules, guidelines, or definitions of character-
22 istics so as to ensure that materials, products,
23 processes, and services are fit for their pur-
24 poses; and

1 (B) may support the national architecture
2 and promote—

3 (i) the widespread use and adoption of
4 intelligent transportation system tech-
5 nology as a component of the surface
6 transportation systems of the United
7 States; and

8 (ii) interoperability among intelligent
9 transportation system technologies imple-
10 mented throughout the States.

11 (7) STATE.—The term ‘State’ has the meaning
12 given the term under section 101 of title 23, United
13 States Code.

14 (8) TRANSPORTATION SYSTEMS MANAGEMENT
15 AND OPERATIONS.—The term ‘transportation sys-
16 tems management and operations’ has the meaning
17 given the term under section 101(a) of such title.

18 **SEC. 5609. RURAL INTERSTATE CORRIDOR COMMUNICA-**
19 **TIONS STUDY.**

20 (a) STUDY.—The Secretary, in cooperation with the
21 Secretary of Commerce, State departments of transpor-
22 tation, and other appropriate State, regional, and local of-
23 ficials, shall conduct a study on feasibility of installing
24 fiber optic cabling and wireless communication infrastruc-
25 ture along multistate Interstate System route corridors for

1 improved communications services to rural communities
2 along such corridors.

3 (b) CONTENTS OF STUDY.—In conducting the study,
4 the Secretary shall identify—

5 (1) impediments to installation of the infra-
6 structure described in subsection (a) along
7 multistate Interstate System route corridors and to
8 connecting such infrastructure to the rural commu-
9 nities along such corridors;

10 (2) the effective geographic range of such infra-
11 structure;

12 (3) potential opportunities for the private sector
13 to fund, wholly or partially, the installation of such
14 infrastructure;

15 (4) potential benefits fiber optic cabling and
16 wireless communication infrastructure may provide
17 to rural communities along such corridors, including
18 the effects of the installation of such infrastructure
19 on economic development, deployment of intelligent
20 transportation systems technologies and applica-
21 tions, homeland security precaution and response,
22 and education and health systems in those commu-
23 nities;

24 (5) rural broadband access points for such in-
25 frastructure;

1 (6) areas of environmental conflict with such in-
2 stallation;

3 (7) real estate ownership issues relating to such
4 installation;

5 (8) preliminary design for placement of fiber
6 optic cable and wireless towers;

7 (9) monetary value of the rights-of-way nec-
8 essary for such installation;

9 (10) applicability and transferability of the ben-
10 efits of such installation to other rural corridors; and

11 (11) safety and other operational issues associ-
12 ated with the installation and maintenance of fiber
13 optic cabling and wire infrastructure within Inter-
14 state System rights-of-way and other publicly owned
15 rights-of-way.

16 (c) CORRIDOR LOCATIONS.—The study required
17 under subsection (a) shall be conducted for corridors
18 along—

19 (1) Interstate Route I–90 through rural Wis-
20 consin, southern Minnesota, northern Iowa, and
21 South Dakota;

22 (2) Interstate Route I–20 through Alabama,
23 Mississippi, and northern Louisiana;

24 (3) Interstate Route I–91 through Vermont,
25 New Hampshire, and Massachusetts; and

1 (4) any other rural corridor the Secretary con-
2 siders appropriate.

3 (d) FEDERAL SHARE.—The Federal share of the cost
4 of the study shall be 100 percent.

5 (e) REPORT TO CONGRESS.—Not later than Sep-
6 tember 30, 2006, the Secretary shall transmit to Congress
7 a report on the results of the study, including any rec-
8 ommendations of the Secretary.

9 (f) FUNDING.—Of the amounts made available under
10 section 5101(a)(5), \$1,000,000 shall be available for fiscal
11 year 2005, and \$2,000,000 for fiscal year 2006, to carry
12 out this section.

13 **SEC. 5610. CENTERS FOR SURFACE TRANSPORTATION EX-**
14 **CELLENCE.**

15 (a) ESTABLISHMENT.—The Secretary shall establish
16 3 centers for surface transportation excellence.

17 (b) GOALS.—The goals of the centers for surface
18 transportation excellence are to promote and support stra-
19 tegic national surface transportation programs and activi-
20 ties relating to the work of State departments of transpor-
21 tation in the areas of environment, rural safety, and
22 project finance.

23 (c) ROLE OF CENTERS.—To achieve the goals set
24 forth in subsection (b), the Secretary shall establish the
25 3 centers as follows:

1 (1) ENVIRONMENTAL EXCELLENCE.—To pro-
2 vide technical assistance, information sharing of best
3 practices, and training in the use of tools and deci-
4 sion-making processes that can assist States in plan-
5 ning and delivering environmentally sound surface
6 transportation projects.

7 (2) RURAL SAFETY.—To provide research,
8 training, and outreach on innovative uses of tech-
9 nology to enhance rural safety and economic devel-
10 opment, assess local community needs to improve ac-
11 cess to mobile emergency treatment, and develop on-
12 line and seminar training needs of rural transpor-
13 tation practitioners and policy-makers.

14 (3) PROJECT FINANCE.—To provide support to
15 State transportation departments in the development
16 of finance plans and project oversight tools and to
17 develop and offer training in state of the art financ-
18 ing methods to advance projects and leverage funds.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) IN GENERAL.—Of the amounts made avail-
21 able under section 5101(a)(1), the Secretary shall
22 make available \$2,000,000 for each of fiscal years
23 2004 through 2009 to carry out this section.

1 (2) ALLOCATION OF FUNDS.—Of the funds
2 made available under paragraph (1) the Secretary
3 shall use such amounts as follows:

4 (A) 40 percent to establish the Center for
5 Environmental Excellence.

6 (B) 30 percent to establish the Center for
7 Excellence in Rural Safety.

8 (C) 30 percent to establish the Center for
9 Excellence in Project Finance.

10 (3) APPLICABILITY OF TITLE 23.—Funds au-
11 thorized by this section shall be available for obliga-
12 tion in the same manner as if such funds were ap-
13 portioned under chapter 1 of title 23, United States
14 Code, except that the Federal share shall be 100
15 percent.

16 (e) PROGRAM ADMINISTRATION.—

17 (1) COMPETITION.—A party entering into a
18 contract, cooperative agreement, or other transaction
19 with the Secretary, or receiving a grant to perform
20 research or provide technical assistance under this
21 section shall be selected on a competitive basis, to
22 the maximum extent practicable.

23 (2) STRATEGIC PLAN.—The Secretary shall re-
24 quire each center to develop a multiyear strategic
25 plan that describes—

1 (A) the activities to be undertaken; and

2 (B) how the work of the center is coordi-
3 nated with the activities of the Federal High-
4 way Administration and the various other re-
5 search, development, and technology transfer
6 activities authorized by this title. Such plans
7 shall be submitted to the Secretary by January
8 1, 2006, and each year thereafter.

9 **SEC. 5611. REPEAL.**

10 Subtitle C of title V of The Transportation Equity
11 Act for the 21st Century (23 U.S.C. 502 note; 112 Stat.
12 452–463) is repealed.

13 **SEC. 5612. SPECIAL RULE FOR FISCAL YEAR 2004.**

14 In any case in which an amount is authorized to be
15 appropriated, made available, allocated, set aside, taken
16 down, or subject to an obligation limitation for fiscal year
17 2004 for a program, project, or activity in any provision
18 of this title, including an amendment made by this title,
19 that is different than the amount authorized to be appro-
20 priated, made available, allocated, set aside, taken down,
21 or subject to an obligation limitation for fiscal year 2004
22 for such program, project, or activity in any provision of
23 the Surface Transportation Extension Act of 2004, Part
24 V (Public Law 108–310), including any amendment made
25 by such Act, the amount referred to in such Act shall be

1 the amount authorized to be appropriated, made available,
 2 allocated, set aside, taken down, or subject to an obliga-
 3 tion limitation.

4 **TITLE VI—TRANSPORTATION**
 5 **PLANNING AND PROJECT DE-**
 6 **LIVERY**

7 **SEC. 6001. TRANSPORTATION PLANNING.**

8 (a) IN GENERAL.—Subtitle III of title 49, United
 9 States Code, is amended by inserting after chapter 51 the
 10 following:

11 **‘CHAPTER 52—TRANSPORTATION**
 12 **PLANNING AND PROJECT DELIVERY**

‘SUBCHAPTER A—GENERAL PROVISIONS

‘Sec.

‘5201. Definitions.

‘SUBCHAPTER B—TRANSPORTATION PLANNING AND PROJECT DELIVERY

‘5211. Policy.

‘5212. Definitions.

‘5213. Metropolitan transportation planning.

‘5214. Statewide transportation planning.

‘SUBCHAPTER C—EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT
 DECISIONMAKING

‘5251. Definitions and applicability.

‘5252. Project development procedures.

13 **‘SUBCHAPTER A—GENERAL PROVISIONS**

14 **‘§ 5201. Definitions**

15 ‘In this chapter, the following definitions apply:

16 (1) SECRETARY.—The term “Secretary”

17 means the Secretary of Transportation.

1 tation planning program to be administered by the Fed-
2 eral Highway Administration and the Federal Transit Ad-
3 ministration.

4 **‘§ 5212. Definitions**

5 ‘(a) APPLICABILITY BY REFERENCE.—Unless other-
6 wise specified in subsection (b), the definitions in section
7 101(a) of title 23 and section 5302 are applicable to this
8 subchapter.

9 ‘(b) ADDITIONAL DEFINITIONS.—In this subchapter,
10 the following definitions apply:

11 ‘(1) METROPOLITAN PLANNING AREA.—The
12 term “metropolitan planning area” means the geo-
13 graphic area determined by agreement between the
14 metropolitan planning organization for the area and
15 the Governor under section 5213(c).

16 ‘(2) METROPOLITAN PLANNING ORGANIZA-
17 TION.—The term “metropolitan planning organiza-
18 tion” means the policy board of an organization cre-
19 ated as a result of the designation process in section
20 5213(b).

21 ‘(3) NONMETROPOLITAN AREA.—The term
22 “nonmetropolitan area” means a geographic area
23 outside designated metropolitan planning areas.

24 ‘(4) NONMETROPOLITAN LOCAL OFFICIAL.—
25 The term “nonmetropolitan local official” means

1 elected and appointed officials of general purpose
2 local government in a nonmetropolitan area with re-
3 sponsibility for transportation.

4 ‘(5) TIP.—The term “TIP” means a transpor-
5 tation improvement program developed by a metro-
6 politan planning organization under section 5213.

7 ‘(6) URBANIZED AREA.—The term “urbanized
8 area” means a geographic area with a population of
9 50,000 or more, as designated by the Bureau of the
10 Census.

11 **‘§ 5213. Metropolitan Transportation planning**

12 ‘(a) GENERAL REQUIREMENTS.—

13 ‘(1) DEVELOPMENT OF LONG-RANGE PLANS
14 AND TIPS.—To accomplish the objectives in section
15 5211, metropolitan planning organizations des-
16 ignated under subsection (b), in cooperation with the
17 State and public transportation operators, shall de-
18 velop long-range transportation plans and transpor-
19 tation improvement programs for metropolitan plan-
20 ning areas of the State.

21 ‘(2) CONTENTS.—The plans and TIPs for each
22 metropolitan area shall provide for the development
23 and integrated management and operation of trans-
24 portation systems and facilities (including accessible
25 pedestrian walkways and bicycle transportation fa-

1 cilities) that will function as an intermodal transpor-
2 tation system for the metropolitan planning area
3 and as an integral part of an intermodal transpor-
4 tation system for the State and the United States.

5 ‘(3) PROCESS OF DEVELOPMENT.—The process
6 for developing the plans and TIPs shall provide for
7 consideration of all modes of transportation and
8 shall be continuing, cooperative, and comprehensive
9 to the degree appropriate, based on the complexity
10 of the transportation problems to be addressed.

11 ‘(b) DESIGNATION OF METROPOLITAN PLANNING
12 ORGANIZATIONS.—

13 ‘(1) IN GENERAL.—To carry out the transpor-
14 tation planning process required by this section, a
15 metropolitan planning organization shall be des-
16 ignated for each urbanized area with a population of
17 more than 50,000 individuals—

18 ‘(A) by agreement between the Governor
19 and units of general purpose local government
20 that together represent at least 75 percent of
21 the affected population (including the largest
22 incorporated city (based on population) as
23 named by the Bureau of the Census); or

24 ‘(B) in accordance with procedures estab-
25 lished by applicable State or local law.

1 ‘(2) STRUCTURE.—Each metropolitan planning
2 organization that serves an area designated as a
3 transportation management area, when designated
4 or redesignated under this subsection, shall consist
5 of—

6 ‘(A) local elected officials;

7 ‘(B) officials of public agencies that admin-
8 ister or operate major modes of transportation
9 in the metropolitan area; and

10 ‘(C) appropriate State officials.

11 ‘(3) LIMITATION ON STATUTORY CONSTRUC-
12 TION.—Nothing in this subsection shall be construed
13 to interfere with the authority, under any State law
14 in effect on December 18, 1991, of a public agency
15 with multimodal transportation responsibilities to—

16 ‘(A) develop the plans and TIPs for adop-
17 tion by a metropolitan planning organization;
18 and

19 ‘(B) develop long-range capital plans, co-
20 ordinate transit services and projects, and carry
21 out other activities pursuant to State law.

22 ‘(4) CONTINUING DESIGNATION.—A designation
23 of a metropolitan planning organization under this
24 subsection or any other provision of law shall remain

1 in effect until the metropolitan planning organiza-
2 tion is redesignated under paragraph (5).

3 ‘(5) REDESIGNATION PROCEDURES.—A metro-
4 politan planning organization may be redesignated
5 by agreement between the Governor and units of
6 general purpose local government that together rep-
7 resent at least 75 percent of the existing planning
8 area population (including the largest incorporated
9 city (based on population) as named by the Bureau
10 of the Census) as appropriate to carry out this sec-
11 tion.

12 ‘(6) DESIGNATION OF MORE THAN 1 METRO-
13 POLITAN PLANNING ORGANIZATION.—More than 1
14 metropolitan planning organization may be des-
15 ignated within an existing metropolitan planning
16 area only if the Governor and the existing metropoli-
17 tan planning organization determine that the size
18 and complexity of the existing metropolitan planning
19 area make designation of more than 1 metropolitan
20 planning organization for the area appropriate.

21 ‘(c) METROPOLITAN PLANNING AREA BOUND-
22 ARIES.—

23 ‘(1) IN GENERAL.—For the purposes of this
24 section, the boundaries of a metropolitan planning
25 area shall be determined by agreement between the

1 metropolitan planning organization and the Gov-
2 ernor.

3 ‘(2) INCLUDED AREA.—Each metropolitan plan-
4 ning area—

5 ‘(A) shall encompass at least the existing
6 urbanized area and the contiguous area ex-
7 pected to become urbanized within a 20-year
8 forecast period for the transportation plan; and

9 ‘(B) may encompass the entire metropoli-
10 tan statistical area or consolidated metropolitan
11 statistical area, as defined by the Bureau of the
12 Census.

13 ‘(3) IDENTIFICATION OF NEW URBANIZED
14 AREAS WITHIN EXISTING PLANNING AREA BOUND-
15 ARIES.—The designation by the Bureau of the Cen-
16 sus of new urbanized areas within an existing metro-
17 politan planning area shall not require the redesign-
18 nation of the existing metropolitan planning organi-
19 zation.

20 ‘(4) EXISTING METROPOLITAN PLANNING
21 AREAS IN NONATTAINMENT.—Notwithstanding para-
22 graph (2), in the case of an urbanized area 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.) as of the date of enactment of this para-

1 graph, the boundaries of the metropolitan planning
2 area in existence as of such date of enactment shall
3 be retained; except that the boundaries may be ad-
4 justed by agreement of the Governor and affected
5 metropolitan planning organizations in the manner
6 described in subsection (b)(5).

7 ‘(5) NEW METROPOLITAN PLANNING AREAS IN
8 NONATTAINMENT.—In the case of an urbanized area
9 designated after the date of enactment of this para-
10 graph as a nonattainment area for ozone or carbon
11 monoxide, the boundaries of the metropolitan plan-
12 ning area—

13 ‘(A) shall be established in the manner de-
14 scribed in subsection (b)(1);

15 ‘(B) shall encompass the areas described in
16 paragraph (2)(A);

17 ‘(C) may encompass the areas described in
18 paragraph (2)(B); and

19 ‘(D) may address any nonattainment area
20 identified under the Clean Air Act for ozone or
21 carbon monoxide.

22 ‘(d) COORDINATION IN MULTISTATE AREAS.—

23 ‘(1) IN GENERAL.—The Secretary shall encour-
24 age each Governor with responsibility for a portion
25 of a multistate metropolitan area and the appro-

1 appropriate metropolitan planning organizations to pro-
2 vide coordinated transportation planning for the en-
3 tire metropolitan area.

4 ‘(e) MPO CONSULTATION IN PLAN AND TIP CO-
5 ORDINATION.—

6 ‘(1) NONATTAINMENT AREAS.—If more than 1
7 metropolitan planning organization has authority
8 within a metropolitan area or an area which is des-
9 igned as a nonattainment area for ozone or carbon
10 monoxide under the Clean Air Act, each metropoli-
11 tan planning organization shall consult with the
12 other metropolitan planning organizations des-
13 igned for such area and the State in the coordina-
14 tion of plans and TIPs required by this section.

15 ‘(2) TRANSPORTATION IMPROVEMENTS LO-
16 CATED IN MULTIPLE MPOS.—If a transportation im-
17 provement funded from the Highway Trust Fund or
18 authorized under chapter 53 is located within the
19 boundaries of more than 1 metropolitan planning
20 area, the metropolitan planning organizations shall
21 coordinate plans and TIPs regarding the transpor-
22 tation improvement.

23 ‘(3) RELATIONSHIP WITH OTHER PLANNING
24 OFFICIALS.—The Secretary shall encourage each
25 metropolitan planning organization to consult with

1 those officials responsible for other types of planning
2 activities that are affected by transportation in the
3 area (including State and local planned growth, eco-
4 nomic development, environmental protection, air-
5 port operations, and freight movements) or to co-
6 ordinate its planning process, to the maximum ex-
7 tent practicable, with such planning activities. Under
8 the metropolitan planning process, transportation
9 plans and TIPs shall be developed with due consid-
10 eration of other related planning activities within the
11 metropolitan area, and the process shall provide for
12 the design and delivery of transportation services
13 within the metropolitan area that are provided by—

14 ‘(A) recipients of assistance under chapter
15 53;

16 ‘(B) governmental agencies and nonprofit
17 organizations (including representatives of the
18 agencies and organizations) that receive Federal
19 assistance from a source other than the Depart-
20 ment of Transportation to provide non-
21 emergency transportation services; and

22 ‘(C) recipients of assistance under section
23 204 of title 23.

24 ‘(f) SCOPE OF PLANNING PROCESS.—

1 ‘(1) IN GENERAL.—The goals and objectives de-
2 veloped through the metropolitan planning process
3 for a metropolitan planning area under this section
4 shall address the following factors as they relate to
5 the performance of the metropolitan area transpor-
6 tation systems:

7 ‘(A) Support of the economic vitality of the
8 metropolitan area, especially by enabling global
9 competitiveness, productivity, and efficiency.

10 ‘(B) Increases in the safety and security of
11 the transportation system for motorized and
12 nonmotorized users.

13 ‘(C) Increases in the accessibility and mo-
14 bility of people and for freight.

15 ‘(D) Protection and enhancement of the
16 environment, promotion of energy conservation,
17 improvement of the quality of life, and pro-
18 motion of consistency between transportation
19 improvements and State and local planned
20 growth and economic development patterns.

21 ‘(E) Enhancement of the integration and
22 connectivity of the transportation system,
23 across and between modes, for people and
24 freight.

1 ‘(F) Promotion of efficient system manage-
2 ment and operation.

3 ‘(G) Emphasis on the preservation of the
4 existing transportation system.

5 ‘(2) FAILURE TO CONSIDER FACTORS.—The
6 failure to consider any factor specified in paragraph
7 (1) shall not be reviewable by any court under title
8 23 or this title, subchapter II of chapter 5 of title
9 5, or chapter 7 of title 5 in any matter affecting a
10 transportation plan, a TIP, a project or strategy, or
11 the certification of a planning process.

12 ‘(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

13 ‘(2) TRANSPORTATION PLAN.—A transportation
14 plan under this section shall be in a form that the
15 Secretary determines to be appropriate and shall
16 contain, at a minimum, the following:

17 ‘(A) An identification of transportation fa-
18 cilities (including major roadways, transit,
19 multimodal and intermodal facilities, and inter-
20 modal connectors) that should function as an
21 integrated metropolitan transportation system,
22 giving emphasis to those facilities that serve im-
23 portant national and regional transportation
24 functions. In formulating the transportation
25 plan, the metropolitan planning organization

1 shall consider factors described in subsection (f)
2 as such factors relate to a 20-year forecast pe-
3 riod.

4 ‘(B) A financial plan that demonstrates
5 how the adopted transportation plan can be im-
6 plemented, indicates resources from public and
7 private sources that are reasonably expected to
8 be made available to carry out the plan, and
9 recommends any additional financing strategies
10 for needed projects and programs. The financial
11 plan may include, for illustrative purposes, ad-
12 ditional projects that would be included in the
13 adopted transportation plan if reasonable addi-
14 tional resources beyond those identified in the
15 financial plan were available. For the purpose
16 of developing the transportation plan, the met-
17 ropolitan planning organization, transit oper-
18 ator, and State shall cooperatively develop esti-
19 mates of funds that will be available to support
20 plan implementation.

21 ‘(C) Operational and management strate-
22 gies to improve the performance of existing
23 transportation facilities to relieve vehicular con-
24 gestion and maximize the safety and mobility of
25 people and goods.

1 ‘(D) Capital investment and other strate-
2 gies to preserve the existing and projected fu-
3 ture metropolitan transportation infrastructure
4 and provide for multimodal capacity increases
5 based on regional priorities and needs.

6 ‘(E) Proposed transportation and transit
7 enhancement activities.

8 ‘(3) COORDINATION WITH CLEAN AIR ACT
9 AGENCIES.—In metropolitan areas which are in non-
10 attainment for ozone or carbon monoxide under the
11 Clean Air Act, the metropolitan planning organiza-
12 tion shall coordinate the development of a transpor-
13 tation plan with the process for development of the
14 transportation control measures of the State imple-
15 mentation plan required by the Clean Air Act.

16 ‘(4) PARTICIPATION BY INTERESTED PAR-
17 TIES.—Before approving a transportation plan, each
18 metropolitan planning organization shall provide citi-
19 zens, affected public agencies, representatives of
20 public transportation employees, freight shippers,
21 providers of freight transportation services, private
22 providers of transportation, representatives of users
23 of public transportation, representatives of users of
24 pedestrian walkways and bicycle transportation fa-
25 cilities, representatives of the disabled, and other in-

1 terested parties with a reasonable opportunity to
2 comment on the transportation plan, in a manner
3 that the Secretary deems appropriate.

4 ‘(5) PUBLICATION.—A transportation plan in-
5 volving Federal participation shall be published or
6 otherwise made readily available by the metropolitan
7 planning organization for public review and sub-
8 mitted for information purposes to the Governor at
9 such times and in such manner as the Secretary
10 shall establish.

11 ‘(6) SELECTION OF PROJECTS FROM ILLUS-
12 TRATIVE LIST.—Notwithstanding paragraph (2)(B),
13 a State or metropolitan planning organization shall
14 not be required to select any project from the illus-
15 trative list of additional projects included in the fi-
16 nancial plan under paragraph (2)(B).

17 ‘(h) METROPOLITAN TIP.—

18 ‘(1) DEVELOPMENT.—

19 ‘(A) IN GENERAL.—In cooperation with
20 the State and any affected public transportation
21 operator, the metropolitan planning organiza-
22 tion designated for a metropolitan area shall
23 develop a TIP for the area for which the orga-
24 nization is designated.

1 ‘(B) OPPORTUNITY FOR COMMENT.—In
2 developing the TIP, the metropolitan planning
3 organization, in cooperation with the State and
4 any affected public transportation operator,
5 shall provide citizens, affected public agencies,
6 representatives of public transportation employ-
7 ees, freight shippers, providers of freight trans-
8 portation services, private providers of transpor-
9 tation, representatives of users of public trans-
10 portation, representatives of the disabled, rep-
11 resentatives of users of pedestrian walkways
12 and bicycle facilities, and other interested par-
13 ties with a reasonable opportunity to comment
14 on the proposed TIP.

15 ‘(C) FUNDING ESTIMATES.—For the pur-
16 pose of developing the TIP, the metropolitan
17 planning organization, public transportation
18 agency, and State shall cooperatively develop
19 estimates of funds that are reasonably expected
20 to be available to support program implementa-
21 tion.

22 ‘(D) UPDATING AND APPROVAL.—The TIP
23 shall be updated at least once every 4 years and
24 shall be approved by the metropolitan planning
25 organization and the Governor.

1 ‘(2) CONTENTS.—

2 ‘(A) PRIORITY LIST.—The TIP shall in-
3 clude a priority list of proposed federally sup-
4 ported projects and strategies to be carried out
5 within each 4-year period after the initial adop-
6 tion of the TIP.

7 ‘(B) FINANCIAL PLAN.—The TIP shall in-
8 clude a financial plan that—

9 ‘(i) demonstrates how the TIP can be
10 implemented;

11 ‘(ii) indicates resources from public
12 and private sources that are reasonably ex-
13 pected to be available to carry out the pro-
14 gram;

15 ‘(iii) identifies innovative financing
16 techniques to finance projects, programs,
17 and strategies; and

18 ‘(iv) may include, for illustrative pur-
19 poses, additional projects that would be in-
20 cluded in the approved TIP if reasonable
21 additional resources beyond those identi-
22 fied in the financial plan were available.

23 ‘(C) DESCRIPTIONS.—Each project in the
24 TIP shall include sufficient descriptive material
25 (such as type of work, termini, length, and

1 other similar factors) to identify the project or
2 phase of the project.

3 ‘(D) CONGESTION RELIEF ACTIVITIES.—

4 The TIP shall include a listing of congestion re-
5 lief activities to be carried out to meet the re-
6 quirements of section 139 of title 23, cat-
7 egorized as either under one or under three
8 congestion relief activities.

9 ‘(3) INCLUDED PROJECTS.—

10 ‘(A) PROJECTS UNDER TITLE 23 AND
11 CHAPTER 53.—A TIP developed under this sub-
12 section for a metropolitan area shall include the
13 projects within the area that are proposed for
14 funding under chapter 1 of title 23 and chapter
15 53.

16 ‘(B) PROJECTS UNDER CHAPTER 2 OF
17 TITLE 23.—All projects proposed for funding
18 under chapter 2 of title 23 shall be identified
19 individually in the TIP.

20 ‘(C) CONSISTENCY WITH LONG-RANGE
21 TRANSPORTATION PLAN.—Each project shall be
22 consistent with the long-range transportation
23 plan developed under subsection (g) for the
24 area.

1 ‘(D) REQUIREMENT OF ANTICIPATED FULL
2 FUNDING.—The program shall include a
3 project, or an identified phase of a project, only
4 if full funding can reasonably be anticipated to
5 be available for the project within the time pe-
6 riod contemplated for completion of the project.

7 ‘(4) NOTICE AND COMMENT.—Before approving
8 a TIP, a metropolitan planning organization, in co-
9 operation with the State and any affected public
10 transportation operator, shall provide citizens, af-
11 fected public agencies, representatives of public
12 transportation employees, freight shippers, providers
13 of freight transportation services, private providers
14 of transportation, representatives of users of public
15 transportation, representatives of the disabled, rep-
16 resentatives of users of pedestrian walkways and bi-
17 cycle facilities, and other interested parties with rea-
18 sonable notice of and an opportunity to comment on
19 the proposed program.

20 ‘(5) SELECTION OF PROJECTS.—

21 ‘(A) IN GENERAL.—Except as otherwise
22 provided in subsection (i)(4) and in addition to
23 the TIP development required under paragraph
24 (1), the selection of federally funded projects in

1 metropolitan areas shall be carried out, from
2 the approved TIP—

3 ‘(i) by—

4 ‘(I) in the case of projects under
5 title 23, the State; and

6 ‘(II) in the case of projects under
7 chapter 53, the designated recipients
8 of public transportation funding; and

9 ‘(ii) in cooperation with the metropoli-
10 tan planning organization.

11 ‘(B) MODIFICATIONS TO PROJECT PRI-
12 ORITY.—Notwithstanding any other provision of
13 law, action by the Secretary shall not be re-
14 quired to advance a project included in the ap-
15 proved TIP in place of another project in the
16 program.

17 ‘(6) SELECTION OF PROJECTS FROM ILLUS-
18 TRATIVE LIST.—

19 ‘(A) NO REQUIRED SELECTION.—Notwith-
20 standing paragraph (2)(B)(iv), a State or met-
21 ropolitan planning organization shall not be re-
22 quired to select any project from the illustrative
23 list of additional projects included in the finan-
24 cial plan under paragraph (2)(B)(iv).

1 ‘(B) REQUIRED ACTION BY THE SEC-
2 RETARY.—Action by the Secretary shall be re-
3 quired for a State or metropolitan planning or-
4 ganization to select any project from the illus-
5 trative list of additional projects included in the
6 financial plan under paragraph (2)(B)(iv) for
7 inclusion in an approved TIP.

8 ‘(7) PUBLICATION.—

9 ‘(A) PUBLICATION OF TIPS.—A TIP in-
10 volving Federal participation shall be published
11 or otherwise made readily available by the met-
12 ropolitan planning organization for public re-
13 view.

14 ‘(B) PUBLICATION OF ANNUAL LISTINGS
15 OF PROJECTS.—An annual listing of projects
16 for which Federal funds have been obligated in
17 the preceding year shall be published or other-
18 wise made available by the metropolitan plan-
19 ning organization for public review. The listing
20 shall be consistent with the categories identified
21 in the TIP.

22 ‘(i) TRANSPORTATION MANAGEMENT AREAS.—

23 ‘(1) IDENTIFICATION AND DESIGNATION.—

24 ‘(A) REQUIRED IDENTIFICATION.—The
25 Secretary shall identify as a transportation

1 management area each urbanized area (as de-
2 fined by the Bureau of the Census) with a pop-
3 ulation of over 200,000 individuals.

4 ‘(B) DESIGNATIONS ON REQUEST.—The
5 Secretary shall designate any additional area as
6 a transportation management area on the re-
7 quest of the Governor and the metropolitan
8 planning organization designated for the area.

9 ‘(2) TRANSPORTATION PLANS.—In a metropoli-
10 tan planning area serving a transportation manage-
11 ment area, transportation plans shall be based on a
12 continuing and comprehensive transportation plan-
13 ning process carried out by the metropolitan plan-
14 ning organization in cooperation with the State and
15 public transportation operators.

16 ‘(3) CONGESTION MANAGEMENT PROCESS.—
17 Within a metropolitan planning area serving a trans-
18 portation management area, the transportation plan-
19 ning process under this section shall address conges-
20 tion management through a process that provides
21 for effective management and operation, based on a
22 cooperatively developed and implemented metropoli-
23 tan-wide strategy, of new and existing transportation
24 facilities eligible for funding under title 23 and chap-
25 ter 53 through the use of travel demand reduction

1 and operational management strategies and shall
2 identify a sufficient number of congestion relief ac-
3 tivities under section 139 of title 23 to meet the re-
4 quirements of such section. The Secretary shall es-
5 tablish an appropriate phase-in schedule for compli-
6 ance with the requirements of this section but no
7 sooner than one year after the identification of a
8 transportation management area.

9 ‘(4) SELECTION OF PROJECTS.—

10 ‘(A) IN GENERAL.—All federally funded
11 projects carried out within the boundaries of a
12 metropolitan planning area serving a transpor-
13 tation management area under title 23 (exclud-
14 ing projects carried out on the National High-
15 way System and projects carried out under the
16 bridge program or the Interstate maintenance
17 program) or under chapter 53 shall be selected
18 for implementation from the approved TIP by
19 the metropolitan planning organization des-
20 ignated for the area in consultation with the
21 State and any affected public transportation op-
22 erator.

23 ‘(B) NATIONAL HIGHWAY SYSTEM
24 PROJECTS.—Projects, carried out within the
25 boundaries of a metropolitan planning area

1 serving a transportation management area, on
2 the National Highway System and projects car-
3 ried out within such boundaries under the
4 bridge program or the Interstate maintenance
5 program under title 23 shall be selected for im-
6 plementation from the approved TIP by the
7 State in cooperation with the metropolitan plan-
8 ning organization designated for the area.

9 ‘(5) CERTIFICATION.—

10 ‘(A) IN GENERAL.—The Secretary shall—

11 ‘(i) ensure that the metropolitan plan-
12 ning process of a metropolitan planning or-
13 ganization serving a transportation man-
14 agement area is being carried out in ac-
15 cordance with applicable provisions of Fed-
16 eral law; and

17 ‘(ii) subject to subparagraph (B), cer-
18 tify, not less often than once every 4 years,
19 that the requirements of this paragraph
20 are met with respect to the metropolitan
21 planning process.

22 ‘(B) REQUIREMENTS FOR CERTIFI-
23 CATION.—The Secretary may make the certifi-
24 cation under subparagraph (A) if—

1 ‘(i) the transportation planning proc-
2 ess complies with the requirements of this
3 section and other applicable requirements
4 of Federal law; and

5 ‘(ii) there is a TIP for the metropoli-
6 tan planning area that has been approved
7 by the metropolitan planning organization
8 and the Governor.

9 ‘(C) EFFECT OF FAILURE TO CERTIFY.—

10 ‘(i) WITHHOLDING OF PROJECT
11 FUNDS.—If a metropolitan planning proc-
12 ess of a metropolitan planning organization
13 serving a transportation management area
14 is not certified, the Secretary may withhold
15 up to 20 percent of the funds attributable
16 to the metropolitan planning area of the
17 metropolitan planning organization for
18 projects funded under title 23 and chapter
19 53.

20 ‘(ii) RESTORATION OF WITHHELD
21 FUNDS.—The withheld funds shall be re-
22 stored to the metropolitan planning area at
23 such time as the metropolitan planning
24 process is certified by the Secretary.

1 ‘(D) REVIEW OF CERTIFICATION.—In
2 making certification determinations under this
3 paragraph, the Secretary shall provide for pub-
4 lic involvement appropriate to the metropolitan
5 area under review.

6 ‘(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

7 ‘(1) IN GENERAL.—Subject to paragraph (2), in
8 the case of a metropolitan area not designated as a
9 transportation management area under this section,
10 the Secretary may provide for the development of an
11 abbreviated transportation plan and TIP for the
12 metropolitan planning area that the Secretary deter-
13 mines is appropriate to achieve the purposes of this
14 section, taking into account the complexity of trans-
15 portation problems in the area.

16 ‘(2) NONATTAINMENT AREAS.—The Secretary
17 may not permit abbreviated plans or TIPs for a
18 metropolitan area that is in nonattainment for ozone
19 or carbon monoxide under the Clean Air Act (42
20 U.S.C. 7401 et seq.).

21 ‘(k) ADDITIONAL REQUIREMENTS FOR CERTAIN
22 NONATTAINMENT AREAS.—

23 ‘(1) IN GENERAL.—Notwithstanding any other
24 provisions of title 23 or chapter 53, for transpor-
25 tation management areas classified as nonattain-

1 ment for ozone or carbon monoxide pursuant to the
2 Clean Air Act, Federal funds may not be advanced
3 in such area for any highway project that will result
4 in a significant increase in the carrying capacity for
5 single-occupant vehicles unless the project is ad-
6 dressed through a congestion management process.

7 ‘(2) APPLICABILITY.—This subsection applies
8 to a nonattainment area within the metropolitan
9 planning area boundaries determined under sub-
10 section (c).

11 ‘(l) LIMITATION ON STATUTORY CONSTRUCTION.—
12 Nothing in this section shall be construed to confer on
13 a metropolitan planning organization the authority to im-
14 pose legal requirements on any transportation facility,
15 provider, or project not eligible under title 23 or chapter
16 53.

17 ‘(m) FUNDING.—

18 ‘(1) SET-ASIDES.—Funds set aside under sec-
19 tion 104(f) of title 23 or section 5305(h) shall be
20 available to carry out this section.

21 ‘(2) OTHER FUNDING.—Funds made available
22 under section 5338(c) shall be available to carry out
23 this section.

24 ‘(n) CONTINUATION OF CURRENT REVIEW PRAC-
25 TICE.—Since plans and TIPs described in this section are

1 subject to a reasonable opportunity for public comment,
2 individual projects included in plans and TIPs are subject
3 to review under the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.), and decisions by the Sec-
5 retary concerning plans and TIPs described in this section
6 have not been reviewed under such Act as of January 1,
7 1997, any decision by the Secretary concerning a plan or
8 TIP described in this section shall not be considered to
9 be a Federal action subject to review under such Act.

10 **‘§ 5214. Statewide Transportation planning**

11 ‘(a) GENERAL REQUIREMENTS.—

12 ‘(1) DEVELOPMENT OF PLANS AND PRO-
13 GRAMS.—To accomplish the objectives stated in sec-
14 tion 5211, each State shall develop a statewide
15 transportation plan and a statewide transportation
16 improvement program for all areas of the State sub-
17 ject to section 5213. Such program shall cover a pe-
18 riod of 4 years and be updated every 4 years or
19 more frequently if the Governor elects to update
20 more frequently.

21 ‘(2) CONTENTS.—The statewide transportation
22 plan and the transportation improvement program
23 developed for each State shall provide for the devel-
24 opment and integrated management and operation
25 of transportation systems and facilities (including

1 accessible pedestrian walkways and bicycle transpor-
2 tation facilities) that will function as an intermodal
3 transportation system for the State and an integral
4 part of an intermodal transportation system for the
5 United States.

6 ‘(3) PROCESS OF DEVELOPMENT.—The process
7 for developing the statewide plan and the transpor-
8 tation improvement program shall provide for con-
9 sideration of all modes of transportation and the
10 policies stated in section 5211, and shall be con-
11 tinuing, cooperative, and comprehensive to the de-
12 gree appropriate, based on the complexity of the
13 transportation problems to be addressed.

14 ‘(b) COORDINATION WITH METROPOLITAN PLAN-
15 NING; STATE IMPLEMENTATION PLAN.—A State shall—

16 ‘(1) coordinate planning carried out under this
17 section with the transportation planning activities
18 carried out under section 5213 for metropolitan
19 areas of the State and with statewide trade and eco-
20 nomic development planning activities and related
21 multistate planning efforts; and

22 ‘(2) develop the transportation portion of the
23 State implementation plan as required by the Clean
24 Air Act (42 U.S.C. 7401 et seq.).

25 ‘(d) SCOPE OF PLANNING PROCESS.—

1 ‘(1) IN GENERAL.—Each State shall carry out
2 a statewide transportation planning process that
3 provides for consideration and implementation of
4 projects, strategies, and services that will—

5 ‘(A) support the economic vitality of the
6 United States, the States, nonmetropolitan
7 areas, and metropolitan areas, especially by en-
8 abling global competitiveness, productivity, and
9 efficiency;

10 ‘(B) increase the safety and security of the
11 transportation system for motorized and non-
12 motorized users;

13 ‘(C) increase the accessibility and mobility
14 of people and freight;

15 ‘(D) protect and enhance the environment,
16 promote energy conservation, improve the qual-
17 ity of life, and promote consistency between
18 transportation improvements and State and
19 local planned growth and economic development
20 patterns;

21 ‘(E) enhance the integration and
22 connectivity of the transportation system,
23 across and between modes throughout the
24 State, for people and freight;

1 ‘(F) promote efficient system management
2 and operation; and

3 ‘(G) emphasize the preservation of the ex-
4 isting transportation system.

5 ‘(2) FAILURE TO CONSIDER FACTORS.—The
6 failure to consider any factor specified in paragraph
7 (1) shall not be reviewable by any court under title
8 23 or this title, subchapter II of chapter 5 of title
9 5, or chapter 7 of title 5 in any matter affecting a
10 statewide transportation plan, the transportation im-
11 provement program, a project or strategy, or the
12 certification of a planning process.

13 ‘(e) ADDITIONAL REQUIREMENTS.—In carrying out
14 planning under this section, each State shall consider, at
15 a minimum—

16 ‘(1) with respect to nonmetropolitan areas, the
17 concerns of affected local officials with responsibility
18 for transportation;

19 ‘(2) the concerns of Indian tribal governments
20 and Federal land management agencies that have
21 jurisdiction over land within the boundaries of the
22 State; and

23 ‘(3) coordination of transportation plans, the
24 transportation improvement program, and planning
25 activities with related planning activities being car-

1 ried out outside of metropolitan planning areas and
2 between States.

3 ‘(f) LONG-RANGE STATEWIDE TRANSPORTATION
4 PLAN.—

5 ‘(1) DEVELOPMENT.—Each State shall develop
6 a long-range statewide transportation plan, with a
7 minimum 20-year forecast period for all areas of the
8 State, that provides for the development and imple-
9 mentation of the intermodal transportation system
10 of the State.

11 ‘(2) CONSULTATION WITH GOVERNMENTS.—

12 ‘(A) METROPOLITAN AREAS.—The state-
13 wide transportation plan shall be developed for
14 each metropolitan area in the State in coopera-
15 tion with the metropolitan planning organiza-
16 tion designated for the metropolitan area under
17 section 5213.

18 ‘(B) NONMETROPOLITAN AREAS.—With
19 respect to nonmetropolitan areas, the statewide
20 transportation plan shall be developed in con-
21 sultation with affected nonmetropolitan officials
22 with responsibility for transportation. The Sec-
23 retary shall not review or approve the consulta-
24 tion process in each State.

1 ‘(C) INDIAN TRIBAL AREAS.—With respect
2 to each area of the State under the jurisdiction
3 of an Indian tribal government, the statewide
4 transportation plan shall be developed in con-
5 sultation with the tribal government and the
6 Secretary of the Interior.

7 ‘(3) PARTICIPATION BY INTERESTED PAR-
8 TIES.—In developing the statewide transportation
9 plan, the State shall—

10 ‘(A) provide citizens, affected public agen-
11 cies, representatives of public transportation
12 employees, freight shippers, private providers of
13 transportation, representatives of users of pub-
14 lic transportation, representatives of users of
15 pedestrian walkways and bicycle transportation
16 facilities, representatives of the disabled, pro-
17 viders of freight transportation services, and
18 other interested parties with a reasonable op-
19 portunity to comment on the proposed plan;
20 and

21 ‘(B) identify transportation strategies nec-
22 essary to efficiently serve the mobility needs of
23 people.

24 ‘(4) FINANCIAL PLAN.—The statewide trans-
25 portation plan may include a financial plan that

1 demonstrates how the adopted statewide transpor-
2 tation plan can be implemented, indicates resources
3 from public and private sources that are reasonably
4 expected to be made available to carry out the plan,
5 and recommends any additional financing strategies
6 for needed projects and programs. The financial
7 plan may include, for illustrative purposes, addi-
8 tional projects that would be included in the adopted
9 statewide transportation plan if reasonable addi-
10 tional resources beyond those identified in the finan-
11 cial plan were available.

12 ‘(5) SELECTION OF PROJECTS FROM ILLUS-
13 TRATIVE LIST.—A State shall not be required to se-
14 lect any project from the illustrative list of addi-
15 tional projects included in the financial plan de-
16 scribed in paragraph (4).

17 ‘(6) EXISTING SYSTEM.—The statewide trans-
18 portation plan should include capital, operations and
19 management strategies, investments, procedures,
20 and other measures to ensure the preservation and
21 most efficient use of the existing transportation sys-
22 tem.

23 ‘(g) STATEWIDE TRANSPORTATION IMPROVEMENT
24 PROGRAM.—

1 ‘(1) DEVELOPMENT.—Each State shall develop
2 a statewide transportation improvement program for
3 all areas of the State.

4 ‘(2) CONSULTATION WITH GOVERNMENTS.—

5 ‘(A) METROPOLITAN AREAS.—With respect
6 to each metropolitan area in the State, the pro-
7 gram shall be developed in cooperation with the
8 metropolitan planning organization designated
9 for the metropolitan area under section 5213.

10 ‘(B) NONMETROPOLITAN AREAS.—With
11 respect to each nonmetropolitan area in the
12 State, the program shall be developed in con-
13 sultation with affected nonmetropolitan local of-
14 ficials with responsibility for transportation.
15 The Secretary shall not review or approve the
16 specific consultation process in the State.

17 ‘(C) INDIAN TRIBAL AREAS.—With respect
18 to each area of the State under the jurisdiction
19 of an Indian tribal government, the program
20 shall be developed in consultation with the trib-
21 al government and the Secretary of the Interior.

22 ‘(3) PARTICIPATION BY INTERESTED PAR-
23 TIES.—In developing the program, the State shall
24 provide citizens, affected public agencies, representa-
25 tives of public transportation employees, freight

1 shippers, private providers of transportation, pro-
2 viders of freight transportation services, representa-
3 tives of users of public transportation, representa-
4 tives of users of pedestrian walkways and bicycle
5 transportation facilities, representatives of the dis-
6 abled, and other interested parties with a reasonable
7 opportunity to comment on the proposed program.

8 ‘(4) INCLUDED PROJECTS.—

9 ‘(A) IN GENERAL.—A transportation im-
10 provement program developed under this sub-
11 section for a State shall include federally sup-
12 ported surface transportation expenditures
13 within the boundaries of the State.

14 ‘(B) PROJECTS UNDER CHAPTER 2 OF
15 TITLE 23.—All projects proposed for funding
16 under chapter 2 of title 23 shall be identified
17 individually in the transportation improvement
18 program.

19 ‘(C) CONSISTENCY WITH STATEWIDE
20 TRANSPORTATION PLAN.—Each project shall
21 be—

22 ‘(i) consistent with the statewide
23 transportation plan developed under this
24 section for the State;

1 ‘(ii) identical to the project or phase
2 of the project as described in an approved
3 metropolitan transportation plan; and

4 ‘(iii) in conformance with the applica-
5 ble State air quality implementation plan
6 developed under the Clean Air Act (42
7 U.S.C. 7401 et seq.), if the project is car-
8 ried out in an area designated as non-
9 attainment for ozone or carbon monoxide
10 under that Act.

11 ‘(D) REQUIREMENT OF ANTICIPATED FULL
12 FUNDING.—The transportation improvement
13 program shall include a project, or an identified
14 phase of a project, only if full funding can rea-
15 sonably be anticipated to be available for the
16 project within the time period contemplated for
17 completion of the project.

18 ‘(E) FINANCIAL PLAN.—The transpor-
19 tation improvement program may include a fi-
20 nancial plan that demonstrates how the ap-
21 proved transportation improvement program
22 can be implemented, indicates resources from
23 public and private sources that are reasonably
24 expected to be made available to carry out the
25 transportation improvement program, and rec-

1 ommends any additional financing strategies for
2 needed projects and programs. The financial
3 plan may include, for illustrative purposes, ad-
4 ditional projects that would be included in the
5 adopted transportation plan if reasonable addi-
6 tional resources beyond those identified in the
7 financial plan were available.

8 ‘(F) SELECTION OF PROJECTS FROM IL-
9 LUSTRATIVE LIST.—

10 ‘(i) NO REQUIRED SELECTION.—Not-
11 withstanding subparagraph (E), a State
12 shall not be required to select any project
13 from the illustrative list of additional
14 projects included in the financial plan
15 under subparagraph (E).

16 ‘(ii) REQUIRED ACTION BY THE SEC-
17 RETARY.—Action by the Secretary shall be
18 required for a State to select any project
19 from the illustrative list of additional
20 projects included in the financial plan
21 under subparagraph (E) for inclusion in an
22 approved transportation improvement pro-
23 gram.

24 ‘(G) PRIORITIES.—The transportation im-
25 provement program shall reflect the priorities

1 for programming and expenditures of funds, in-
2 cluding transportation enhancement activities,
3 required by title 23 and chapter 53.

4 ‘(H) PRIORITIZATION OF CONGESTION RE-
5 LIEF ACTIVITIES.—The transportation improve-
6 ment program shall reflect the priorities for
7 congestion relief activities included in the met-
8 ropolitan transportation plan to meet the re-
9 quirements of section 139 of title 23.

10 ‘(5) PROJECT SELECTION FOR AREAS OF LESS
11 THAN 50,000 POPULATION.—Projects carried out in
12 areas with populations of less than 50,000 individ-
13 uals shall be selected, from the approved transpor-
14 tation improvement program (excluding projects car-
15 ried out on the National Highway System and
16 projects carried out under the bridge program or the
17 Interstate maintenance program under title 23 or
18 sections 5310, 5311, 5316, and 5317), by the State
19 in cooperation with the affected nonmetropolitan
20 local officials with responsibility for transportation.
21 Projects carried out in areas with populations of less
22 than 50,000 individuals on the National Highway
23 System or under the bridge program or the Inter-
24 state maintenance program under title 23 or under
25 sections 5310, 5311, 5316, and 5317 shall be se-

1 lected, from the approved statewide transportation
2 improvement program, by the State in consultation
3 with the affected nonmetropolitan local officials with
4 responsibility for transportation.

5 ‘(6) TRANSPORTATION IMPROVEMENT PROGRAM
6 APPROVAL.—Every 4 years, a transportation im-
7 provement program developed under this subsection
8 shall be reviewed and approved by the Secretary if
9 based on a current planning finding.

10 ‘(7) PLANNING FINDING.—A finding shall be
11 made by the Secretary at least every 4 years that
12 the transportation planning process through which
13 statewide transportation plans and programs are de-
14 veloped is consistent with this section and section
15 5213.

16 ‘(8) MODIFICATIONS TO PROJECT PRIORITY.—
17 Notwithstanding any other provision of law, action
18 by the Secretary shall not be required to advance a
19 project included in the approved transportation im-
20 provement program in place of another project in
21 the program.

22 ‘(h) FUNDING.—

23 ‘(1) SET-ASIDE.—Funds set aside pursuant to
24 section 104(i) of title 23 shall be available to carry
25 out this section.

1 ‘(2) OTHER FUNDING.—Funds made available
2 under section 5338(c) shall be available to carry out
3 this section.

4 ‘(i) TREATMENT OF CERTAIN STATE LAWS AS CON-
5 GESTION MANAGEMENT PROCESSES.—For purposes of
6 this section and section 5213, State laws, rules, or regula-
7 tions pertaining to congestion management systems or
8 programs may constitute the congestion management
9 process under section 5213(i)(3) if the Secretary finds
10 that the State laws, rules, or regulations are consistent
11 with, and fulfill the intent of, the purposes of section
12 5213, as appropriate.

13 ‘(j) CONTINUATION OF CURRENT REVIEW PRAC-
14 TICE.—Since the statewide transportation plan and the
15 transportation improvement program described in this sec-
16 tion are subject to a reasonable opportunity for public
17 comment, since individual projects included in the state-
18 wide transportation plans and the transportation improve-
19 ment program are subject to review under the National
20 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
21 seq.), and since decisions by the Secretary concerning
22 statewide transportation plans or the transportation im-
23 provement program described in this section have not been
24 reviewed under such Act as of January 1, 1997, any deci-
25 sion by the Secretary concerning a metropolitan or state-

1 wide transportation plan or the transportation improve-
 2 ment program described in this section shall not be consid-
 3 ered to be a Federal action subject to review under such
 4 Act.’.

5 (b) CONFORMING AMENDMENT.—The analysis for
 6 such subtitle is amended by inserting the following after
 7 the item relating to chapter 51:

‘52. Transportation planning and project delivery. 5201’.

8 **SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR**
 9 **PROJECT DECISIONMAKING.**

10 (a) POLICY AND PURPOSE.—

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

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

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

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

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

3 (E) Pursue economic incentives whenever
4 appropriate.

5 (F) Ensure environmental understanding.

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

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

10 (2) PURPOSE.—The purpose of this section is
11 to reduce delays in the delivery of highway construc-
12 tion and public transportation capital projects aris-
13 ing from the environmental review process, while
14 continuing to ensure the protection of the human
15 and natural environment.

16 (b) PROJECT DEVELOPMENT PROCEDURES.—Chap-
17 ter 52 of title 49, United States Code, as added by section
18 6001(a) of this Act, is amended by adding at the end the
19 following:

20 ‘SUBCHAPTER C—EFFICIENT ENVIRONMENTAL
21 REVIEWS FOR PROJECT DECISIONMAKING

22 ‘§ 5251. **Definitions and applicability**

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

1 ‘(1) AGENCY.—The term “agency” means any
2 agency, department, or other unit of Federal, State,
3 local, or Indian tribal government.

4 ‘(2) ENVIRONMENTAL IMPACT STATEMENT.—
5 The term “environmental impact statement” means
6 the detailed statement of environmental impacts re-
7 quired to be prepared under the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

9 ‘(3) ENVIRONMENTAL REVIEW PROCESS.—

10 ‘(A) IN GENERAL.—The term “environ-
11 mental review process” means the process for
12 preparing for a project an environmental impact
13 statement, environmental assessment, categor-
14 ical exclusion, or other document prepared
15 under the National Environmental Policy Act of
16 1969 (42 U.S.C. 4321 et seq.).

17 ‘(B) INCLUSIONS.—The term includes the
18 process for and completion of any environ-
19 mental permit, approval, review, or study re-
20 quired for a project under any Federal law
21 other than the National Environmental Policy
22 Act of 1969 (42 U.S.C. 4321 et seq.).

23 ‘(4) LEAD AGENCY.—The term “lead agency”
24 means the Department of Transportation and, if ap-

1 plicable, any State or local governmental entity serv-
2 ing as a joint lead agency pursuant to this section.

3 ‘(5) MULTIMODAL PROJECT.—The term
4 “multimodal project” means a project funded, in
5 whole or in part, under title 23 or chapter 53 and
6 involving the participation of more than one Depart-
7 ment of Transportation administration or agency.

8 ‘(6) PROJECT.—The term “project” means any
9 highway project, public transportation capital
10 project, or multimodal project that requires the ap-
11 proval of the Secretary.

12 ‘(7) PROJECT SPONSOR.—The term “project
13 sponsor” means the agency or other entity, including
14 any private or public-private entity, that seeks ap-
15 proval of the Secretary for a project.

16 ‘(8) STATE TRANSPORTATION DEPARTMENT.—
17 The term “State transportation department” means
18 any statewide agency of a State with responsibility
19 for one or more modes of transportation.

20 ‘(b) APPLICABILITY.—This subchapter is applicable
21 to all projects for which an environmental impact state-
22 ment is prepared under the National Environmental Pol-
23 icy Act of 1969 (42 U.S.C. 4321 et seq.). This subchapter
24 may be applied, to the extent determined appropriate by
25 the Secretary, to other projects for which an environ-

1 mental document is prepared pursuant to such Act. Any
2 authorities granted in this subchapter may be exercised
3 for a project, class of projects, or program of projects.

4 **‘§ 5252. Project development procedures**

5 ‘(a) LEAD AGENCIES.—

6 ‘(1) FEDERAL LEAD AGENCY.—The Depart-
7 ment of Transportation shall be the Federal lead
8 agency in the environmental review process for a
9 project.

10 ‘(2) PROJECT SPONSOR AS JOINT LEAD AGEN-
11 CY.—Any project sponsor that is a State or local
12 governmental entity receiving funds under title 23 or
13 chapter 53 for the project shall serve as a joint lead
14 agency with the Department for purposes of pre-
15 paring any environmental document under the Na-
16 tional Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.) and may prepare any such environ-
18 mental document required in support of any action
19 or approval by the Secretary if the Federal lead
20 agency furnishes guidance in such preparation and
21 independently evaluates such document and the doc-
22 ument is approved and adopted by the Secretary
23 prior to the Secretary taking any subsequent action
24 or making any approval based on such document,

1 whether or not the Secretary's action or approval re-
2 sults in Federal funding.

3 ‘(3) ENSURING COMPLIANCE.—The Secretary
4 shall ensure that the project sponsor complies with
5 all design and mitigation commitments made jointly
6 by the Secretary and the project sponsor in any en-
7 vironmental document prepared by the project spon-
8 sor in accordance with this subsection and that such
9 document is appropriately supplemented if project
10 changes become necessary.

11 ‘(4) ADOPTION AND USE OF DOCUMENTS.—Any
12 environmental document prepared in accordance
13 with this subsection may be adopted or used by any
14 Federal agency making any approval to the same ex-
15 tent that such Federal agency could adopt or use a
16 document prepared by another Federal agency.

17 ‘(b) PARTICIPATING AGENCIES.—

18 ‘(1) IN GENERAL.—The lead agency shall be re-
19 sponsible for inviting and designating participating
20 agencies in accordance with this subsection.

21 ‘(2) INVITATION.—The lead agency shall iden-
22 tify, as early as practicable in the environmental re-
23 view process for a project, any other Federal and
24 non-Federal agencies that may have an interest in
25 the project, and shall invite such agencies to become

1 participating agencies in the environmental review
2 process for the project. The invitation shall set a
3 deadline for responses to be submitted. The deadline
4 may be extended by the lead agency for good cause.

5 ‘(3) FEDERAL PARTICIPATING AGENCIES.—Any
6 Federal agency that is invited by the lead agency to
7 participate in the environmental review process for a
8 project shall be designated as a participating agency
9 by the lead agency unless the invited agency informs
10 the lead agency, in writing, by the deadline specified
11 in the invitation that the invited agency—

12 ‘(A) has no jurisdiction or authority with
13 respect to the project;

14 ‘(B) has no expertise or information rel-
15 evant to the project; and

16 ‘(C) does not intend to submit comments
17 on the project.

18 ‘(4) EFFECT OF DESIGNATION.—Designation as
19 a participating agency under this subsection shall
20 not imply that the participating agency—

21 ‘(A) supports a proposed project; or

22 ‘(B) has any jurisdiction over, or special
23 expertise with respect to evaluation of, the
24 project.

1 ‘(5) COOPERATING AGENCY.—A participating
2 agency may also be designated by a lead agency as
3 a “cooperating agency” under the regulations con-
4 tained in part 1500 of title 40, Code of Federal Reg-
5 ulations.

6 ‘(6) DESIGNATIONS FOR CATEGORIES OF
7 PROJECTS.—The Secretary may exercise the authori-
8 ties granted under this subsection for a project,
9 class of projects, or program of projects.

10 ‘(c) PROJECT INITIATION.—

11 ‘(1) IN GENERAL.—The project sponsor shall
12 initiate the environmental review process for a
13 project by submitting an initiation notice to the Sec-
14 retary.

15 ‘(2) CONTENTS OF NOTICE.—The initiation no-
16 tice shall include, at a minimum, a brief description
17 of the type of work, termini, length, and general lo-
18 cation of the proposed project, together with a state-
19 ment of any Federal approvals anticipated to be
20 needed for the project.

21 ‘(d) PURPOSE AND NEED.—

22 ‘(1) PARTICIPATION.—As early as practicable
23 during the environmental review process, the lead
24 agency shall provide an opportunity for involvement

1 by participating agencies and the public in defining
2 the purpose and need for a project.

3 ‘(2) DEFINITION.—Following participation
4 under paragraph (1), the lead agency shall define
5 the project’s purpose and need for purposes of any
6 document which the lead agency is responsible for
7 preparing for the project.

8 ‘(3) OBJECTIVES.—The statement of purpose
9 and need shall include a clear statement of the ob-
10 jectives that the proposed action is intended to
11 achieve, which may include—

12 ‘(A) achieving a transportation objective
13 identified in an applicable statewide or metro-
14 politan transportation plan;

15 ‘(B) supporting land use, economic devel-
16 opment, or growth objectives established in ap-
17 plicable Federal, State, local, or tribal plans;
18 and

19 ‘(C) serving national defense, national se-
20 curity, or other national objectives, as estab-
21 lished in Federal laws, plans, or policies.

22 ‘(e) ALTERNATIVES ANALYSIS.—

23 ‘(1) PARTICIPATION.—As early as practicable
24 during the environmental review process, the lead
25 agency shall provide an opportunity for involvement

1 by participating agencies and the public in deter-
2 mining the range of alternatives to be considered for
3 a project.

4 ‘(2) RANGE OF ALTERNATIVES.—Following par-
5 ticipation under paragraph (1), the lead agency shall
6 determine the range of alternatives for consideration
7 in any document which the lead agency is respon-
8 sible for preparing for the project.

9 ‘(3) METHODOLOGIES.—The lead agency also
10 shall determine, in collaboration with participating
11 agencies at appropriate times during the study pro-
12 cess, the methodologies to be used and the level of de-
13 tail required in the analysis of each alternative for
14 a project.

15 ‘(4) PREFERRED ALTERNATIVE.—At the discre-
16 tion of the lead agency, the preferred alternative for
17 a project, after being identified, may be developed to
18 a higher level of detail than other alternatives in
19 order to facilitate the development of mitigation
20 measures or concurrent compliance with other appli-
21 cable laws if the lead agency determines that the de-
22 velopment of such higher level of detail will not pre-
23 vent the lead agency from making an impartial deci-
24 sion as to whether to accept another alternative

1 which is being considered in the environmental re-
2 view process.

3 ‘(f) COMMENT DEADLINES.—The lead agency shall
4 establish the following deadlines for comment during the
5 environmental review process for a project:

6 ‘(1) For comments by agencies and the public
7 on a draft environmental impact statement, a period
8 of no more than 60 days from the date of public
9 availability of such document, unless—

10 ‘(A) a different deadline is established by
11 agreement of the lead agency, the project spon-
12 sor, and all participating agencies; or

13 ‘(B) the deadline is extended by the lead
14 agency for good cause.

15 ‘(2) For all other comment periods established
16 by the lead agency for agency or public comments in
17 the environmental review process, a period of no
18 more than 30 days from availability of the materials
19 on which comment is requested, unless—

20 ‘(A) a different deadline is established by
21 agreement of the lead agency, the project spon-
22 sor, and all participating agencies; or

23 ‘(B) the deadline is extended by the lead
24 agency for good cause.

25 ‘(g) ISSUE IDENTIFICATION AND RESOLUTION.—

1 ‘(1) COOPERATION.—The lead agency and the
2 participating agencies shall work cooperatively in ac-
3 cordance with this section to identify and resolve
4 issues that could delay completion of the environ-
5 mental review process or could result in denial of
6 any approvals required for the project under applica-
7 ble laws.

8 ‘(2) LEAD AGENCY RESPONSIBILITIES.—The
9 lead agency shall make information available to the
10 participating agencies as early as practicable in the
11 environmental review process regarding the environ-
12 mental and socioeconomic resources located within
13 the project area and the general locations of the al-
14 ternatives under consideration. Such information
15 may be based on existing data sources, including ge-
16 ographic information systems mapping.

17 ‘(3) PARTICIPATING AGENCY RESPONSIBIL-
18 ITIES.—Based on information received from the lead
19 agency, participating agencies shall identify, as early
20 as practicable, any issues of concern regarding the
21 project’s potential environmental or socioeconomic
22 impacts. In this paragraph, issues of concern include
23 any issues that could substantially delay or prevent
24 an agency from granting a permit or other approval
25 that is needed for the project.

1 ‘(4) ISSUE RESOLUTION.—Whenever issues of
2 concern are identified or at any time upon request
3 of a project sponsor, the lead agency shall promptly
4 convene a meeting with the relevant participating
5 agencies. If a resolution cannot be achieved within
6 30 days following such a meeting and a determina-
7 tion by the lead agency that all information nec-
8 essary to resolve the issue has been obtained, the
9 lead agency shall notify the heads of all Federal
10 agencies involved in the meeting and the Committee
11 on Environment and Public Works of the Senate
12 and the Committee on Transportation and Infra-
13 structure of the House of Representatives and shall
14 publish such notification in the Federal Register.

15 ‘(h) PARTICIPATION OF STATE AGENCIES.—For any
16 project eligible for assistance under title 23 or chapter 53,
17 a State may require, under procedures established by
18 State law, that all State agencies that have jurisdiction
19 by State or Federal law over environmental-related issues
20 that may be affected by the project, or that are required
21 to issue any environmental-related reviews, analyses, opin-
22 ions, or determinations on issuing any permits, licenses,
23 or approvals for the project, be subject to the coordinated
24 environmental review process established under this sec-
25 tion unless the Secretary determines that a State agency’s

1 participation would not be in the public interest. A State
2 participating in the review process must require all State
3 agencies with jurisdiction to be subject to and comply with
4 the review process to the same extent as a Federal agency.

5 ‘(i) ASSISTANCE TO AFFECTED STATE AND FEDERAL
6 AGENCIES.—

7 ‘(1) IN GENERAL.—For a project that is subject
8 to the environmental review process established
9 under this section and for which funds are made
10 available to a State under title 23 or chapter 53, the
11 Secretary may approve a request by the State to
12 provide funds so made available to affected Federal
13 agencies (including the Department of Transpor-
14 tation), State agencies, and Indian tribes partici-
15 pating in the environmental review process for the
16 project. Such funds may be provided only to support
17 activities that directly and meaningfully contribute
18 to expediting and improving transportation project
19 planning and delivery. Such activities may include
20 dedicated staffing, training of agency personnel, in-
21 formation gathering and mapping, and development
22 of programmatic agreements. The Secretary may
23 also use funds made available under section 204 of
24 title 23 for a project for the purposes specified in

1 this subsection with respect to the environmental re-
2 view process for the project.

3 ‘(2) AMOUNTS.—Requests under paragraph (1)
4 may be approved only for the additional amounts
5 that the Secretary determines are necessary for the
6 Federal agencies, State agencies, or Indian tribes
7 participating in the environmental review process to
8 meet the time limits for environmental review.

9 ‘(3) CONDITION.—A request under paragraph
10 (1) to expedite time limits for environmental review
11 may be approved only if such time limits are less
12 than the customary time necessary for such review.’.

13 (c) EXISTING ENVIRONMENTAL REVIEW PROC-
14 ESSES.—Nothing in this section shall be deemed to affect
15 any existing environmental review process approved by the
16 Secretary.

17 **SEC. 6003. POLICY ON HISTORIC SITES.**

18 (a) TITLE 49.—Section 303 of title 49, United States
19 Code, is amended by adding at the end the following:

20 ‘(d) SPECIAL RULES FOR HISTORIC SITES.—

21 ‘(1) IN GENERAL.—The requirements of this
22 section are deemed to be satisfied in any case in
23 which the treatment of a historic site has been
24 agreed upon in accordance with section 106 of the
25 National Historic Preservation Act (16 U.S.C. 470f)

1 and the agreement includes a determination that the
2 program or project will not have an adverse effect on
3 the historic site.

4 ‘(2) LIMITATION ON APPLICABILITY.—This sub-
5 section does not apply in any case in which the Advi-
6 sory Council on Historic Preservation determines,
7 concurrent with or prior to the conclusion of section
8 106 consultation, that allowing section 106 compli-
9 ance to satisfy the requirements of this section
10 would be inconsistent with the objectives of the Na-
11 tional Historic Preservation Act. The Council shall
12 make such a determination if petitioned to do so by
13 a section 106 consulting party, unless the Council
14 affirmatively finds that the views of the requesting
15 party have been adequately considered and that sec-
16 tion 106 compliance will adequately protect historic
17 properties.

18 ‘(3) DEFINITIONS.—In this subsection, the fol-
19 lowing definitions apply:

20 ‘(A) SECTION 106 CONSULTATION.—The
21 term “section 106 consultation” means the con-
22 sultation process required under section 106 of
23 the National Historic Preservation Act (16
24 U.S.C. 470f).

1 ‘(B) ADVERSE EFFECT.—The term “ad-
2 verse effect” means altering, directly or indi-
3 rectly, any of the characteristics of a historic
4 property that qualify the property for inclusion
5 in the National Register in a manner that
6 would diminish the integrity of the property’s
7 location, design, setting, materials, workman-
8 ship, feeling, or association.’.

9 (b) TITLE 23.—Section 138 of title 23, United States
10 Code is amended—

11 (1) by inserting ‘(a) Policy.—’ before ‘It is’;
12 and

13 (2) by striking ‘In carrying’ and inserting the
14 following:

15 ‘(c) STUDIES.—In carrying’; and

16 (3) by inserting after subsection (a) (as des-
17 ignated by paragraph (1)) the following:

18 ‘(b) SPECIAL RULES FOR HISTORIC SITES.—

19 ‘(1) IN GENERAL.—The requirements of this
20 section are deemed to be satisfied in any case in
21 which the treatment of a historic site has been
22 agreed upon in accordance with section 106 of the
23 National Historic Preservation Act (16 U.S.C. 470f)
24 and the agreement includes a determination that the

1 program or project will not have an adverse effect on
2 the historic site.

3 ‘(2) LIMITATION ON APPLICABILITY.—This sub-
4 section does not apply in any case in which the Advi-
5 sory Council on Historic Preservation determines,
6 concurrent with or prior to the conclusion of section
7 106 consultation, that allowing section 106 compli-
8 ance to satisfy the requirements of this section
9 would be inconsistent with the objectives of the Na-
10 tional Historic Preservation Act. The Council shall
11 make such a determination if petitioned to do so by
12 a section 106 consulting party, unless the Council
13 affirmatively finds that the views of the requesting
14 party have been adequately considered and that sec-
15 tion 106 compliance will adequately protect historic
16 properties.

17 ‘(3) DEFINITIONS.—In this subsection, the fol-
18 lowing definitions apply:

19 ‘(A) SECTION 106 CONSULTATION.—The
20 term “section 106 consultation” means the con-
21 sultation process required under section 106 of
22 the National Historic Preservation Act (16
23 U.S.C. 470f).

24 ‘(B) ADVERSE EFFECT.—The term “ad-
25 verse effect” means altering, directly or indi-

1 rectly, any of the characteristics of a historic
2 property that qualify the property for inclusion
3 in the National Register in a manner that
4 would diminish the integrity of the property's
5 location, design, setting, materials, workman-
6 ship, feeling, or association.'

7 **SEC. 6004. EXEMPTION OF INTERSTATE SYSTEM.**

8 Section 103(e) of title 23, United States Code, is
9 amended by adding at the end the following:

10 ‘(5) EXEMPTION OF INTERSTATE SYSTEM.—

11 ‘(A) IN GENERAL.—Except as provided in
12 subparagraph (B), the Interstate System shall
13 not be considered to be a historic site under
14 section 303 of title 49 or section 138 of this
15 title, regardless of whether the Interstate Sys-
16 tem or portions of the Interstate System are
17 listed on, or eligible for listing on, the National
18 Register of Historic Places.

19 ‘(B) INDIVIDUAL ELEMENTS.—Subject to
20 subparagraph (C), a portion of the Interstate
21 System that possesses an independent feature
22 of historic significance (such as a historic
23 bridge or a highly significant engineering fea-
24 ture) that is listed on, or eligible for listing on,
25 the National Register of Historic Places, shall

1 be considered to be a historic site under section
2 303 of title 49 or section 138 of this title, as
3 applicable.

4 ‘(C) CONSTRUCTION, MAINTENANCE, RES-
5 TORATION, AND REHABILITATION ACTIVITIES.—
6 Subparagraph (B) does not prohibit a State
7 from carrying out construction, maintenance,
8 restoration, or rehabilitation activities for a por-
9 tion of the Interstate System referred to in sub-
10 paragraph (B) upon compliance with section
11 303 of title 49 or section 138 of this title, as
12 applicable, and section 106 of the National His-
13 toric Preservation Act of 1966 (16 U.S.C.
14 470f).’.

15 **SEC. 6005. INTERSTATE COMPACTS.**

16 Section 5213(d), as inserted by section 6001(a) of
17 this Act, is amended by inserting after paragraph (1) the
18 following:

19 ‘(2) INTERSTATE COMPACTS.—The consent of
20 Congress is granted to any 2 or more States—

21 ‘(A) to enter into agreements or compacts,
22 not in conflict with any law of the United
23 States, for cooperative efforts and mutual as-
24 sistance in support of activities authorized
25 under this section as the activities pertain to

1 interstate areas and localities within the States;
2 and

3 ‘(B) to establish such agencies, joint or
4 otherwise, as the States may determine desir-
5 able for making the agreements and compacts
6 effective.

7 ‘(3) LAKE TAHOE REGION.—

8 ‘(A) DEFINITION.—In this paragraph, the
9 term “Lake Tahoe region” has the meaning
10 given the term “region” in subdivision (a) of
11 article II of the Tahoe Regional Planning Com-
12 pact, as set forth in the first section of Public
13 Law 96–551 (94 Stat. 3234).

14 ‘(B) TRANSPORTATION PLANNING PROC-
15 ESS.—The Secretary shall—

16 ‘(i) establish with the Federal land
17 management agencies that have jurisdic-
18 tion over land in the Lake Tahoe region a
19 transportation planning process for the re-
20 gion; and

21 ‘(ii) coordinate the transportation
22 planning process with the planning process
23 required of State and local governments
24 under this section and section 5214.

25 ‘(C) INTERSTATE COMPACT.—

1 ‘(i) IN GENERAL.—Subject to clause
2 (ii), notwithstanding subsection (b), to
3 carry out the transportation planning proc-
4 ess required by this section, the consent of
5 Congress is granted to the States of Cali-
6 fornia and Nevada to designate a metro-
7 politan planning organization for the Lake
8 Tahoe region, by agreement between the
9 Governors of the States of California and
10 Nevada and units of general purpose local
11 government that together represent at
12 least 75 percent of the affected population
13 (including the central city or cities (as de-
14 fined by the Bureau of the Census)), or in
15 accordance with procedures established by
16 applicable State or local law.

17 ‘(ii) INVOLVEMENT OF FEDERAL
18 LAND MANAGEMENT AGENCIES.—

19 ‘(I) REPRESENTATION.—The pol-
20 icy board of a metropolitan planning
21 organization designated under clause
22 (i) shall include a representative of
23 each Federal land management agen-
24 cy that has jurisdiction over land in
25 the Lake Tahoe region.

1 ‘(II) FUNDING.—In addition to
2 funds made available to the metropoli-
3 tan planning organization under other
4 provisions of title 23 and under chap-
5 ter 53, not more than 1 percent of the
6 funds allocated under section 202 of
7 title 23 may be used to carry out the
8 transportation planning process for
9 the Lake Tahoe region under this
10 subparagraph.

11 ‘(D) ACTIVITIES.—Highway projects in-
12 cluded in transportation plans developed under
13 this paragraph—

14 ‘(i) shall be selected for funding in a
15 manner that facilitates the participation of
16 the Federal land management agencies
17 that have jurisdiction over land in the
18 Lake Tahoe region; and

19 ‘(ii) may, in accordance with chapter
20 2 of title 23, be funded using funds allo-
21 cated under section 202 of title 23.

22 ‘(4) RESERVATION OF RIGHTS.—The right to
23 alter, amend or repeal interstate compacts entered
24 into under this subsection is expressly reserved.’.

1 **SEC. 6006. DEVELOPMENT OF TRANSPORTATION PLAN.**

2 Section 5213(g), as inserted by section 6001(a) of
3 this Act, is amended by inserting before paragraph (2) the
4 following:

5 (1) IN GENERAL.—Each metropolitan planning
6 organization shall prepare, and update periodically,
7 according to a schedule that the Secretary deter-
8 mines to be appropriate, a transportation plan for
9 its metropolitan planning area in accordance with
10 the requirements of this subsection. The metropoli-
11 tan planning organization shall prepare and update
12 such plan every 4 years (or more frequently, if the
13 metropolitan planning organization elects to update
14 more frequently) in the case of each of the following:

15 (A) any area designated as nonattainment,
16 as defined in section 107(d) of the Clean Air
17 Act (42 U.S.C. 7407(d)); and

18 (B) any area that was nonattainment and
19 subsequently designated to attainment in ac-
20 cordance with section 107(d)(3) of that Act (42
21 U.S.C. 7407(d)(3)) and that is subject to a
22 maintenance plan under section 175A of that
23 Act (42 U.S.C. 7505a).

24 In the case of any other area required to have a
25 transportation plan in accordance with the require-
26 ments of this subsection, the metropolitan planning

1 organization shall prepare and update such plan
2 every 4 years unless the metropolitan planning orga-
3 nization elects to update more frequently.’.

4 **SEC. 6007. INTERSTATE AGREEMENTS.**

5 Section 5214, as inserted by section 6001(a) of this
6 Act, is amended by inserting after subsection (b) the fol-
7 lowing:

8 ‘(c) INTERSTATE AGREEMENTS.—

9 ‘(1) IN GENERAL.—The consent of Congress is
10 granted to 2 or more States entering into agree-
11 ments or compacts, not in conflict with any law of
12 the United States, for cooperative efforts and mu-
13 tual assistance in support of activities authorized
14 under this section related to interstate areas and lo-
15 calities in the States and establishing authorities the
16 States consider desirable for making the agreements
17 and compacts effective.

18 ‘(2) RESERVATION OF RIGHTS.—The right to
19 alter, amend or repeal interstate compacts entered
20 into under this subsection is expressly reserved.’.

21 **SEC. 6008. REGULATIONS RELATING TO TRANSPORTATION**
22 **PLANNING.**

23 Not later than 18 months after the date of enactment
24 of this Act, the Secretary shall issue regulations that are
25 consistent with the provisions of subchapter B of chapter

1 52 of title 49, United States Code, that relate to the Clean
2 Air Act.

3 **SEC. 6009. SPECIAL RULES RELATING TO PROJECT DEVELOP-**
4 **MENT PROCEDURES.**

5 Section 5252 of title 49, United States Code, as in-
6 serted by section 6001(a) of this Act, is amended by add-
7 ing at the end the following:

8 ‘(j) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

9 ‘(1) JUDICIAL REVIEW.—Except as set forth
10 under subsection (k), nothing in this section shall af-
11 fect the reviewability of any final Federal agency ac-
12 tion in a court of the United States.

13 ‘(2) SAVINGS CLAUSE.—Nothing in this section
14 shall be construed as superseding, amending, or
15 modifying the National Environmental Policy Act of
16 1969 (42 U.S.C. 4321 et seq.) or any other Federal
17 environmental statute or affect the responsibility of
18 any Federal officer to comply with or enforce any
19 such statute.

20 ‘(3) LIMITATIONS.—Nothing in this section
21 shall preempt or interfere with—

22 ‘(A) any practice of seeking, considering,
23 or responding to public comment; or

24 ‘(B) any power, jurisdiction, responsibility,
25 or authority that a Federal, State, or local gov-

1 ernment agency, metropolitan planning organi-
2 zation, Indian tribe, or project sponsor has with
3 respect to carrying out a project or any other
4 provisions of law applicable to projects, plans,
5 or programs.

6 ‘(k) LIMITATIONS ON CLAIMS.—

7 ‘(1) IN GENERAL.—Notwithstanding any other
8 provision of law, a claim arising under Federal law
9 seeking judicial review of a permit, license, or ap-
10 proval issued by a Federal agency for a highway or
11 public transportation capital project shall be barred
12 unless it is filed within 90 days after the permit, li-
13 cense, or approval is final pursuant to the law under
14 which the agency action is taken, unless a shorter
15 time is specified in the Federal law pursuant to
16 which judicial review is allowed. Nothing in this sub-
17 section shall create a right to judicial review or place
18 any limit on filing a claim that a person has violated
19 the terms of a permit, license, or approval.

20 ‘(2) NEW INFORMATION.—The Secretary shall
21 consider new information received after the close of
22 a comment period if the information satisfies the re-
23 quirements for a supplemental environmental impact
24 statement under section 771.130 of title 23, Code of
25 Federal Regulations. The preparation of a supple-

1 mental environmental impact statement when re-
2 quired shall be considered a separate final agency
3 action and the deadline for filing a claim for judicial
4 review of such action shall be 90 days after the date
5 of such action.’.

6 **TITLE VII—HAZARDOUS**
7 **MATERIALS TRANSPORTATION**

8 **SEC. 7001. AMENDMENT OF TITLE 49, UNITED STATES**
9 **CODE.**

10 Except as otherwise expressly provided, whenever in
11 this title an amendment or repeal is expressed in terms
12 of an amendment to, or a repeal of, a section or other
13 provision, the reference shall be considered to be made to
14 a section or other provision of title 49, United States
15 Code.

16 **SEC. 7002. FINDINGS AND PURPOSE.**

17 (a) FINDINGS.—Congress finds with respect to haz-
18 ardous materials transportation that—

19 (1) approximately 4,000,000,000 tons of regu-
20 lated hazardous materials are transported each year
21 and approximately 1,200,000 movements of haz-
22 ardous materials occur each day, according to De-
23 partment of Transportation estimates;

24 (2) the movement of hazardous materials in
25 commerce is necessary to maintain economic vitality

1 and meet consumer demands and must be conducted
2 in a safe and efficient manner;

3 (3) accidents involving, or unauthorized access
4 to, hazardous materials in transportation may result
5 in a release of such materials and pose a serious
6 threat to public health and safety;

7 (4) many States and localities have enacted
8 laws and regulations that vary from Federal laws
9 and regulations pertaining to the transportation of
10 hazardous materials, thereby creating the potential
11 for unreasonable hazards in other jurisdictions and
12 confounding shippers and carriers that attempt to
13 comply with multiple regulatory requirements;

14 (5) because of the potential risks to life, prop-
15 erty, and the environment posed by unintentional re-
16 leases of hazardous materials, consistency in laws
17 and regulations governing the transportation of haz-
18 ardous materials is necessary and desirable;

19 (6) in order to achieve greater uniformity and
20 to promote the public health, welfare, and safety at
21 all levels, Federal standards for regulating the trans-
22 portation of hazardous materials in intrastate, inter-
23 state, and foreign commerce are necessary and desir-
24 able; and

1 (7) in order to provide reasonable, adequate,
2 and cost-effective protection from the risks posed by
3 the transportation of hazardous materials, a network
4 of well-trained State and local emergency response
5 personnel and hazmat employees is essential.

6 (b) PURPOSE.—The text of section 5101 is amended
7 to read as follows: ‘The purpose of this chapter is to pro-
8 tect against the risks to life, property, and the environ-
9 ment that are inherent in the transportation of hazardous
10 material in intrastate, interstate, and foreign commerce.’.

11 **SEC. 7003. DEFINITIONS.**

12 Section 5102 is amended—

13 (1) in paragraph (1)—

14 (A) by striking ‘or’ at the end of subpara-
15 graph (A);

16 (B) by striking the period at the end of
17 subparagraph (B) and inserting ‘; or’; and

18 (C) by inserting at the end the following:

19 ‘(C) on a United States registered air-
20 craft.’;

21 (2) in paragraph (8) by striking ‘national re-
22 sponse team’ each place it appears and inserting
23 ‘National Response Team’;

1 (3) by redesignating paragraphs (11), (12), and
2 (13) as paragraphs (12), (13), and (14), respec-
3 tively; and

4 (4) by inserting after paragraph (10) the fol-
5 lowing:

6 ‘(11) “Secretary” means the Secretary of
7 Transportation.’.

8 **SEC. 7004. GENERAL REGULATORY AUTHORITY.**

9 (a) TECHNICAL AMENDMENTS.—Section 5103(a) is
10 amended—

11 (1) by striking ‘etiologic agent,’ and inserting
12 ‘infectious substance,’; and

13 (2) by striking ‘poison,’ and inserting ‘toxic,’.

14 (b) REGULATIONS FOR SAFE TRANSPORTATION.—
15 Section 5103(b)(1)(A) is amended—

16 (1) in clause (i) by striking ‘transporting’ and
17 inserting ‘that transports’;

18 (2) in clause (ii)—

19 (A) by striking ‘causing’ and inserting
20 ‘that causes’; and

21 (B) by striking ‘or’ at the end; and

22 (3) by striking clause (iii) and inserting the fol-
23 lowing:

24 ‘(iii) that designs, manufactures, fab-
25 ricates, inspects, marks, maintains, recondi-

1 tions, repairs, or tests a package or container
2 that is represented, marked, certified, or sold by
3 that person as qualified for use in transporting
4 hazardous material in commerce;

5 ‘(iv) that prepares or accepts hazardous
6 material for transportation in commerce;

7 ‘(v) that is responsible for the safety of
8 transporting hazardous material in commerce;

9 ‘(vi) that certifies compliance with any re-
10 quirement of this chapter; or

11 ‘(vii) that misrepresents whether the per-
12 son is engaged in any of the activities described
13 in this subparagraph; and’.

14 (c) TECHNICAL AMENDMENT.—Section 5103(b) is
15 amended—

16 (1) by moving subparagraph (C) from the end
17 of paragraph (1) and inserting it after paragraph
18 (2);

19 (2) by redesignating such subparagraph as
20 paragraph (3); and

21 (3) by moving such paragraph (3) 2 ems to the
22 left.

23 **SEC. 7005. CHEMICAL OR BIOLOGICAL MATERIALS.**

24 Section 5103a(c) is amended—

1 (1) in paragraph (2) by striking ‘this sub-
2 section’ and inserting ‘paragraph (1)’; and

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

4 ‘(3) STANDARDS.—The Secretary shall pre-
5 scribe by regulation uniform standards (including
6 standards used to disqualify applicants) governing—

7 (A) the collection by States of background
8 information authorized by paragraph (1);

9 (B) the collection, transmission, and re-
10 view of background information; and

11 (C) the notification of an applicant of the
12 results of the background check.

13 ‘(4) FEES.—A State may impose and collect an
14 appropriate fee to carry out paragraph (1) con-
15 sistent with section 5125(f).

16 ‘(5) OPERATORS REGISTERED IN MEXICO AND
17 CANADA.—No operator of a commercial motor vehi-
18 cle (as defined in section 31101) licensed in Mexico
19 or Canada may operate in the United States a com-
20 mercial motor vehicle transporting hazardous mate-
21 rial until the operator has undergone a background
22 records check similar to the background records
23 check required of operators of commercial motor ve-
24 hicles licensed in the United States to transport haz-
25 ardous materials.’.

1 **SEC. 7006. REPRESENTATION AND TAMPERING.**

2 (a) REPRESENTATION.—Section 5104(a) is amend-
3 ed—

4 (1) by striking ‘A person’ and inserting ‘No
5 person’;

6 (2) in paragraph (1) by striking ‘only if’ and all
7 that follows through ‘meets’ and inserting ‘if it does
8 not conform to’; and

9 (3) in paragraph (2) by striking ‘only if’ and in-
10 sserting ‘unless’.

11 (b) TAMPERING.—Section 5104(b) is amended by
12 striking ‘A person may not’ and inserting ‘No person
13 may’.

14 **SEC. 7007. TECHNICAL AMENDMENTS.**

15 (a) ELIMINATION OF COMPLETED STUDY.—Section
16 5105 is amended—

17 (1) by striking subsection (d); and

18 (2) by redesignating subsection (e) as sub-
19 section (d).

20 (b) CLASSIFICATION OF EXPLOSIVES.—Section
21 5108(a)(1)(B) is amended by striking ‘class A or B’ and
22 inserting ‘Division 1.1, 1.2, or 1.3’.

23 **SEC. 7008. TRAINING OF CERTAIN EMPLOYEES.**

24 Section 5107 is amended—

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

1 (2) in subsection (g)(2) (as so redesignated) by
2 striking ‘sections 5106, 5108(a)–(g)(1) and (h), and
3 5109 of this title’ and inserting ‘section 5106’; and

4 (3) by inserting after subsection (e) the fol-
5 lowing:

6 ‘(f) TRAINING OF CERTAIN EMPLOYEES.—The Sec-
7 retary shall ensure that maintenance-of-way employees
8 and railroad signalmen receive general awareness/famil-
9 iarization training and safety training pursuant to section
10 172.704 of title 49, Code of Federal Regulations.’.

11 **SEC. 7009. REGISTRATION.**

12 (a) PERSONS REQUIRED TO FILE.—Section 5108(a)
13 is amended—

14 (1) in paragraph (2)(B) by striking ‘manufac-
15 turing, fabricating, marking, maintaining, recondi-
16 tioning, repairing, or testing’ and inserting ‘design-
17 ing, manufacturing, fabricating, inspecting, marking,
18 maintaining, reconditioning, repairing, or testing’;
19 and

20 (2) by aligning the left margin of paragraph (4)
21 with the left margin of paragraph (3).

22 (b) FILING SCHEDULE.—Section 5108(c) is amend-
23 ed—

24 (1) by striking the subsection heading and in-
25 serting ‘Filing Schedule’; and

1 (2) in paragraph (1)—

2 (A) by striking ‘must file the first’ and in-
3 serting ‘shall file that’;

4 (B) by striking ‘not later than March 31,
5 1992’ and inserting ‘in accordance with regula-
6 tions issued by the Secretary’; and

7 (C) by striking the second sentence.

8 (c) FEES.—Section 5108(g) is amended—

9 (1) in paragraph (1) by striking ‘may’ and in-
10 serting ‘shall’;

11 (2) in paragraph (2)(A) by striking ‘\$5,000’
12 and inserting ‘\$3,000’; and

13 (3) by adding at the end the following:

14 ‘(3) FEES ON EXEMPT PERSONS.—Notwith-
15 standing subsection (a)(4), the Secretary shall im-
16 pose and collect a fee of \$25 from a person who is
17 required to register under this section but who is
18 otherwise exempted by the Secretary from paying
19 any fee under this section. The fee shall be used to
20 pay the cost of the Secretary in processing registra-
21 tion statements filed by such persons.’.

22 (d) RELATIONSHIP TO OTHER LAWS.—Section
23 5108(i)(2)(B) is amended by inserting ‘, Indian tribe,’
24 after ‘State’ the first place it appears.

1 (e) HAZMAT REGISTRATION NOTIFICATION.—As
2 soon as practicable, the Pipelines and Hazardous Mate-
3 rials Safety Administrator of the Department of Transpor-
4 tation shall transmit to the Federal Motor Carrier Safety
5 Administration hazardous material registrant information
6 obtained before, on, or after the date of enactment of this
7 Act under section 5108 of title 49, United States Code,
8 together with any Department of Transportation identi-
9 fication number for each registrant.

10 **SEC. 7010. PROVIDING SHIPPING PAPERS.**

11 Section 5110 is amended—

12 (1) in subsection (a) by striking ‘under sub-
13 section (b) of this section’ and inserting ‘by regula-
14 tion’; and

15 (2) in subsection (e) by striking ‘1 year’ and in-
16 serting ‘2 years after the date of preparation of the
17 shipping paper’.

18 **SEC. 7011. RAIL TANK CARS.**

19 Section 5111, and the item relating to such section
20 in the analysis for chapter 51, are repealed.

21 **SEC. 7012. UNSATISFACTORY SAFETY RATING.**

22 The text of section 5113 is amended to read as fol-
23 lows: ‘A person who violates section 31144(c)(3) shall be
24 subject to the penalties in sections 5123 and 5124.’.

1 **SEC. 7013. TRAINING CURRICULUM FOR THE PUBLIC SEC-**
2 **TOR.**

3 (a) **REQUIREMENTS.**—Section 5115(b)(1)(C) is
4 amended by striking ‘under other United States Govern-
5 ment grant programs, including those’ and inserting ‘with
6 Federal financial assistance, including programs’.

7 (b) **TRAINING ON COMPLYING WITH LEGAL RE-**
8 **QUIREMENTS.**—Section 5115(c)(3) is amended by insert-
9 ing before the period at the end the following: ‘and such
10 other voluntary consensus standard-setting organizations
11 as the Secretary determines appropriate’.

12 (c) **DISTRIBUTION AND PUBLICATION.**—Section
13 5115(d) is amended—

14 (1) in the matter preceding paragraph (1) by
15 striking ‘national response team’ and inserting ‘Na-
16 tional Response Team’;

17 (2) in paragraph (1) by striking ‘Director of the
18 Federal Emergency Management Agency’ and in-
19 serting ‘Secretary’; and

20 (3) in paragraph (2)—

21 (A) by inserting ‘and distribute’ after ‘pub-
22 lish’; and

23 (B) by striking ‘programs that uses’ and
24 all that follows before the period at the end and
25 inserting ‘programs and courses developed
26 under this section’.

1 **SEC. 7014. PLANNING AND TRAINING GRANTS, MONI-**
2 **TORING, AND REVIEW.**

3 (a) **FACTORS TO CONSIDER IN DETERMINING**
4 **NEEDS.**—Section 5116(b)(4) is amended—

5 (1) by striking ‘and’ at the end of subpara-
6 graph (D);

7 (2) by redesignating subparagraph (E) as sub-
8 paragraph (F); and

9 (3) by inserting after subparagraph (D) the fol-
10 lowing:

11 ‘(E) the report submitted by the State to the
12 Secretary under section 5125(f)(2); and’.

13 (b) **COMPLIANCE WITH CERTAIN LAW.**—Section
14 5116(c) is amended—

15 (1) by inserting ‘or Indian tribe’ after ‘a State’;

16 (2) by inserting ‘or Indian tribe’ after ‘the
17 State’ the first place it appears; and

18 (3) by inserting ‘(1) the State or Indian tribe
19 is complying with all applicable requirements of this
20 chapter (including section 5125(f)), and (2) in the
21 case of a State,’ after ‘certifies that’.

22 (c) **GOVERNMENT’S SHARE OF COSTS.**—Section
23 5116(e) is amended by striking the second sentence and
24 inserting the following: ‘Amounts received by the State or
25 tribe under subsections (a)(1) and (b)(1) are not part of
26 the non-Government share under this subsection.’.

1 (d) MONITORING AND TECHNICAL ASSISTANCE.—

2 Section 5116(f) is amended—

3 (1) in the first sentence—

4 (A) by striking ‘Secretaries of Transpor-
5 tation and Energy,’ and inserting ‘Secretary of
6 Energy, Director of the Federal Emergency
7 Management Agency,’; and

8 (B) by striking ‘Director of the Federal
9 Emergency Management Agency shall’ and in-
10 sserting ‘Secretary of Transportation shall’; and

11 (2) in the second sentence—

12 (A) by striking ‘the Secretaries, Adminis-
13 trator, and Directors each shall’ and inserting
14 ‘the Secretary shall’; and

15 (B) by striking ‘national response team’
16 and inserting ‘National Response Team’.

17 (e) DELEGATION OF AUTHORITY.—Section 5116(g)
18 is amended by striking ‘Government grant programs’ and
19 inserting ‘Federal financial assistance’.

20 (f) HAZARDOUS MATERIALS EMERGENCY PRE-
21 PAREDNESS FUND.—Section 5116(i) is amended—

22 (1) by striking the subsection heading and in-
23 sserting ‘Hazardous Materials Emergency Prepared-
24 ness Fund.—’;

25 (2) in the matter preceding paragraph (1)—

1 (A) by inserting ‘, to be known as the
2 “Hazardous Materials Emergency Preparedness
3 Fund”,’ after ‘account in the Treasury’; and

4 (B) by striking ‘section 5108(g)(2)(A) of
5 this title’ and all that follows before the period
6 at the end of the first sentence and inserting
7 ‘this chapter’;

8 (3) by striking ‘and’ at the end of paragraph
9 (2);

10 (4) by redesignating paragraph (3) as para-
11 graph (4); and

12 (5) by inserting after paragraph (2) the fol-
13 lowing:

14 ‘(3) to publish and distribute the Emergency
15 Response Guidebook; and’.

16 (g) REPORTS.—In section 5116(k)—

17 (1) by striking the first sentence and inserting
18 the following: ‘The Secretary shall submit to Con-
19 gress and make available to the public annually a re-
20 port on the allocation and uses of planning grants
21 under subsection (a), training grants under sub-
22 section (b), and grants under subsection (j) and
23 under section 5107.’; and

24 (2) in the second sentence by striking ‘Such re-
25 port’ and inserting ‘The report’.

1 **SEC. 7015. SPECIAL PERMITS AND EXCLUSIONS.**

2 (a) SECTION HEADING.—

3 (1) IN GENERAL.—Section 5117 is amended by
4 striking the section number and heading and insert-
5 ing the following:

6 **‘§ 5117. Special permits and exclusions’.**

7 (2) CONFORMING AMENDMENT.—The item re-
8 lating to section 5117 in the analysis for chapter 51
9 is amended to read as follows:

‘5117. Special permits and exclusions.’.

10 (b) SUBSECTION HEADING.—The heading for sub-
11 section (a) of section 5117 is amended by striking ‘Ex-
12 empt’ and inserting ‘Issue Special Permits’.

13 (c) AUTHORITY TO ISSUE SPECIAL PERMITS.—Sec-
14 tion 5117(a)(1) is amended—

15 (1) by striking ‘an exemption’ and inserting ‘,
16 modify, or terminate a special permit authorizing a
17 variance’; and

18 (2) by striking ‘transporting, or causing to be
19 transported, hazardous material’ and inserting ‘per-
20 forming a function regulated by the Secretary under
21 section 5103(b)(1)’.

22 (d) PERIOD OF SPECIAL PERMIT.—Section
23 5117(a)(2) is amended to read as follows:

24 ‘(2) A special permit issued under this section shall
25 be effective for an initial period of not more than 2 years

1 and may be renewed by the Secretary upon application
2 for an additional period of not more than 4 years or, in
3 the case of a special permit relating to section 5112, for
4 an additional period of not more than 2 years.’.

5 (e) APPLICATIONS.—Sections 5117(b) is amended—

6 (1) by striking ‘an exemption’ each place it ap-
7 pears and inserting ‘a special permit’; and

8 (2) by striking ‘the exemption’ and inserting
9 ‘the special permit’.

10 (f) DEALING WITH APPLICATIONS PROMPTLY.—Sec-
11 tion 5117(c) is amended by striking ‘the exemption’ each
12 place it appears and inserting ‘the special permit’.

13 (g) LIMITATION ON AUTHORITY.—Section 5117(e) is
14 amended—

15 (1) by striking ‘an exemption’ and inserting ‘a
16 special permit’; and

17 (2) by striking ‘be exempt’ and inserting ‘be
18 granted a variance’.

19 **SEC. 7016. UNIFORM FORMS AND PROCEDURES.**

20 Section 5119 is amended to read as follows:

21 **‘§ 5119. Uniform forms and procedures**

22 (a) ESTABLISHMENT OF WORKING GROUP.—The
23 Secretary shall establish a working group of State and
24 local government officials, including representatives of the
25 National Governors’ Association, the National Association

1 of Counties, the National League of Cities, the United
2 States Conference of Mayors, the National Conference of
3 State Legislatures, and the Alliance for Uniform Hazmat
4 Transportation Procedures.

5 ‘(b) PURPOSE OF WORKING GROUP.—The purpose of
6 the working group shall be to establish uniform forms and
7 procedures for a State to register, and to issue permits
8 to, persons that transport, or cause to be transported, haz-
9 ardous material by motor vehicle in the State.

10 ‘(c) LIMITATION ON WORKING GROUP.—The working
11 group may not propose to define or limit the amount of
12 a fee a State may impose or collect.

13 ‘(d) PROCEDURE.—The Secretary shall develop a
14 procedure by which the working group shall harmonize ex-
15 isting State registration and permit laws and regulations
16 relating to the transportation of hazardous materials, with
17 special attention paid to each State’s unique safety con-
18 cerns and interest in maintaining strong hazmat safety
19 standards.

20 ‘(e) REPORT OF WORKING GROUP.—Not later than
21 18 months after the date of enactment of this subsection,
22 the working group shall transmit to the Secretary a report
23 containing recommendations for establishing uniform
24 forms and procedures described in subsection (b).

1 ‘(f) REGULATIONS.—Not later than 2 years after the
2 date of enactment of this subsection, the Secretary shall
3 issue regulations to carry out such recommendations of
4 the working group as the Secretary considers appropriate.

5 ‘(g) LIMITATION ON STATUTORY CONSTRUCTION.—
6 Nothing in this section shall be construed as prohibiting
7 a State from voluntarily participating in a program of uni-
8 form forms and procedures until such time as the Sec-
9 retary issues regulations under subsection (f).’.

10 **SEC. 7017. INTERNATIONAL UNIFORMITY OF STANDARDS**
11 **AND REQUIREMENTS.**

12 (a) CONSULTATION.—Section 5120(b) is amended by
13 inserting ‘and requirements’ after ‘standards’.

14 (b) DIFFERENCES WITH INTERNATIONAL STAND-
15 ARDS AND REQUIREMENTS.—Section 5120(c) is amend-
16 ed—

17 (1) in paragraph (1) by inserting ‘or require-
18 ment’ after ‘standard’ each place it appears; and

19 (2) in paragraph (2)—

20 (A) by inserting ‘standard or’ before ‘re-
21 quirement’ each place it appears; and

22 (B) by striking ‘included in a standard’.

23 **SEC. 7018. ADMINISTRATIVE.**

24 (a) GENERAL AUTHORITY.—Section 5121(a) is
25 amended—

1 (1) in the first sentence by inserting ‘conduct
2 tests,’ after ‘investigate,’;

3 (2) in the second sentence by striking ‘After’
4 and inserting ‘Except as provided in subsections (c)
5 and (d), after’; and

6 (3) by striking ‘regulation prescribed’ and in-
7 serting ‘regulation, order, special permit, or approval
8 issued’.

9 (b) RECORDS, REPORTS, AND INFORMATION.—Sec-
10 tion 5121(b) is amended—

11 (1) in paragraph (1) by inserting ‘and property’
12 after ‘records’; and

13 (2) in paragraph (2)—

14 (A) by inserting ‘property,’ after ‘records,’;

15 (B) by inserting ‘for inspection’ after
16 ‘available’; and

17 (C) by striking ‘requests’ and inserting
18 ‘undertakes an investigation or makes a re-
19 quest’.

20 (c) ENHANCED AUTHORITY TO DISCOVER HIDDEN
21 SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121(c)
22 is amended to read as follows:

23 ‘(c) INSPECTIONS AND INVESTIGATIONS.—

24 ‘(1) IN GENERAL.—A designated officer, em-
25 ployee, or agent of the Secretary—

1 ‘(A) may inspect and investigate, at a rea-
2 sonable time and in a reasonable manner,
3 records and property relating to a function de-
4 scribed in section 5103(b)(1);

5 ‘(B) except in the case of packaging imme-
6 diately adjacent to its hazardous material con-
7 tents, may gain access to, open, and examine a
8 package offered for, or in, transportation when
9 the officer, employee, or agent has an objec-
10 tively reasonable and articulable belief that the
11 package may contain a hazardous material;

12 ‘(C) may remove from transportation a
13 package or related packages in a shipment of-
14 fered for or in transportation for which—

15 ‘(i) such officer, employee, or agent
16 has an objectively reasonable and
17 articulable belief that the package may
18 pose an imminent hazard; and

19 ‘(ii) such officer, employee, or agent
20 contemporaneously documents such belief
21 in accordance with procedures set forth in
22 guidance or regulations prescribed under
23 subsection (e);

24 ‘(D) may gather information from the of-
25 feror, carrier, packaging manufacturer or re-

1 tester, or other person responsible for the pack-
2 age, to ascertain the nature and hazards of the
3 contents of the package;

4 ‘(E) as necessary, under terms and condi-
5 tions specified by the Secretary, may order the
6 offeror, carrier, packaging manufacturer or re-
7 tester, or other person responsible for the pack-
8 age to have the package transported to, opened,
9 and the contents examined and analyzed, at a
10 facility appropriate for the conduct of such ex-
11 amination and analysis; and

12 ‘(F) when safety might otherwise be com-
13 promised, may authorize properly qualified per-
14 sonnel to assist in the activities conducted
15 under this subsection.

16 ‘(2) DISPLAY OF CREDENTIALS.—An officer,
17 employee, or agent acting under this subsection shall
18 display proper credentials when requested.

19 ‘(3) SAFE RESUMPTION OF TRANSPOR-
20 TATION.—In instances when, as a result of an in-
21 spection or investigation under this subsection, an
22 imminent hazard is not found to exist, the Sec-
23 retary, in accordance with procedures set forth in
24 regulations prescribed under subsection (e), shall as-
25 sist—

1 ‘(A) in the safe resumption of transpor-
2 tation of the package concerned; or

3 ‘(B) in any case in which the hazardous
4 material being transported is perishable, in the
5 safe and expeditious resumption of transpor-
6 tation of the perishable hazardous material.’.

7 (d) EMERGENCY AUTHORITY FOR HAZARDOUS MA-
8 TERIAL TRANSPORTATION.—Section 5121 is amended—

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

11 (2) by inserting after subsection (c) the fol-
12 lowing:

13 ‘(d) EMERGENCY ORDERS.—

14 ‘(1) IN GENERAL.—If, upon inspection, inves-
15 tigation, testing, or research, the Secretary deter-
16 mines that either a violation of a provision of this
17 chapter or a regulation issued under this chapter, or
18 an unsafe condition or practice, constitutes or is
19 causing an imminent hazard, the Secretary may
20 issue an emergency order, without notice or the op-
21 portunity for a hearing, but only to the extent nec-
22 essary to abate the imminent hazard.

23 ‘(2) WRITTEN ORDERS.—An emergency order
24 issued under paragraph (1) shall be in writing, de-
25 scribe the violation, condition, or practice that is

1 causing the imminent hazard, and state the restric-
2 tions, prohibitions, recalls, or out-of-service orders
3 issued. The emergency order also shall describe the
4 standards and procedures for obtaining relief from
5 the order.

6 ‘(3) OPPORTUNITY FOR REVIEW.—After issuing
7 an emergency order under paragraph (1), the Sec-
8 retary shall provide an opportunity for review of the
9 order under section 554 of title 5 if a petition for
10 review is filed within 20 calendar days after the date
11 of issuance of the order.

12 ‘(4) EXPIRATION OF EFFECTIVENESS OF EMER-
13 GENCY ORDER.—If a petition for review is filed for
14 an order and the review is not completed by the end
15 of the 30-day period beginning on the date the peti-
16 tion was filed, the order shall cease to be effective
17 at the end of that period unless the Secretary deter-
18 mines in writing that the emergency situation still
19 exists.

20 ‘(e) GUIDANCE AND REGULATIONS.—

21 ‘(1) GUIDANCE.—Not later than 60 days after
22 the date of enactment of the Transportation Equity
23 Act: A Legacy for Users, the Secretary shall issue
24 interim guidance to carry out subsections (c) and
25 (d).

1 ‘(2) REGULATIONS.—Not later than 1 year
2 after such date of enactment, the Secretary shall
3 issue regulations to carry out subsections (c) and (d)
4 in accordance with subchapter II of chapter 5 of
5 title 5.’.

6 (e) REPORT.—Section 5121(g) (as redesignated by
7 subsection (d)(1) of this section) is amended—

8 (1) in the matter preceding paragraph (1) by
9 striking ‘submit to the President for transmittal to
10 the Congress’ and inserting ‘transmit to the Com-
11 mittee on Transportation and Infrastructure of the
12 House of Representatives and the Committee on
13 Commerce, Science, and Transportation of the Sen-
14 ate’; and

15 (2) in paragraph (4) by inserting ‘relating to a
16 function regulated by the Secretary under section
17 5103(b)(1)’ after ‘activities’.

18 (f) REPEAL OF OBSOLETE PROVISION.—Section
19 5118, and the item relating to such section in the analysis
20 for chapter 51, are repealed.

21 **SEC. 7019. ENFORCEMENT.**

22 (a) GENERAL.—Section 5122(a) is amended by strik-
23 ing the second sentence and inserting ‘The court may
24 award appropriate relief, including a temporary or perma-
25 nent injunction, punitive damages, and assessment of civil

1 penalties considering the same penalty amounts and fac-
2 tors as prescribed for the Secretary in an administrative
3 case under section 5123.’.

4 (b) IMMEDIATE HAZARDS.—Section 5122(b)(1)(B) is
5 amended by striking ‘or ameliorate the’ and inserting ‘or
6 mitigate the’.

7 **SEC. 7020. CIVIL PENALTY.**

8 (a) PENALTY.—Section 5123(a) is amended—

9 (1) in paragraph (1)—

10 (A) by striking ‘regulation prescribed or
11 order issued’ and inserting ‘regulation, order,
12 special permit, or approval issued’; and

13 (B) by striking ‘\$25,000’ and inserting
14 ‘\$50,000’;

15 (2) by redesignating paragraph (2) as para-
16 graph (3); and

17 (3) by inserting after paragraph (1) the fol-
18 lowing:

19 ‘(2) If the Secretary finds that a violation under
20 paragraph (1) results in death, serious illness, or severe
21 injury to any person or substantial destruction of prop-
22 erty, the Secretary may increase the amount of the civil
23 penalty for such violation to not more than \$100,000.’.

1 (b) HEARING REQUIREMENT.—Section 5123(b) is
2 amended by striking ‘regulation prescribed’ and inserting
3 ‘regulation, order, special permit, or approval issued’.

4 (c) CIVIL ACTIONS TO COLLECT.—Section 5123(d)
5 is amended by adding at the end the following: ‘In such
6 action, the validity, amount, and appropriateness of the
7 civil penalty shall not be subject to review.’.

8 (d) COMPROMISE.—Section 5123(e) is amended by
9 striking ‘before referral to the Attorney General’.

10 **SEC. 7021. CRIMINAL PENALTY.**

11 Section 5124 is amended to read as follows:

12 **‘§ 5124. Criminal penalty**

13 (a) IN GENERAL.—A person knowingly violating sec-
14 tion 5104(b) or willfully or recklessly violating this chapter
15 or a regulation, order, special permit, or approval issued
16 under this chapter shall be fined under title 18, impris-
17 oned for not more than 5 years, or both; except that the
18 maximum amount of imprisonment shall be 10 years in
19 any case in which the violation involves the release of a
20 hazardous material that results in death or bodily injury
21 to any person.

22 (b) KNOWING VIOLATIONS.—For purposes of this
23 section—

24 (1) a person acts knowingly when—

1 ‘(A) the person has actual knowledge of
2 the facts giving rise to the violation; or

3 ‘(B) a reasonable person acting in the cir-
4 cumstances and exercising reasonable care
5 would have that knowledge; and

6 ‘(2) knowledge of the existence of a statutory
7 provision, or a regulation or a requirement required
8 by the Secretary, is not an element of an offense
9 under this section.

10 ‘(c) WILLFUL VIOLATIONS.—For purposes of this
11 section, a person acts willfully when—

12 ‘(1) the person has knowledge of the facts giv-
13 ing rise to the violation; and

14 ‘(2) the person has knowledge that the conduct
15 was unlawful.

16 ‘(d) RECKLESS VIOLATIONS.—For purposes of this
17 section, a person acts recklessly when the person displays
18 a deliberate indifference or conscious disregard to the con-
19 sequences of that person’s conduct.’.

20 **SEC. 7022. PREEMPTION.**

21 (a) DUAL COMPLIANCE AND OBSTACLE TESTS.—
22 Section 5125(a) is amended by striking the subsection
23 heading and inserting ‘DUAL COMPLIANCE AND OBSTA-
24 CLE TESTS.—’.

1 (b) SUBSTANTIVE DIFFERENCES.—The second sen-
2 tence of section 5125(b)(2) is amended by striking ‘after
3 November 16, 1990’.

4 (c) DECISIONS ON PREEMPTION.—The third sentence
5 of section 5125(d)(1) is amended by inserting ‘and publish
6 in the Federal Register’ after ‘issue’.

7 (d) INDEPENDENT APPLICATION OF EACH STAND-
8 ARD.—Section 5125 is amended by inserting after sub-
9 section (f), as redesignated by section 7024(a)(2) of this
10 Act, the following:

11 ‘(g) INDEPENDENT APPLICATION OF EACH STAND-
12 ARD.—Subsections (b), (c)(1), (d), and (g) are inde-
13 pendent in their application to a requirement of any State,
14 political subdivision of a State, or Indian tribe and shall
15 be reviewed independently.’.

16 **SEC. 7023. RELATIONSHIP TO OTHER LAWS.**

17 Section 5126(a) is amended by striking ‘must com-
18 ply’ and inserting ‘shall comply’.

19 **SEC. 7024. JUDICIAL REVIEW.**

20 (a) REPEAL.—Section 5125 is amended—

21 (1) by striking subsection (f);

22 (2) by redesignating subsection (g) as sub-
23 section (f); and

1 (3) in subsection (f) (as so redesignated) by
2 moving paragraph (2) (including subparagraphs (A)
3 through (D)) 2 ems to the left.

4 (b) JUDICIAL REVIEW.—Chapter 51 is amended by
5 redesignating section 5127 as section 5128 and by insert-
6 ing after section 5126 the following:

7 **‘§ 5127. Judicial review**

8 ‘(a) FILING AND VENUE.—Except as provided in sec-
9 tion 20114(c), a person adversely affected or aggrieved by
10 a final action of the Secretary under this chapter may pe-
11 tition for review of the final action in the United States
12 Court of Appeals for the District of Columbia or in the
13 court of appeals for the United States for the circuit in
14 which the person resides or has its principal place of busi-
15 ness. The petition must be filed not more than 60 days
16 after the Secretary’s action becomes final.

17 ‘(b) JUDICIAL PROCEDURES.—When a petition is
18 filed under subsection (a), the clerk of the court imme-
19 diately shall send a copy of the petition to the Secretary.
20 The Secretary shall file with the court a record of any
21 proceeding in which the final action was issued, as pro-
22 vided in section 2112 of title 28.

23 ‘(c) AUTHORITY OF COURT.—The court has exclusive
24 jurisdiction, as provided in subchapter II of chapter 5 of
25 title 5, to affirm or set aside any part of the Secretary’s

1 final action and may order the Secretary to conduct fur-
2 ther proceedings. Findings of fact by the Secretary, if sup-
3 ported by substantial evidence, are conclusive.

4 ‘(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-
5 viewing a final action under this section, the court may
6 consider an objection to a final action of the Secretary
7 only if the objection was made in the course of a pro-
8 ceeding or review conducted by the Secretary or if there
9 was a reasonable ground for not making the objection in
10 the proceeding.’.

11 (c) CONFORMING AMENDMENT.—The analysis for
12 chapter 51 is amended by striking the item relating to
13 section 5127 and inserting the following:

‘5127. Judicial review.

‘5128. Authorization of appropriations.’.

14 **SEC. 7025. AUTHORIZATION OF APPROPRIATIONS.**

15 Section 5128 (as redesignated by section 7024) is
16 amended to read as follows:

17 **‘§ 5128. Authorizations of appropriations**

18 ‘(a) IN GENERAL.—In order to carry out this chapter
19 (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116,
20 and 5119), the following amounts are authorized to be ap-
21 propriated to the Secretary:

22 ‘(1) For fiscal year 2005, \$27,000,000.

23 ‘(2) For fiscal year 2006, \$29,000,000.

24 ‘(3) For fiscal year 2007, \$30,000,000.

1 ‘(b) EMERGENCY PREPAREDNESS FUND.—There
2 shall be available to the Secretary, from the account estab-
3 lished pursuant to section 5116(i), for each of fiscal years
4 2005 through 2007 the following:

5 ‘(1) To carry out section 5115, \$200,000.

6 ‘(2) To carry out section 5116(a), \$8,000,000.

7 ‘(3) To carry out section 5116(b), \$13,800,000.

8 ‘(4) To carry out section 5116(f), \$150,000.

9 ‘(5) To publish and distribute the Emergency
10 Response Guidebook under section 5116(i)(3),
11 \$500,000.

12 ‘(6) To pay administrative expenses in accord-
13 ance with section 5116(i)(4), \$150,000.

14 ‘(7) To carry out section 5116(j), \$1,000,000.

15 ‘(c) TRAINING OF HAZMAT EMPLOYEE INSTRU-
16 TORS.—There shall be available to the Secretary, from the
17 account established pursuant to section 5116(i), to carry
18 out section 5107(e) \$4,000,000 for each of fiscal years
19 2005 through 2007.

20 ‘(d) UNIFORM FORMS AND PROCEDURES.—There is
21 authorized to be appropriated to the Secretary for making
22 grants to States participating in the working group estab-
23 lished under section 5119 \$1,000,000 for each of the fiscal
24 years 2005 and 2006.

1 ‘(e) ISSUANCE OF HAZMAT LICENSES.—There are
2 authorized to be appropriated for the Department of
3 Transportation such amounts as may be necessary to
4 carry out section 5103a.

5 ‘(f) CREDITS TO APPROPRIATIONS.—The Secretary
6 may credit to any appropriation to carry out this chapter
7 an amount received from a State, Indian tribe, or other
8 public authority or private entity for expenses the Sec-
9 retary incurs in providing training to the State, authority,
10 or entity.

11 ‘(g) AVAILABILITY OF AMOUNTS.—Amounts made
12 available by or under this section remain available until
13 expended.’.

14 **SEC. 7026. DETERMINING AMOUNT OF UNDECLARED SHIP-**
15 **MENTS OF HAZARDOUS MATERIALS ENTER-**
16 **ING THE UNITED STATES.**

17 (a) STUDY.—The Comptroller General shall conduct
18 a study to propose methods of determining the amount
19 of undeclared shipments of hazardous materials (as de-
20 fined in section 5101 of title 49, United States Code) en-
21 tering the United States.

22 (b) REPORT.—Not later than 1 year after the date
23 of enactment of this Act, the Comptroller General shall
24 transmit to the Committee on Transportation and Infra-
25 structure of the House of Representatives and the Com-

1 mittee on Commerce, Science, and Transportation of the
2 Senate a report on the results of the study.

3 **SEC. 7027. CONFORMING AMENDMENTS.**

4 Chapter 51 is amended by striking ‘Secretary of
5 Transportation’ each place it appears (other than the sec-
6 ond place it appears in section 5108(g)(2)(C), the first
7 place it appears in section 5115(a), and in sections
8 5116(g), 5116(i), and 5120(a)) and inserting ‘Secretary’.

9 **TITLE VIII—TRANSPORTATION**
10 **DISCRETIONARY SPENDING**
11 **GUARANTEE**

12 **SEC. 8001. POLICY.**

13 This title will continue sections 8101 and 8103 of the
14 Transportation Equity Act for the 21st Century that
15 guarantee that specific levels of authorized funding will
16 be available for obligation each year by continuing the
17 highway category budgetary firewall, which protects the
18 Federal-aid highway program’s obligation limitation, the
19 programs of the Federal Motor Carrier Safety Administra-
20 tion, and the portion of the National Highway Traffic
21 Safety Administration’s programs funded from the High-
22 way Trust Fund, and the mass transit category budgetary
23 firewall, which protects the portion of the Federal Transit
24 Administration programs funded from the Mass Transit
25 Account of the Highway Trust Fund and the portion of

1 such programs funded from the general fund of the Treas-
2 ury.

○